



853468

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/12/2008	.	
	.	
	.	

1 The Committee on Children, Families, and Elder Affairs (Storms)
 2 recommended the following **amendment**:

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

5 Delete everything after the enacting clause
 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
 12 image and signature of the licensees, together with other data
 13 required by the department for identification and retrieval.
 14 Reproductions from the file or digital record are exempt from
 15 the provisions of s. 119.07(1) and shall be made and issued only

Bill No. SB 2216



853468

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

32 Section 2. Subsection (25) is added to section 400.141,
33 Florida Statutes, to read:

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

37 (25) Conduct a level 1 background screening as defined in
38 chapter 435, of a prospective resident before admission or
39 immediately after admission at the resident's expense. The
40 information obtained may be used by the facility to assess the
41 needs of the resident and to provide adequate and appropriate
42 health care and protective and support services in accordance
43 with this part. The Agency's employee background screening

Bill No. SB 2216



853468

44 database may not be used for resident screening. If a resident
45 transfers between facilities, the resident's background
46 screening results shall be transferred with the resident.

47
48 Facilities that have been awarded a Gold Seal under the program
49 established in s. 400.235 may develop a plan to provide
50 certified nursing assistant training as prescribed by federal
51 regulations and state rules and may apply to the agency for
52 approval of their 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
67 class II deficiency. In addition to any other fees or fines in
68 this part, the agency shall assess a fine for each facility that
69 is 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

Bill No. SB 2216



853468

72 the 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
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. Section 400.215, Florida Statutes, is amended
87 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
91 facility employees and contracted workers ~~or prospective~~
92 ~~employees of facilities licensed under this part~~ who are
93 expected to, or whose responsibilities may 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) Employers, and employees, contractors, and contracted
99 workers shall comply with the requirements of s. 435.05.

Bill No. SB 2216



853468

100 (a) Notwithstanding ~~the provisions of~~ s. 435.05(1),
101 facilities must have in their possession evidence that level 1
102 screening under s. 435.03 has been completed before allowing an
103 employee or contracted worker to begin employment in the
104 facility ~~working with patients~~ as provided in subsection (1).
105 All information necessary for conducting level 1 background
106 screening ~~using level 1 standards as specified in s. 435.03~~
107 shall be submitted by the nursing facility to the agency.
108 Results of the background screening shall be provided by the
109 agency to the requesting nursing facility.

110 (b) Employees and contracted workers qualified under ~~the~~
111 ~~provisions of~~ paragraph (a) who have not maintained continuous
112 residency within the state for the 5 years immediately preceding
113 the date of request for background screening must complete level
114 2 screening, as provided in s. 435.04 ~~chapter 435~~. Such
115 Employees may work in a conditional status for up to 180 days
116 pending the receipt of written findings evidencing the
117 completion of level 2 screening. Contracted workers who are
118 awaiting the completion of level 2 screening may work only under
119 the direct and visual supervision of persons who have met the
120 screening requirements of this section. Level 2 screening is
121 ~~shall not be required for~~ of employees, or prospective
122 employees, or contracted workers who attest in writing under
123 penalty of perjury that they meet the residency requirement. To
124 complete ~~Completion of level 2 screening: shall require~~
125 1. The employee or contracted worker shall ~~prospective~~
126 ~~employee to~~ furnish to the nursing facility a full set of

Bill No. SB 2216



853468

127 fingerprints for conducting a federal criminal records check to
128 ~~enable a criminal background investigation to be conducted.~~

129 2. The nursing facility shall submit the completed
130 fingerprint card to the agency.

131 3. The agency shall establish a record of the request in
132 the database provided for in paragraph (c) and forward the
133 request to the Department of Law Enforcement, which is
134 authorized to submit the fingerprints to the Federal Bureau of
135 Investigation for a national criminal history records check.

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

139 5. The agency shall notify the administrator of the
140 requesting nursing facility or the administrator of any other
141 requesting facility licensed under chapter 393, chapter 394,
142 chapter 395, chapter 397, chapter 429, or this chapter, ~~as~~
143 ~~requested by such facility,~~ as to whether ~~or not~~ the employee
144 has qualified under level 1 or level 2 screening.

145
146 An employee or contracted worker ~~prospective employee~~ who has
147 qualified under level 2 screening and has maintained ~~such~~
148 continuous residency within the state is ~~shall~~ not be required
149 to complete a subsequent level 2 screening as a condition of
150 employment at another facility.

151
152 A contract worker who is retained on an emergency basis or for a
153 task involving repair or maintenance that will require the
154 contract worker to be on the premises for less than one day,

Bill No. SB 2216



853468

155 shall not be required to have a background screen under this
156 section, but must be required to sign in upon entering the
157 building, wear an identification badge, and sign out before
158 leaving the building. The facility shall maintain a log with the
159 information collected.

160
161 (c) The agency shall establish and maintain a database
162 that includes ~~of background screening information which shall~~
163 ~~include~~ the results of all ~~both~~ level 1 and level 2 screening.
164 The Department of Law Enforcement shall timely provide to the
165 agency, electronically, the results of each statewide screening
166 for incorporation into the database. The agency shall, upon
167 request from any facility, agency, or program required by or
168 authorized by law to screen its employees or contracted workers
169 ~~applicants~~, notify the administrator of the facility, agency, or
170 program of the qualifying or disqualifying status of the person
171 ~~employee or applicant~~ named in the request.

172 (d) ~~Applicants and~~ Employees, prospective employees, and
173 contracted workers shall be excluded from employment pursuant to
174 s. 435.06, and may not be employed or resume employment until
175 exempted or all appeals have been resolved in favor of the
176 person screened.

177 (3) The person being screened ~~applicant~~ is responsible for
178 paying the fees associated with obtaining the required
179 screening. Payment for the screening shall be submitted to the
180 agency. The agency shall establish a schedule of fees to cover
181 the costs of level 1 and level 2 screening. Facilities may pay
182 ~~reimburse employees~~ for these costs. The Department of Law

Bill No. SB 2216



853468

183 Enforcement shall charge the agency for a level 1 or level 2
184 screening a rate sufficient to cover the costs of ~~such~~ screening
185 pursuant to s. 943.053(3). The agency shall, as allowable,
186 reimburse nursing facilities for the cost of conducting
187 background screening as required by this section. This
188 reimbursement is ~~will~~ not ~~be~~ subject to any rate ceilings or
189 payment targets in the Medicaid Reimbursement plan.

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

191 (a) The agency may grant an exemption from
192 disqualification to an employee, ~~or~~ prospective employee, or
193 contracted worker who is subject to this section and who has not
194 received a professional license or certification from the
195 Department of Health.

196 (b) ~~As provided in s. 435.07,~~ The appropriate regulatory
197 board within the Department of Health, or that department itself
198 when there is no board, may grant an exemption from
199 disqualification to an employee, ~~or~~ prospective employee, or
200 contracted worker who is subject to this section and who has
201 received a professional license or certification from the
202 Department of Health or a regulatory board within that
203 department.

204 (5) ~~Any provision of law to the contrary notwithstanding,~~
205 Persons who have been screened and qualified as required by this
206 section, ~~and~~ who have not been unemployed for more than 180 days
207 ~~thereafter,~~ and who, under penalty of perjury, attest to not
208 having been convicted of a disqualifying offense since the
209 completion of such screening are, ~~shall~~ not ~~be~~ required to be
210 rescreened. An employer may obtain, pursuant to s. 435.10,

Bill No. SB 2216



853468

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

214 (6) The agency and the Department of Health may ~~shall have~~
215 ~~authority to~~ adopt rules to administer ~~pursuant to the~~
216 ~~Administrative Procedure Act to implement~~ this section.

217 ~~(7) All employees shall comply with the requirements of~~
218 ~~this section by October 1, 1998. No current employee of a~~
219 ~~nursing facility as of the effective date of this act shall be~~
220 ~~required to submit to rescreening if the nursing facility has in~~
221 ~~its possession written evidence that the person has been~~
222 ~~screened and qualified according to level 1 standards as~~
223 ~~specified in s. 435.03(1). Any current employee who meets the~~
224 ~~level 1 requirement but does not meet the 5-year residency~~
225 ~~requirement as specified in this section must provide to the~~
226 ~~employing nursing facility written attestation under penalty of~~
227 ~~perjury that the employee has not been convicted of a~~
228 ~~disqualifying offense in another state or jurisdiction. All~~
229 ~~applicants hired on or after October 1, 1998, shall comply with~~
230 ~~the requirements of this section.~~

231 (7)(8) There is no monetary or unemployment liability on
232 the part of, and a no cause of action for damages does not arise
233 arising against, an employer that, upon notice of a
234 disqualifying offense listed under chapter 435 or an act of
235 domestic violence, terminates the employee against whom the
236 report was issued, whether or not the employee has filed for an
237 exemption with the Department of Health or the agency ~~for Health~~
238 ~~Care Administration.~~

Bill No. SB 2216



853468

239 Section 5. Subsection (6) of section 408.809, Florida
240 Statutes, is created to read:

241 408.809 Background screening; prohibited offenses.--

242 (6) The agency shall establish a schedule of fees to cover
243 the costs of any Level 1 or Level 2 screening required pursuant
244 to this part or other authorizing statutes and may adopt rules
245 to carryout these screenings and for the schedule of fees.

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

248 408.810 Minimum licensure requirements.--In addition to
249 the licensure requirements specified in this part, authorizing
250 statutes, and applicable rules, each applicant and licensee must
251 comply with the requirements of this section in order to obtain
252 and maintain a license.

253 (5) Each licensee must:

254 (a) On or before the first day services are provided to a
255 client, ~~a licensee must~~ inform the client and his or her
256 immediate family or representative, if appropriate, of the right
257 to report:

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

263 2. Abusive, neglectful, or exploitative practices. The
264 statewide toll-free telephone number for the central abuse
265 hotline must be provided to clients in a manner that is clearly
266 legible and must include the words: "To report abuse, neglect,

Bill No. SB 2216



853468

267 or exploitation, please call toll-free (phone number)." The
268 agency shall publish a minimum of a 90-day advance notice of a
269 change in the toll-free telephone numbers.

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

272 (c) Publicly display a poster approved by the agency
273 containing the names, addresses, and telephone numbers for the
274 state's central abuse hotline, the State Long-Term Care
275 Ombudsman, the agency's consumer hotline, the Advocacy Center
276 for Persons with Disabilities, the Florida Statewide Advocacy
277 Council, the Medicaid Fraud Control Unit, and the Statewide
278 Public Guardianship Office, along with a clear description of
279 the assistance to be expected from each. The agency may charge a
280 fee for the cost of production and distribution of the poster.

281 Section 7. Paragraph (a) is amended and paragraphs (c) and
282 (d) are created in subsection (1) and paragraph (c) is created
283 in subsection (4) of section 408.811, Florida Statutes, to read:

284 408.811 Right of inspection; copies; inspection reports.--

285 (1) An authorized officer or employee of the agency may
286 make or cause to be made any inspection or investigation deemed
287 necessary by the agency to determine the state of compliance
288 with this part, authorizing statutes, and applicable rules. The
289 right of inspection extends to any business that the agency has
290 reason to believe is being operated as a provider without a
291 license, but inspection of any business suspected of being
292 operated without the appropriate license may not be made without
293 the permission of the owner or person in charge unless a warrant
294 is first obtained from a circuit court. Any application for a

Bill No. SB 2216



853468

295 license issued under this part, authorizing statutes, or
296 applicable rules constitutes permission for an appropriate
297 inspection to verify the information submitted on or in
298 connection with the application.

299 (a) All inspections shall be unannounced, except as
300 specified in s. 408.806. The giving or causing to be given of
301 advance notice of the unannounced inspection by an agency
302 employee to any unauthorized person shall, in accordance with
303 chapter 110, constitute cause for suspension of the employee for
304 at least 5 working days.

305 (b) Inspections for relicensure shall be conducted
306 biennially unless otherwise specified by authorizing statutes or
307 applicable rules.

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

311 (d) The agency may require an applicant or licensee to
312 submit a plan of correction for deficiencies. If required, the
313 plan of correction must be filed with the agency within ten days
314 unless an alternative timeframe is required.

315 (2) Inspections conducted in conjunction with
316 certification may be accepted in lieu of a complete licensure
317 inspection. However, a licensure inspection may also be
318 conducted to review any licensure requirements that are not also
319 requirements for certification.

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

Bill No. SB 2216



853468

323 (4) (a) Each licensee shall maintain as public information,
324 available upon request, records of all inspection reports
325 pertaining to that provider that have been filed by the agency
326 unless those reports are exempt from or contain information that
327 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State
328 Constitution or is otherwise made confidential by law. Effective
329 October 1, 2006, copies of such reports shall be retained in the
330 records of the provider for at least 3 years following the date
331 the reports are filed and issued, regardless of a change of
332 ownership.

333 (b) A licensee shall, upon the request of any person who
334 has completed a written application with intent to be admitted
335 by such provider, any person who is a client of such provider,
336 or any relative, spouse, or guardian of any such person, furnish
337 to the requester a copy of the last inspection report pertaining
338 to the licensed provider that was issued by the agency or by an
339 accrediting organization if such report is used in lieu of a
340 licensure inspection.

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

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

346 415.103 Central abuse hotline.--

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



853468

351 (a) For reports requiring an immediate onsite protective
352 investigation, the central abuse hotline must immediately notify
353 the department's designated protective investigative district
354 staff responsible for protective investigations to ensure prompt
355 initiation of an onsite investigation.

356 (b) For reports not requiring an immediate onsite
357 protective investigation, the central abuse hotline must notify
358 the department's designated protective investigative district
359 staff responsible for protective investigations in sufficient
360 time to allow for an investigation to be commenced within 24
361 hours. At the time of notification ~~of district staff with~~
362 ~~respect to the report~~, the central abuse hotline must also
363 provide any ~~known information on any~~ previous reports ~~report~~
364 concerning the a subject of the present report or any pertinent
365 information relative to the present report or any noted earlier
366 reports.

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

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

374 415.1051 Protective services interventions when capacity
375 to consent is lacking; nonemergencies; emergencies; orders;
376 limitations.--

377 (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.--If
378 the department has reasonable cause to believe that a vulnerable



853468

379 adult or a vulnerable adult in need of services is being abused,
380 neglected, or exploited and is in need of protective services
381 but lacks the capacity to consent to protective services, the
382 department shall petition the court for an order authorizing the
383 provision of protective services.

384 (e) Continued protective services.--

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

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

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

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

393 d. A petition for guardianship shall ~~should~~ be filed
394 pursuant to chapter 744.

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

399 3. If the department has a good faith belief that the
400 vulnerable adult lacks capacity, the petition to determine
401 incapacity under s. 744.3201 may be filed by the department.
402 Once the petition is filed, the department may not be appointed
403 guardian and may not provide legal counsel for the guardian.

404 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If the
405 department has reasonable cause to believe that a vulnerable
406 adult is suffering from abuse or neglect that presents a risk of

Bill No. SB 2216



853468

407 death or serious physical injury to the vulnerable adult and
408 that the vulnerable adult lacks the capacity to consent to
409 emergency protective services, the department may take action
410 under this subsection. If the vulnerable adult has the capacity
411 to consent and refuses consent to emergency protective services,
412 emergency protective services may not be provided.

413 (g) Continued emergency protective services.--

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

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

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

422 c. Emergency protective services are to ~~will~~ be
423 discontinued; or

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

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

428 3. If the department has a good faith belief that the
429 vulnerable adult lacks capacity, the petition to determine
430 incapacity under s. 744.3201 may be filed by the department.
431 Once the petition is filed, the department may not be appointed
432 guardian and may not provide legal counsel for the guardian.

433 Section 10. Section 415.112, Florida Statutes, is amended
434 to read:

Bill No. SB 2216



853468

435 415.112 Rules ~~for implementation of ss. 415.101-~~
436 ~~415.113.~~--The department shall adopt promulgate rules to
437 administer this chapter including, but not limited to: for the
438 implementation of ss. 415.101-415.113.

439 (1) Background screening of department employees and
440 employee applicants which includes a criminal records check and
441 drug testing of adult protective investigators and adult
442 protective investigator supervisors.

443 (2) The reporting of adult abuse, neglect, exploitation, a
444 vulnerable adult in need of services, false reporting, and adult
445 protective investigations.

446 (3) Confidentiality and retention of department records,
447 access to records, and record requests.

448 (4) Injunctions and other protective orders.

449 (5) The provision of emergency and nonemergency protective
450 services intervention.

451 (6) Agreements with law enforcement and other state
452 agencies.

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

456 (8) The legal and casework management of cases involving
457 protective supervision, protective orders, judicial reviews,
458 administrative reviews, case plans, and documentation
459 requirements.

460 Section 11. Subsection (21) of section 429.02, Florida
461 Statutes, is amended to read:

462 429.02 Definitions.--When used in this part, the term:

Bill No. SB 2216



853468

463 (21) "Service plan" means a written plan, developed and
464 agreed upon by the resident and, if applicable, the resident's
465 representative or designee or the resident's surrogate,
466 guardian, or attorney in fact, if any, and the administrator or
467 designee representing the facility, which addresses the unique
468 physical and psychosocial needs, abilities, and personal
469 preferences of each resident ~~receiving extended congregate care~~
470 ~~services~~. The plan must ~~shall~~ include a brief written
471 description, in easily understood language, of what services
472 shall be provided, who shall provide the services, when the
473 services shall be rendered, and the purposes and benefits of the
474 services. The agency shall develop a service plan form for use
475 by providers.

476 Section 12. Paragraphs (b) and (c) of subsection (3) of
477 section 429.07, Florida Statutes, are amended to read:

478 429.07 License required; fee.--

479 (3) In addition to the requirements of s. 408.806, each
480 license granted by the agency must state the type of care for
481 which the license is granted. Licenses shall be issued for one
482 or more of the following categories of care: standard, extended
483 congregate care, limited nursing services, or limited mental
484 health.

485 (b) An extended congregate care license shall be issued to
486 facilities providing, directly or through contract, services
487 beyond those authorized in paragraph (a), including services
488 performed by persons licensed under ~~acts performed pursuant to~~
489 ~~part I of chapter 464 by persons licensed thereunder~~, and
490 supportive services, as defined by rule, to persons who would

Bill No. SB 2216



853468

491 otherwise ~~would~~ be disqualified from continued residence in a
492 facility licensed under this part.

493 1. To obtain an ~~In order for~~ extended congregate care
494 license services to be provided in a facility licensed under
495 ~~this part~~, the agency must first determine that all requirements
496 established in law and rule are met and must specifically
497 designate, on the facility's license, that such services may be
498 provided and whether the designation applies to all or part of
499 the ~~a~~ facility. Such designation may be made at the time of
500 initial licensure or relicensure, or upon request in writing by
501 a licensee under this part and part II of chapter 408.

502 Notification of approval or denial of the ~~such~~ request shall be
503 made in accordance with part II of chapter 408. ~~Existing~~

504 2. Facilities applying for, and facilities currently
505 licensed ~~qualifying~~ to provide, extended congregate care
506 services must have ~~maintained~~ a standard license and may not
507 have been subject to administrative sanctions during the
508 previous 2 years, or since initial licensure if the facility has
509 been licensed for less than 2 years, for any of the following
510 reasons:

- 511 a. A class I or class II violation;
- 512 b. Three or more repeat or recurring class III violations
513 of identical or similar resident care standards as specified in
514 rule from which a pattern of noncompliance is found by the
515 agency;
- 516 c. Three or more class III violations that were not
517 corrected in accordance with the corrective action plan approved
518 by the agency;

Bill No. SB 2216



853468

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

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

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

528 3.2. A facility that is ~~Facilities that are~~ licensed to
529 provide extended congregate care services must ~~shall~~ maintain a
530 written progress report on each person who receives ~~such~~
531 services, which report describes the type, amount, duration,
532 scope, and outcome of services that are rendered and the general
533 status of the resident's health. A registered nurse, or
534 appropriate designee, representing the agency shall visit the
535 facility ~~such facilities~~ at least quarterly to monitor residents
536 who are receiving extended congregate care services and to
537 determine if the facility is in compliance with this part, part
538 II of chapter 408, and rules that relate to extended congregate
539 care. One of these visits may be in conjunction with the regular
540 survey. The monitoring visits may be provided through
541 contractual arrangements with appropriate community agencies. A
542 registered nurse shall serve as part of the team that inspects
543 the ~~such~~ facility. The agency may waive one of the required
544 yearly monitoring visits for a facility that has been licensed
545 for at least 24 months to provide extended congregate care
546 services, if, during the inspection, the registered nurse



853468

547 determines that extended congregate care services are being
548 provided appropriately, and if the facility has no class I or
549 class II violations and no uncorrected class III violations.
550 ~~Before such decision is made,~~ The agency must first ~~shall~~
551 consult with the long-term care ombudsman council for the area
552 in which the facility is located to determine if any complaints
553 have been made and substantiated about the quality of services
554 or care. The agency may not waive one of the required yearly
555 monitoring visits if complaints have been made and
556 substantiated.

557 ~~4.3.~~ Facilities that are licensed to provide extended
558 congregate care services must ~~shall~~:

559 a. Demonstrate the capability to meet unanticipated
560 resident service needs.

561 b. Offer a physical environment that promotes a homelike
562 setting, provides for resident privacy, promotes resident
563 independence, and allows sufficient congregate space as defined
564 by rule.

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

569 d. Adopt and follow policies and procedures that maximize
570 resident independence, dignity, choice, and decisionmaking to
571 permit residents to age in place ~~to the extent possible~~, so that
572 moves due to changes in functional status are minimized or
573 avoided.

Bill No. SB 2216



853468

574 e. Allow residents or, if applicable, a resident's
575 representative, designee, surrogate, guardian, or attorney in
576 fact to make a variety of personal choices, participate in
577 developing service plans, and share responsibility in
578 decisionmaking.

579 f. Implement the concept of managed risk.

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

582 h. In addition to the training mandated in s. 429.52,
583 provide specialized training as defined by rule for facility
584 staff.

585 ~~5.4.~~ Facilities licensed to provide extended congregate
586 care services are exempt from the criteria for continued
587 residency ~~as~~ set forth in rules adopted under s. 429.41.
588 Facilities so licensed must ~~shall~~ adopt their own requirements
589 within guidelines for continued residency set forth by rule.
590 However, such facilities may not serve residents who require 24-
591 hour nursing supervision. Facilities licensed to provide
592 extended congregate care services must ~~shall~~ provide each
593 resident with a written copy of facility policies governing
594 admission and retention.

595 ~~6.5.~~ The primary purpose of extended congregate care
596 services is to allow residents, as they become more impaired,
597 the option of remaining in a familiar setting from which they
598 would otherwise be disqualified for continued residency. A
599 facility licensed to provide extended congregate care services
600 may also admit an individual who exceeds the admission criteria
601 for a facility with a standard license, if the individual is

Bill No. SB 2216



853468

602 determined appropriate for admission to the extended congregate
603 care facility.

604 ~~7.6.~~ Before admission of an individual to a facility
605 licensed to provide extended congregate care services, the
606 individual must undergo a medical examination ~~as provided in s.~~
607 ~~429.26(4)~~ and the facility must develop a preliminary service
608 plan for the individual as provided in s. 429.26.

609 ~~8.7.~~ When a facility can no longer provide or arrange for
610 services in accordance with the resident's service plan and
611 needs and the facility's policy, the facility shall make
612 arrangements for relocating the person in accordance with s.
613 429.28(1)(k).

614 ~~9.8.~~ Failure to provide extended congregate care services
615 may result in denial of extended congregate care license
616 renewal.

617 ~~9.~~ ~~No later than January 1 of each year, the department,~~
618 ~~in consultation with the agency, shall prepare and submit to the~~
619 ~~Governor, the President of the Senate, the Speaker of the House~~
620 ~~of Representatives, and the chairs of appropriate legislative~~
621 ~~committees, a report on the status of, and recommendations~~
622 ~~related to, extended congregate care services. The status report~~
623 ~~must include, but need not be limited to, the following~~
624 ~~information:~~

625 ~~a.~~ ~~A description of the facilities licensed to provide~~
626 ~~such services, including total number of beds licensed under~~
627 ~~this part.~~

628 ~~b.~~ ~~The number and characteristics of residents receiving~~
629 ~~such services.~~

Bill No. SB 2216



853468

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

632 ~~d. An analysis of deficiencies cited during licensure~~
633 ~~inspections.~~

634 ~~e. The number of residents who required extended~~
635 ~~congregate care services at admission and the source of~~
636 ~~admission.~~

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

638 ~~g. The availability of extended congregate care to state~~
639 ~~clients residing in facilities licensed under this part and in~~
640 ~~need of additional services, and recommendations for~~
641 ~~appropriations to subsidize extended congregate care services~~
642 ~~for such persons.~~

643 ~~h. Such other information as the department considers~~
644 ~~appropriate.~~

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

648 1. To obtain a ~~In order for~~ limited nursing services
649 license to be provided in a facility licensed under this part,
650 the agency must first determine that all requirements
651 established in law and rule are met and must specifically
652 designate, on the facility's license, that such services may be
653 provided. Such designation may be made at the time of initial
654 licensure or relicensure, or upon request in writing by a
655 licensee under this part and part II of chapter 408.
656 Notification of approval or denial of such request shall be made
657 in accordance with part II of chapter 408. ~~Existing~~

Bill No. SB 2216



853468

658 2. Facilities applying for, and facilities currently
659 licensed ~~qualifying~~ to provide, limited nursing services must
660 ~~shall~~ have ~~maintained~~ a standard license and may not have been
661 subject to administrative sanctions that affect the health,
662 safety, and welfare of residents for the previous 2 years or
663 since initial licensure if the facility has been licensed for
664 less than 2 years.

665 ~~3.2.~~ Facilities that are licensed to provide limited
666 nursing services shall maintain a written progress report on
667 each person who receives ~~such~~ nursing services, which report
668 describes the type, amount, duration, scope, and outcome of
669 services that are rendered and the general status of the
670 resident's health. A registered nurse representing the agency
671 shall visit such facilities at least twice a year to monitor
672 residents who are receiving limited nursing services and to
673 determine if the facility is in compliance with applicable
674 provisions of this part, part II of chapter 408, and related
675 rules. The monitoring visits may be provided through contractual
676 arrangements with appropriate community agencies. A registered
677 nurse shall also serve as part of the team that inspects the
678 ~~such~~ facility.

679 ~~4.3.~~ A person who receives limited nursing services ~~under~~
680 ~~this part~~ must meet the admission criteria established by the
681 agency for assisted living facilities. If ~~When~~ a resident no
682 longer meets the admission criteria for a facility licensed
683 under this part, arrangements for relocating the person shall be
684 made in accordance with s. 429.28(1)(k), unless the facility is
685 also licensed to provide extended congregate care services.

Bill No. SB 2216



853468

686 Section 13. Section 429.174, Florida Statutes, is amended
687 to read:

688 429.174 Background screening; exemptions.--The owner or
689 administrator of an assisted living facility must conduct level
690 ~~1 background~~ screening, as set forth in chapter 435, on all
691 employees and contracted workers hired on or after October 1,
692 1998, who perform personal services or who have access to
693 resident living areas as defined in s. 429.02(16). The agency
694 may exempt an individual from ~~employment~~ disqualification as set
695 forth in s. 435.07 chapter 435. However, such person may not be
696 employed or resume employment pending the granting of an
697 exemption or until all appeals have been resolved in favor of
698 the person screened. Employees and contracted workers ~~Such~~
699 ~~persons~~ shall be considered as having met the screening
700 requirements ~~this requirement~~ if:

701 (1) Proof of compliance with level 1 screening
702 ~~requirements~~ obtained to meet ~~any~~ professional license
703 requirements in this state is provided and accompanied, under
704 penalty of perjury, by a copy of the person's current
705 professional license and an affidavit of current compliance with
706 the background screening requirements.

707 (2) The person required to be screened has been
708 continuously employed in the same type of occupation for which
709 the person is seeking employment without a breach in service
710 which exceeds 180 days, and proof of compliance with the level 1
711 screening requirement which is no more than 2 years old is
712 provided. Proof of compliance shall be provided directly from
713 one employer or contractor to another, and not from the person

Bill No. SB 2216



853468

714 screened. Upon request, a copy of screening results shall be
715 provided by the employer or contractor retaining documentation
716 of the screening to the person screened.

717 (3) The person required to be screened is employed by or
718 contracts with a corporation or business entity or related
719 corporation or business entity that owns, operates, or manages
720 more than one facility or agency licensed under this chapter,
721 and for whom a level 1 screening was conducted by the
722 corporation or business entity as a condition of initial or
723 continued employment.

724 (4) The person being screened is responsible for paying
725 the fees associated with obtaining the required screening.
726 Payment for the screening shall be submitted to the agency. The
727 agency shall establish a schedule of fees to cover the costs of
728 level 1 and level 2 screening. Facilities may pay for these
729 costs. The Department of Law Enforcement shall charge the agency
730 for a level 1 or level 2 screening a rate sufficient to cover
731 the costs of screening pursuant to s. 943.053(3).

732
733 A contract worker who is retained on an emergency basis or for a
734 task involving repair or maintenance that will require the
735 contract worker to be on the premises for less than one day,
736 shall not be required to have a background screen under this
737 section, but must be required to sign in upon entering the
738 building, wear an identification badge, and sign out before
739 leaving the building. The facility shall maintain a log with the
740 information collected.

Bill No. SB 2216



853468

741 Section 14. Subsection (1) of section 429.255, Florida
742 Statutes, is amended to read:

743 429.255 Use of personnel; emergency care.--

744 (1) (a) Facility staff, including persons under contract to
745 the facility, facility employees ~~staff~~, or volunteers, who are
746 licensed according to part I of chapter 464, or those persons
747 exempt under s. 464.022(1), and others as defined by rule, may
748 administer medications to residents, take residents' vital
749 signs, manage individual weekly pill organizers for residents
750 who self-administer medication, give prepackaged enemas ordered
751 by a physician, observe residents, document observations on the
752 appropriate resident's record, report observations to the
753 resident's physician, and contract or allow residents or a
754 resident's representative, designee, surrogate, guardian, or
755 attorney in fact to contract with a third party, provided
756 residents meet the criteria for appropriate placement as defined
757 in s. 429.26. Nursing assistants certified pursuant to part II
758 of chapter 464 may take residents' vital signs as directed by a
759 licensed nurse or physician.

760 (b) Facility ~~All~~ staff, including persons under contract
761 to the facility and facility employees ~~in facilities licensed~~
762 ~~under this part~~ shall exercise their professional responsibility
763 to observe residents, to document observations on the
764 appropriate resident's record, ~~and~~ to report the observations to
765 the resident's physician, and to provide needed services
766 competently. Volunteers shall have the same obligations but
767 shall report to a facility employee who will make the
768 appropriate notation in the resident's records. However, the

Bill No. SB 2216



853468

769 owner or administrator of the facility is ~~shall be~~ responsible
770 for determining that the resident receiving services is
771 appropriate for residence in the facility and for the provision
772 of and quality of care and services provided to the resident.

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

777 Section 15. Present subsections (8) through (12) of
778 section 429.26, Florida Statutes, are renumbered as sections (6)
779 through (10), respectively, and present subsections (1) through
780 (7) of that section, are amended to read:

781 429.26 Appropriateness of placements; examinations of
782 residents.--

783 (1) The owner or administrator of a facility is
784 responsible for determining the appropriateness of admission of
785 an individual to the facility and for determining the continued
786 appropriateness of residence of an individual in the facility. A
787 determination shall be based upon an assessment of the
788 strengths, needs, and preferences of the resident, the care and
789 services offered or arranged for by the facility in accordance
790 with facility policy, and any limitations in law or rule related
791 to admission criteria or continued residency for the type of
792 license held by the facility under this part. Except as provided
793 in s. 429.28(1)(k), a resident may not be moved from one
794 facility to another without consultation with and agreement from
795 the resident or, if applicable, the resident's representative or
796 designee or the resident's family, guardian, surrogate, or

Bill No. SB 2216



853468

797 attorney in fact. ~~If In the case of~~ a resident who has been
798 placed by the department or the Department of Children and
799 Family Services, the administrator must notify the appropriate
800 contact person in the applicable department.

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

805 ~~(3) Persons licensed under part I of chapter 464 who are~~
806 ~~employed by or under contract with a facility shall, on a~~
807 ~~routine basis or at least monthly, perform a nursing assessment~~
808 ~~of the residents for whom they are providing nursing services~~
809 ~~ordered by a physician, except administration of medication, and~~
810 ~~shall document such assessment, including any substantial~~
811 ~~changes in a resident's status which may necessitate relocation~~
812 ~~to a nursing home, hospital, or specialized health care~~
813 ~~facility. Such records shall be maintained in the facility for~~
814 ~~inspection by the agency and shall be forwarded to the~~
815 ~~resident's case manager, if applicable.~~

816 ~~(2)(4)~~ If possible, each resident shall have been examined
817 by a licensed physician, a licensed physician assistant, or a
818 licensed nurse practitioner within 60 days before admission to
819 the facility. The person conducting an examination under this
820 subsection may not have financial interest in the facility. The
821 signed and completed medical examination report shall be
822 submitted to the owner or administrator of the facility who
823 shall use the information contained in the report therein to
824 assist in determining ~~the determination of~~ the appropriateness



853468

825 of the resident's admission and continued stay in the facility
826 and to develop a service plan for the resident. The medical
827 examination report and service plan shall become a permanent
828 part of the record of the resident at the facility and shall be
829 made available to the agency during inspection or upon request.
830 An assessment that has been completed through the Comprehensive
831 Assessment and Review for Long-Term Care Services (CARES)
832 Program fulfills the requirements for a medical examination
833 under this subsection ~~and s. 429.07(3)(b)6.~~

834 (a)(5) Except as provided in s. 429.07, if a medical
835 examination has not been completed within 60 days before the
836 admission of the resident to the facility, medical personnel a
837 ~~licensed physician, licensed physician assistant, or licensed~~
838 ~~nurse practitioner~~ shall examine the resident and complete a
839 medical examination form provided by the agency within 30 days
840 following the admission to the facility ~~to enable the facility~~
841 ~~owner or administrator to determine the appropriateness of the~~
842 ~~admission. The medical examination form shall become a permanent~~
843 ~~part of the record of the resident at the facility and shall be~~
844 ~~made available to the agency during inspection by the agency or~~
845 ~~upon request.~~

846 (b)(6) Any resident accepted in a facility and placed by
847 the department or the Department of Children and Family Services
848 must be ~~shall have been~~ examined by medical personnel within 30
849 days before placement in the facility and recorded on a medical
850 examination form provided by the agency. The examination shall
851 include an assessment of the appropriateness of placement in a
852 facility. ~~The findings of this examination shall be recorded on~~

Bill No. SB 2216



853468

853 ~~the examination form provided by the agency. The completed form~~
854 ~~shall accompany the resident and shall be submitted to the~~
855 ~~facility owner or administrator. For~~ Additionally, in the case
856 of a mental health resident, the Department of Children and
857 Family Services must provide documentation that the individual
858 has been assessed by a psychiatrist, clinical psychologist,
859 clinical social worker, or psychiatric nurse, or an individual
860 who is supervised by one of these professionals, and determined
861 to be appropriate to reside in an assisted living facility. The
862 documentation must be in the facility within 30 days after the
863 mental health resident has been admitted to the facility. An
864 evaluation completed upon discharge from a state mental hospital
865 meets the requirements of this subsection related to
866 appropriateness for placement as a mental health resident
867 providing it was completed within 90 days prior to admission to
868 the facility. The applicable department shall provide to the
869 facility administrator any information about the resident that
870 would help the administrator meet his or her responsibilities
871 under this section ~~subsection (1)~~. Further, department personnel
872 shall explain to the facility operator any special needs of the
873 resident and advise the operator whom to call should problems
874 arise. The applicable department shall advise and assist the
875 facility administrator where the special needs of residents who
876 are recipients of optional state supplementation require such
877 assistance.

878 (3) A level 1 criminal background screening as defined in
879 chapter 435 of a prospective resident must be conducted by the
880 facility before admission or immediately after admission at the

Bill No. SB 2216



853468

881 resident's expense. The information obtained may be used by the
882 facility to assess the needs of the resident and the care and
883 services offered or arranged by the facility in accordance with
884 this section. The Agency's employee background screening
885 database may not be used for resident screening. If a resident
886 transfers between facilities, the resident's background
887 screening results shall be transferred with the resident.

888 (4) Persons licensed under part I of chapter 464 who are
889 employed by or under contract with a facility shall at least
890 monthly, perform a nursing assessment of residents for whom they
891 are providing nursing services ordered by a physician, except
892 administration of medication, and shall document such
893 assessment, including any substantial change in a resident's
894 status which may necessitate relocation to a nursing home,
895 hospital, or specialized health care facility. The records must
896 be maintained in the facility for inspection by the agency and
897 shall be forwarded to the resident's case manager, if
898 applicable.

899 (5)~~(7)~~ Residents shall be periodically assessed to
900 determine if the resident is competent to handle his or her
901 personal and financial affairs, and, if not, whether a
902 responsible person such as a resident representative or
903 designee, guardian, surrogate, or attorney in fact is available
904 to make decisions on behalf of the resident. If a resident is
905 having difficulty handling his or her personal or financial
906 affairs, because of a decline in health or cognitive abilities,
907 the owner or administrator shall contact the resident's
908 representative or designee, guardian, surrogate or attorney-in-

Bill No. SB 2216



853468

909 fact. If a resident does not have family or a legal
910 representative to make decisions on his or her behalf, the owner
911 or administrator must contact the Florida Abuse Hotline. The
912 facility must notify a licensed physician when a resident
913 exhibits signs of dementia or cognitive impairment or has a
914 change of condition in order to rule out the presence of an
915 underlying physiological condition that may be contributing to
916 such dementia or impairment. The notification must occur within
917 30 days after the acknowledgment of such signs by facility
918 staff. If an underlying condition is determined to exist, the
919 facility shall arrange, with the appropriate health care
920 provider, the necessary care and services to treat the
921 condition.

922 Section 16. Subsections (3) through (8) of section 429.27,
923 Florida Statutes, are renumbered as subsections (6) through
924 (11), respectively, and subsections (1) and (2) of that section,
925 are amended to read:

926 429.27 Property and personal affairs of residents.--

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

932 (2)~~(b)~~ The admission of a resident to a facility does and
933 his or her presence therein shall not confer on the facility or
934 its owner, administrator, staff employees, or representatives
935 any authority to manage, use, or dispose of any property of the
936 resident or to make financial or health care decisions on behalf



853468

937 ~~of the resident; nor shall such admission or presence confer on~~
938 ~~any of such persons any authority or responsibility for the~~
939 ~~personal affairs of the resident, except if that which may be~~
940 necessary for the safe management of the facility or for the
941 safety of the resident.

942 (3) ~~(2)~~ A facility, or an owner, administrator, staff
943 ~~employee~~, or representative thereof, may not act as the
944 resident's representative or designee, guardian, health care
945 surrogate, trustee, or conservator for a ~~any~~ resident ~~of the~~
946 ~~assisted living facility~~ or any of the ~~such~~ resident's property
947 unless the person is a relative of the resident.

948 (4) A facility ~~An~~ owner, administrator, or staff member,
949 or representative thereof, may not act as a competent resident's
950 payee for social security, veteran's, or railroad benefits
951 without the consent of the resident. Any facility ~~whose~~ owner,
952 administrator, or staff, or representative thereof who, serves
953 as representative payee for a ~~any~~ resident must ~~of the facility~~
954 ~~shall~~ file a surety bond with the agency in an amount equal to
955 twice the average monthly aggregate income or personal funds due
956 to residents, or expendable for his or her ~~their~~ account, which
957 are received by a facility.

958 (5) Any facility ~~whose~~ owner, administrator, or staff, or
959 a representative thereof who, is granted power of attorney for a
960 ~~any~~ resident must ~~of the facility shall~~ file a surety bond with
961 the agency for each resident for whom such power of attorney is
962 granted. The surety bond must ~~shall~~ be in an amount equal to
963 twice the average monthly income of the resident, plus the value
964 of any resident's property under the control of the attorney in

Bill No. SB 2216



853468

965 fact. The bond must ~~shall~~ be executed by the facility as
966 principal and a licensed surety company. The bond shall be
967 conditioned upon the faithful compliance of the facility with
968 this section and shall run to the agency for the benefit of any
969 resident who suffers a financial loss as a result of the misuse
970 or misappropriation ~~by a facility~~ of funds held pursuant to this
971 subsection. Any surety company that cancels or does not renew
972 the bond of any licensee shall notify the agency in writing not
973 less than 30 days in advance of such action, giving the reason
974 for the cancellation or nonrenewal. Any facility owner,
975 administrator, or staff, or representative thereof, who is
976 granted power of attorney for a ~~any~~ resident ~~of the facility~~
977 shall, on a monthly basis, ~~be required to~~ provide the resident
978 with a written statement of any transaction made on behalf of
979 the resident pursuant to this subsection, and a copy of such
980 statement ~~given to the resident~~ shall be retained in each
981 resident's file and available for agency inspection.

982 Section 17. Paragraphs (k) and (l) of subsection (1) and
983 subsection (3) of section 429.28, Florida Statutes, are amended
984 to read:

985 429.28 Resident bill of rights.--

986 (1) No resident of a facility shall be deprived of any
987 civil or legal rights, benefits, or privileges guaranteed by
988 law, the Constitution of the State of Florida, or the
989 Constitution of the United States as a resident of a facility.
990 Every resident of a facility shall have the right to:

991 (k) At least 45 days' written notice of relocation or
992 termination of residency from the facility unless, for medical

Bill No. SB 2216



853468

993 reasons, the resident is certified by a physician to require an
994 emergency relocation to a facility providing a more skilled
995 level of care or the resident engages in a pattern of conduct
996 that is harmful or offensive to other residents. The notice must
997 specify the reasons for the relocation or termination and a copy
998 of the notice must be sent by registered mail to the resident's
999 representative or designee, guardian, surrogate, attorney in
1000 fact, the local ombudsman council, and the agency at the same
1001 time the notice is delivered to the resident. The agency shall
1002 compile an annual report summarizing the information received in
1003 the notice, including the number and reasons for relocation or
1004 termination of facility residents, type and size of facilities,
1005 and other information that the agency considers relevant, which
1006 shall be submitted to the Governor, the President of the Senate,
1007 and the Speaker of the House of Representatives. ~~In the case of~~
1008 ~~a resident who has been adjudicated mentally incapacitated, the~~
1009 ~~guardian shall be given at least 45 days' notice of a~~
1010 ~~nonemergency relocation or residency termination. Reasons for~~
1011 ~~relocation shall be set forth in writing.~~ In order for a
1012 facility to terminate the residency of an individual without
1013 notice as provided in this paragraph herein, the facility must
1014 ~~shall~~ show good cause in a court of competent jurisdiction.

1015 (1) Present grievances and recommend changes in policies,
1016 procedures, and services to the staff of the facility, governing
1017 officials, or any other person without restraint, interference,
1018 coercion, discrimination, or reprisal. Each facility shall
1019 establish a written grievance procedure to facilitate the
1020 residents' exercise of this right which must include, at a

Bill No. SB 2216



853468

1021 minimum, maintaining a written record of each grievance, the
1022 stated reason for the grievance, actions taken by the facility,
1023 and reporting each grievance within 3 business days after
1024 receiving the grievance to the local ombudsman council. Each
1025 facility must accept grievances orally and may accept grievances
1026 in writing. The local ombudsman council shall maintain a record
1027 of all grievances received from each facility in the local area
1028 which shall be submitted by the local council to the Office of
1029 the State Long-Term Care Ombudsman pursuant to s. 400.0089. This
1030 right also includes access to ombudsman volunteers and advocates
1031 and the right to be a member of, to be active in, and to
1032 associate with advocacy or special interest groups.

1033 ~~(3) (a) The agency shall conduct a survey to determine~~
1034 ~~general compliance with facility standards and compliance with~~
1035 ~~residents' rights as a prerequisite to initial licensure or~~
1036 ~~licensure renewal.~~

1037 ~~(b)~~ In order to determine whether the facility is
1038 adequately protecting residents' rights, the agency's biennial
1039 survey shall include private informal conversations with a
1040 sample of residents and consultation with the ombudsman council
1041 in the planning and service area in which the facility is
1042 located to discuss residents' experiences within the facility.

1043 ~~(c) During any calendar year in which no survey is~~
1044 ~~conducted, the agency shall conduct at least one monitoring~~
1045 ~~visit of each facility cited in the previous year for a class I~~
1046 ~~or class II violation, or more than three uncorrected class III~~
1047 ~~violations.~~

Bill No. SB 2216



853468

1048 ~~(d) The agency may conduct periodic followup inspections~~
1049 ~~as necessary to monitor the compliance of facilities with a~~
1050 ~~history of any class I, class II, or class III violations that~~
1051 ~~threaten the health, safety, or security of residents.~~

1052 ~~(e) The agency may conduct complaint investigations as~~
1053 ~~warranted to investigate any allegations of noncompliance with~~
1054 ~~requirements required under this part or rules adopted under~~
1055 ~~this part.~~

1056 Section 18. Subsection (1) of section 429.294, Florida
1057 Statutes, is amended to read:

1058 429.294 Availability of facility records for investigation
1059 of resident's rights violations and defenses; penalty.--

1060 (1) Failure to provide complete copies of a resident's
1061 records, including, but not limited to, all medical records and
1062 the resident's chart, within the control or possession of the
1063 facility within 10 days, ~~in accordance with the provisions of s.~~
1064 ~~400.145,~~ shall constitute evidence of failure of that party to
1065 comply with good faith discovery requirements and shall waive
1066 the good faith certificate and presuit notice requirements under
1067 this part by the requesting party.

1068 Section 19. Section 429.34, Florida Statutes, is amended
1069 to read:

1070 429.34 Right of entry and inspection.--In addition to the
1071 requirements of s. 408.811:7

1072 (1) Any duly designated officer or employee of the
1073 department, the Department of Children and Family Services, the
1074 Medicaid Fraud Control Unit of the Office of the Attorney
1075 General, the state or local fire marshal, or a member of the

Bill No. SB 2216



853468

1076 state or local long-term care ombudsman council shall have the
1077 right to enter unannounced upon and into the premises of any
1078 facility licensed pursuant to this part in order to determine
1079 the state of compliance with the provisions of this part, part
1080 II of chapter 408, and applicable rules. Data collected by the
1081 state or local long-term care ombudsman councils or the state or
1082 local advocacy councils may be used by the agency in
1083 investigations involving violations of regulatory standards.

1084 (2) Every 15 months the agency shall conduct at least one
1085 unannounced inspection to determine compliance with this chapter
1086 and related rules including minimum standards of quality and
1087 adequacy of care, and the rights of residents. Two additional
1088 surveys shall be conducted every 6 months for the next year if
1089 the facility has been cited for a class I deficiency or two or
1090 more class II deficiencies arising from separate surveys or
1091 investigations within a 60-day period. In addition to any fines
1092 imposed on a facility under s. 429.19, the agency shall assess a
1093 fine of \$160 per bed for each of the additional two surveys. The
1094 agency shall adjust this fine by the change in the Consumer
1095 Price Index, based on the 12 months immediately preceding the
1096 change, to cover the cost of the additional two surveys. The
1097 agency shall verify through subsequent inspections that any
1098 deficiency identified during an inspection is corrected.
1099 However, the agency may verify the correction of a class III or
1100 class IV deficiency unrelated to resident rights or resident
1101 care without reinspecting the facility if adequate written
1102 documentation has been received from the facility which provides
1103 assurance that the deficiency has been corrected.

Bill No. SB 2216



853468

1104 Section 20. Paragraphs (k) and (l) of subsection (1) of
1105 section 429.41, Florida Statutes, are redesignated as paragraphs
1106 (l) and (m), respectively, and a new paragraph (k) is added to
1107 that subsection, to read:

1108 (1) It is the intent of the Legislature that rules
1109 published and enforced pursuant to this section shall include
1110 criteria by which a reasonable and consistent quality of
1111 resident care and quality of life may be ensured and the results
1112 of such resident care may be demonstrated. Such rules shall also
1113 ensure a safe and sanitary environment that is residential and
1114 noninstitutional in design or nature. It is further intended
1115 that reasonable efforts be made to accommodate the needs and
1116 preferences of residents to enhance the quality of life in a
1117 facility. The agency, in consultation with the department, may
1118 adopt rules to administer the requirements of part II of chapter
1119 408. In order to provide safe and sanitary facilities and the
1120 highest quality of resident care accommodating the needs and
1121 preferences of residents, the department, in consultation with
1122 the agency, the Department of Children and Family Services, and
1123 the Department of Health, shall adopt rules, policies, and
1124 procedures to administer this part, which must include
1125 reasonable and fair minimum standards in relation to:

1126 (k) The requirement that all residents have service plans.
1127 The service plan must be reviewed and updated annually; however,
1128 for a resident receiving nursing services ordered by a
1129 physician, except administration of medication, the plan must be
1130 reviewed and updated quarterly and whenever a resident
1131 experiences a significant change in condition.

Bill No. SB 2216



853468

1132 Section 21. Subsection (14) of section 429.65, Florida
1133 Statutes, is created to read:

1134 (14) "Reside" means the licensee or applicant lives in the
1135 adult family care home as a primary residence. For the purposes
1136 of this part, any two of the following documents which include
1137 the adult family care home address and the name of the licensee
1138 or applicant may be accepted by the agency as proof that the
1139 licensee or applicant resides in the adult family care home:

1140 (a) Homestead exemption documentation;

1141 (b) Lease or rental agreement accompanied by a
1142 corresponding utility bill;

1143 (c) Personal identification issued by a state or federal
1144 agency.

1145 ~~(14)~~(15) "Resident" means a person receiving room, board,
1146 and personal care in an adult family-care home.

1147 Section 22. Subsection (4) of section 429.67, Florida
1148 Statutes, is amended to read:

1149 429.67 Licensure.--

1150 (4) Upon receipt of a completed license application or
1151 license renewal, and the fee, the agency shall initiate a level
1152 1 background screening as provided under chapter 435 on the
1153 adult family-care home provider, the designated relief person,
1154 all adult household members, ~~and~~ all staff members, and any
1155 other person who provides personal services to residents or who
1156 have routine access to the adult family-care home.

1157 (a) Proof of compliance with level 1 screening standards
1158 which has been submitted within the previous 5 years to meet any
1159 facility or professional licensure requirements of the agency or

Bill No. SB 2216



853468

1160 the Department of Health satisfies the requirements of this
1161 subsection. Such proof must be accompanied, under penalty of
1162 perjury, by a copy of the person's current professional license
1163 and an affidavit of current compliance with the background
1164 screening requirements.

1165 (b) The person required to be screened must have been
1166 continuously employed in the same type of occupation for which
1167 the person is seeking employment without a breach in service
1168 that exceeds 180 days, and proof of compliance with the level 1
1169 screening requirement which is no more than 2 years old must be
1170 provided. Proof of compliance shall be provided directly from
1171 one employer or contractor to another, and not from the person
1172 screened. Upon request, a copy of screening results shall be
1173 provided to the person screened by the employer retaining
1174 documentation of the screening.

1175 Section 23. Subsection (3) is added to section 429.69,
1176 Florida Statutes, to read:

1177 429.69 Denial, revocation, and suspension of a
1178 license.--In addition to the requirements of part II of chapter
1179 408, the agency may deny, suspend, and revoke a license for any
1180 of the following reasons:

1181 (3) Failure of the adult family-care home provider who
1182 owns or rents the home to live in the home.

1183 Section 24. Paragraph (b) of subsection (1) of section
1184 429.73, Florida Statutes, is amended to read:

1185 429.73 Rules and standards relating to adult family-care
1186 homes.--

Bill No. SB 2216



853468

1187 (1) The agency, in consultation with the department, may
1188 adopt rules to administer the requirements of part II of chapter
1189 408. The department, in consultation with the Department of
1190 Health, the Department of Children and Family Services, and the
1191 agency shall, by rule, establish minimum standards to ensure the
1192 health, safety, and well-being of each resident in the adult
1193 family-care home pursuant to this part. The rules must address:

1194 (b) Services that must be provided to all residents of an
1195 adult family-care home and standards for such services, which
1196 must include, but need not be limited to:

- 1197 1. Room and board.
- 1198 2. Assistance necessary to perform the activities of daily
1199 living.
- 1200 3. Assistance necessary to administer medication.
- 1201 4. Supervision of residents.
- 1202 5. Health monitoring, including periodic assessments to
1203 determine if the resident is competent to handle his or her
1204 personal and financial affairs, and, if not, whether a
1205 responsible person such as a guardian, surrogate, or attorney in
1206 fact is available to make decisions on behalf of the resident.
- 1207 6. Social and leisure activities.

1208 Section 25. Subsections (2) and (3) of section 435.03,
1209 Florida Statutes, are amended to read:

1210 435.03 Level 1 screening standards.--

1211 (2) Any person for whom employment screening is required
1212 by statute must not have been convicted of ~~found guilty of,~~
1213 ~~regardless of adjudication,~~ or entered a plea of guilty or nolo
1214 ~~contendere or guilty to,~~ regardless of adjudication, to any

Bill No. SB 2216



853468

1215 offense prohibited under any of the following ~~provisions of the~~
1216 ~~Florida~~ statutes or under any similar statute of another
1217 jurisdiction:

1218 (a) Section 393.135, relating to sexual misconduct with
1219 certain developmentally disabled clients and reporting of such
1220 sexual misconduct.

1221 (b) Section 394.4593, relating to sexual misconduct with
1222 certain mental health patients and reporting of such sexual
1223 misconduct.

1224 (c) Section 415.111, relating to abuse, neglect, or
1225 exploitation of a vulnerable adult.

1226 (d) Section 782.04, relating to murder.

1227 (e) Section 782.07, relating to manslaughter, aggravated
1228 manslaughter of an elderly person or disabled adult, or
1229 aggravated manslaughter of a child.

1230 (f) Section 782.071, relating to vehicular homicide.

1231 (g) Section 782.09, relating to killing of an unborn quick
1232 child by injury to the mother.

1233 (h) Section 784.011, relating to assault, if the victim of
1234 the offense was a minor.

1235 (i) Section 784.021, relating to aggravated assault.

1236 (j) Section 784.03, relating to battery, if the victim of
1237 the offense was a minor.

1238 (k) Section 784.045, relating to aggravated battery.

1239 (l) Section 787.01, relating to kidnapping.

1240 (m) Section 787.02, relating to false imprisonment.

1241 (n) Section 794.011, relating to sexual battery.

Bill No. SB 2216



853468

- 1242 (o) Former s. 794.041, relating to prohibited acts of
1243 persons in familial or custodial authority.
- 1244 (p) Chapter 796, relating to prostitution.
- 1245 (q) Section 798.02, relating to lewd and lascivious
1246 behavior.
- 1247 (r) Chapter 800, relating to lewdness and indecent
1248 exposure.
- 1249 (s) Section 806.01, relating to arson.
- 1250 (t) Chapter 812, relating to theft, robbery, and related
1251 crimes, if the offense was a felony.
- 1252 (u) Section 817.563, relating to fraudulent sale of
1253 controlled substances, only if the offense was a felony.
- 1254 (v) Section 825.102, relating to abuse, aggravated abuse,
1255 or neglect of an elderly person or disabled adult.
- 1256 (w) Section 825.1025, relating to lewd or lascivious
1257 offenses committed upon or in the presence of an elderly person
1258 or disabled adult.
- 1259 (x) Section 825.103, relating to exploitation of an
1260 elderly person or disabled adult, if the offense was a felony.
- 1261 (y) Section 826.04, relating to incest.
- 1262 (z) Section 827.03, relating to child abuse, aggravated
1263 child abuse, or neglect of a child.
- 1264 (aa) Section 827.04, relating to contributing to the
1265 delinquency or dependency of a child.
- 1266 (bb) Former s. 827.05, relating to negligent treatment of
1267 children.
- 1268 (cc) Section 827.071, relating to sexual performance by a
1269 child.

Bill No. SB 2216



853468

- 1270 (dd) Chapter 847, relating to obscene literature.
- 1271 (ee) Chapter 893, relating to drug abuse prevention and
1272 control, only if the offense was a felony or if any other person
1273 involved in the offense was a minor.
- 1274 (ff) Section 916.1075, relating to sexual misconduct with
1275 certain forensic clients and reporting of such sexual
1276 misconduct.
- 1277 (3) Standards must also ensure that the person:
- 1278 (a) For employees and employers licensed or registered
1279 pursuant to chapter 408, part II~~400 or chapter 429~~, and for
1280 employees and employers of developmental disabilities
1281 institutions as defined in s. 393.063, ~~intermediate care~~
1282 ~~facilities for the developmentally disabled as defined in s.~~
1283 ~~400.960~~, and mental health treatment facilities as defined in s.
1284 394.455, has not been convicted of, or entered a plea of guilty
1285 or nolo contendere, regardless of adjudication, to offenses
1286 prohibited under any of the following statutes or under any
1287 similar statute of another jurisdiction: ~~meets the requirements~~
1288 ~~of this chapter.~~
- 1289 1. Sections 409.920 and 409.9201, relating to Medicaid
1290 fraud.
- 1291 2. Chapter 429, relating to assisted care communities.
- 1292 3. Chapter 784, relating to assault, battery, and culpable
1293 negligence, if the offense is a felony.
- 1294 4. Section 810.02, relating to burglary, if the offense is
1295 a felony.
- 1296 5. Section 817.034, relating to communications fraud.

Bill No. SB 2216



853468

1297 6. Section 817.234, relating to fraudulent insurance
1298 claims.

1299 7. Section 817.505, relating to patient brokering.

1300 8. Section 817.568, relating to identification theft.

1301 9. Sections 817.60 and 817.61, relating to credit cards,
1302 if the offense is a felony.

1303 10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and
1304 831.31 relating to forgery, uttering, and counterfeiting.

1305 (b) Has not committed an act that constitutes domestic
1306 violence as defined in s. 741.28.

1307 Section 26. Subsections (2) and (4) of section 435.04,
1308 Florida Statutes, are amended to read:

1309 435.04 Level 2 screening standards.--

1310 (2) The security background investigations under this
1311 section must ensure that no persons subject to ~~the provisions of~~
1312 this section have been convicted ~~found guilty of, regardless of~~
1313 ~~adjudication,~~ or entered a plea of guilty or nolo contendere ~~or~~
1314 ~~guilty to,~~ regardless of adjudication, to any offense prohibited
1315 under any of the following ~~provisions of the Florida~~ statutes or
1316 under any similar statute of another jurisdiction:

1317 (a) Section 393.135, relating to sexual misconduct with
1318 certain developmentally disabled clients and reporting of such
1319 sexual misconduct.

1320 (b) Section 394.4593, relating to sexual misconduct with
1321 certain mental health patients and reporting of such sexual
1322 misconduct.

1323 (c) Section 415.111, relating to adult abuse, neglect, or
1324 exploitation of aged persons or disabled adults.

Bill No. SB 2216



853468

- 1325 (d) Section 782.04, relating to murder.
- 1326 (e) Section 782.07, relating to manslaughter, aggravated
1327 manslaughter of an elderly person or disabled adult, or
1328 aggravated manslaughter of a child.
- 1329 (f) Section 782.071, relating to vehicular homicide.
- 1330 (g) Section 782.09, relating to killing of an unborn quick
1331 child by injury to the mother.
- 1332 (h) Section 784.011, relating to assault, if the victim of
1333 the offense was a minor.
- 1334 (i) Section 784.021, relating to aggravated assault.
- 1335 (j) Section 784.03, relating to battery, if the victim of
1336 the offense was a minor.
- 1337 (k) Section 784.045, relating to aggravated battery.
- 1338 (l) Section 784.075, relating to battery on a detention or
1339 commitment facility staff.
- 1340 (m) Section 787.01, relating to kidnapping.
- 1341 (n) Section 787.02, relating to false imprisonment.
- 1342 (o) Section 787.04(2), relating to taking, enticing, or
1343 removing a child beyond the state limits with criminal intent
1344 pending custody proceedings.
- 1345 (p) Section 787.04(3), relating to carrying a child beyond
1346 the state lines with criminal intent to avoid producing a child
1347 at a custody hearing or delivering the child to the designated
1348 person.
- 1349 (q) Section 790.115(1), relating to exhibiting firearms or
1350 weapons within 1,000 feet of a school.

Bill No. SB 2216



853468

1351 (r) Section 790.115(2)(b), relating to possessing an
1352 electric weapon or device, destructive device, or other weapon
1353 on school property.

1354 (s) Section 794.011, relating to sexual battery.

1355 (t) Former s. 794.041, relating to prohibited acts of
1356 persons in familial or custodial authority.

1357 (u) Chapter 796, relating to prostitution.

1358 (v) Section 798.02, relating to lewd and lascivious
1359 behavior.

1360 (w) Chapter 800, relating to lewdness and indecent
1361 exposure.

1362 (x) Section 806.01, relating to arson.

1363 (y) Chapter 812, relating to theft, robbery, and related
1364 crimes, if the offense is a felony.

1365 (z) Section 817.563, relating to fraudulent sale of
1366 controlled substances, only if the offense was a felony.

1367 (aa) Section 825.102, relating to abuse, aggravated abuse,
1368 or neglect of an elderly person or disabled adult.

1369 (bb) Section 825.1025, relating to lewd or lascivious
1370 offenses committed upon or in the presence of an elderly person
1371 or disabled adult.

1372 (cc) Section 825.103, relating to exploitation of an
1373 elderly person or disabled adult, if the offense was a felony.

1374 (dd) Section 826.04, relating to incest.

1375 (ee) Section 827.03, relating to child abuse, aggravated
1376 child abuse, or neglect of a child.

1377 (ff) Section 827.04, relating to contributing to the
1378 delinquency or dependency of a child.

Bill No. SB 2216



853468

- 1379 (gg) Former s. 827.05, relating to negligent treatment of
1380 children.
- 1381 (hh) Section 827.071, relating to sexual performance by a
1382 child.
- 1383 (ii) Section 843.01, relating to resisting arrest with
1384 violence.
- 1385 (jj) Section 843.025, relating to depriving a law
1386 enforcement, correctional, or correctional probation officer
1387 means of protection or communication.
- 1388 (kk) Section 843.12, relating to aiding in an escape.
- 1389 (ll) Section 843.13, relating to aiding in the escape of
1390 juvenile inmates in correctional institutions.
- 1391 (mm) Chapter 847, relating to obscene literature.
- 1392 (nn) Section 874.05(1), relating to encouraging or
1393 recruiting another to join a criminal gang.
- 1394 (oo) Chapter 893, relating to drug abuse prevention and
1395 control, only if the offense was a felony or if any other person
1396 involved in the offense was a minor.
- 1397 (pp) Section 916.1075, relating to sexual misconduct with
1398 certain forensic clients and reporting of such sexual
1399 misconduct.
- 1400 (qq) Section 944.35(3), relating to inflicting cruel or
1401 inhuman treatment on an inmate resulting in great bodily harm.
- 1402 (rr) Section 944.46, relating to harboring, concealing, or
1403 aiding an escaped prisoner.
- 1404 (ss) Section 944.47, relating to introduction of
1405 contraband into a correctional facility.

Bill No. SB 2216



853468

1406 (tt) Section 985.701, relating to sexual misconduct in
1407 juvenile justice programs.

1408 (uu) Section 985.711, relating to contraband introduced
1409 into detention facilities.

1410 (4) Standards must also ensure that the person:

1411 (a) For employees or employers licensed or registered
1412 pursuant to chapter 408, part II-400 or chapter 429, and for
1413 employees and employers of developmental disabilities
1414 institutions as defined in s. 393.063, and mental health
1415 treatment facilities as defined in s. 394.455, has not been
1416 convicted of, or entered a plea of guilty or nolo contendere,
1417 regardless of adjudication, to offenses prohibited under any of
1418 the following statutes or under similar statutes of another
1419 jurisdiction: does not have a confirmed report of abuse,
1420 neglect, or exploitation as defined in s. 415.102(6), which has
1421 been uncontested or upheld under s. 415.103.

1422 1. Sections 409.920 and 409.9201, relating to Medicaid
1423 fraud.

1424 2. Chapter 429, relating to assisted care communities.

1425 3. Chapter 784, relating to assault, battery, and culpable
1426 negligence, if the offense is a felony.

1427 4. Section 810.02, relating to burglary, if the offense is
1428 a felony.

1429 5. Section 817.034, relating to communications fraud.

1430 6. Section 817.234, relating to fraudulent insurance
1431 claims.

1432 7. Section 817.505, relating to patient brokering.

1433 8. Section 817.568, relating to identification theft.

Bill No. SB 2216



853468

1434 9. Sections 817.60 and 817.61, relating to credit cards,
1435 if the offense is a felony.

1436 10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and
1437 831.31 relating to forgery, uttering, and counterfeiting.

1438 (b) Has not committed an act that constitutes domestic
1439 violence as defined in s. 741.28 ~~s. 741.30~~.

1440 Section 27. Subsection (13) of section 400.141, subsection
1441 (3) of section 408.809, subsection (2) of section 429.08, and
1442 subsection (5) of section 429.41, Florida Statutes, are
1443 repealed.

1444 Section 28. Paragraph (h) of subsection (3) of section
1445 430.80, Florida Statutes, is amended to read:

1446 430.80 Implementation of a teaching nursing home pilot
1447 project.--

1448 (3) To be designated as a teaching nursing home, a nursing
1449 home licensee must, at a minimum:

1450 (h) Maintain insurance coverage pursuant to s. 400.141(19)
1451 ~~s. 400.141(20)~~ or proof of financial responsibility in a minimum
1452 amount of \$750,000. ~~Such~~ Proof of financial responsibility may
1453 include:

1454 1. Maintaining an escrow account consisting of cash or
1455 assets eligible for deposit in accordance with s. 625.52; or

1456 2. Obtaining and maintaining, pursuant to chapter 675, an
1457 unexpired, irrevocable, nontransferable and nonassignable letter
1458 of credit issued by a ~~any~~ bank or savings association organized
1459 and existing under the laws of this state or a ~~any~~ bank or
1460 savings association organized under the laws of the United
1461 States that has its principal place of business in this state or

Bill No. SB 2216



853468

1462 has a branch office which is authorized to receive deposits in
 1463 this state. The letter of credit shall be used to satisfy the
 1464 obligation of the facility to the claimant upon presentment of a
 1465 final judgment indicating liability and awarding damages to be
 1466 paid by the facility or upon presentment of a settlement
 1467 agreement signed by all parties if the ~~to the agreement when~~
 1468 ~~such~~ final judgment or settlement is a result of a liability
 1469 claim against the facility.

1470 Section 29. Subsection (13) of section 651.118, Florida
 1471 Statutes, is amended to read:

1472 651.118 Agency for Health Care Administration;
 1473 certificates of need; sheltered beds; community beds.--

1474 (13) Residents, ~~as defined in this chapter,~~ are not
 1475 considered new admissions for the purpose of s. 400.141(14)(d)
 1476 ~~s. 400.141(15)(d)~~.

1477 Section 30. This act shall take effect October 1, 2008.

1480 ===== T I T L E A M E N D M E N T =====

1481 And the title is amended as follows:

1482 Delete everything before the enacting clause
 1483 and insert:

1484 A bill to be entitled
 1485 An act relating to adult protection and care; amending s.
 1486 322.142, F.S.; authorizing the Department of Children and
 1487 Family Services to obtain copies of driver's license files
 1488 maintained by the Department of Highway Safety and Motor
 1489 Vehicles for the purpose of conducting protective

Bill No. SB 2216



853468

1490 investigations; amending s. 400.141, F.S.; requiring a
1491 criminal records check to be conducted on all nursing home
1492 residents; amending s. 400.19, F.S.; revising provisions
1493 relating to unannounced inspections; amending s. 400.215,
1494 F.S.; requiring contracted workers employed in a nursing
1495 home to submit to background screening; prohibiting
1496 employees and contracted workers who do not meet
1497 background screening requirements from being employed in a
1498 nursing home; providing certain exceptions; deleting an
1499 obsolete provision; amending s. 408.809, F.S.; requiring
1500 the agency to establish a fee schedule to cover the cost
1501 of a level 1 or level 2 screening and giving the agency
1502 rule making authority; amending s. 408.810, F.S.;
1503 requiring health care facilities regulated by the Agency
1504 for Health Care Administration to post certain information
1505 in the facility and allowing the agency to charge a fee to
1506 cover production and distribution; amending s. 408.811,
1507 F.S.; providing that agency employees who provide advance
1508 notice of unannounced agency inspections are subject to
1509 suspension, providing a timeline and process for
1510 correction of deficiencies, and providing that the agency
1511 may provide electronic access to documents; amending s.
1512 415.103, F.S.; requiring certain reports to the central
1513 abuse hotline relating to vulnerable adults to be
1514 immediately transferred to the county sheriff's office;
1515 amending s. 415.1051, F.S.; authorizing the Department of
1516 Children and Family Services to file the petition to
1517 determine incapacity in adult protection proceedings;

Bill No. SB 2216



853468

1518 prohibiting the department from serving as the guardian or
1519 providing legal counsel to the guardian; amending s.
1520 415.112, F.S.; specifying rules to be adopted by the
1521 Department of Children and Family Services relating to
1522 adult protective services under ch. 415, F.S.; amending s.
1523 429.02, F.S.; revising the definition of "service plan" to
1524 remove the limitation that plans are required only in
1525 assisted living facilities that have an extended
1526 congregate care license and providing that the agency
1527 develop a service plan form; amending s. 429.07, F.S.;
1528 providing that license requirements for specialty licenses
1529 apply to current licensees as well as applicants for an
1530 extended congregate care and limited nursing license;
1531 conforming a cross-reference; amending s. 429.174, F.S.;
1532 requiring certain employees and contracted workers in
1533 assisted living facilities to submit to background
1534 screening; prohibiting employees and contracted workers
1535 who do not meet background screening requirements from
1536 being employed in an assisted living facility; providing
1537 certain exceptions; requiring the person being screened to
1538 pay for the cost of screening; amending s. 429.255, F.S.;
1539 providing that the owner or administrator of an assisted
1540 living facility is responsible for the services provided
1541 in the facility; amending s. 429.26, F.S.; clarifying a
1542 prohibition on moving a resident; providing for the
1543 development of a service plan for all residents; requiring
1544 a criminal records check to be conducted on all residents
1545 of an assisted living facility; requiring residents to be

Bill No. SB 2216



853468

1546 periodically assessed for competency to handle personal
1547 affairs; amending s. 429.27, F.S.; prohibiting assisted
1548 living facility personnel from making certain decisions
1549 for a resident or act as the resident's representative or
1550 surrogate; amending s. 429.28, F.S.; requiring that notice
1551 of a resident's relocation or termination of residency be
1552 in writing and a copy sent to specified persons; requiring
1553 the agency to compile an annual report for the Governor
1554 and the Legislature; requiring facilities to have a
1555 written grievance procedure that includes certain
1556 information; requiring that grievances reported to the
1557 local ombudsman council be included in a statewide
1558 reporting system; revising provisions relating to agency
1559 surveys to determine compliance with resident rights in
1560 assisted living facilities; amending s. 429.294, F.S.;
1561 deleting a cross-reference; amending s. 429.34, F.S.;
1562 providing for unannounced inspections; providing for
1563 additional 6-month inspections for certain violations;
1564 providing for an additional fine for 6-month inspections;
1565 amending s. 429.41, F.S.; requiring all residents of
1566 assisted living facilities to have a service plan;
1567 amending s. 429.65, F.S.; providing a definition of the
1568 term "Reside"; amending s. 429.67, F.S.; expanding the
1569 list of persons who must have a background screening in
1570 adult family-care homes; amending s. 429.69, F.S.;
1571 providing that the failure of a adult family-care home
1572 provider to live in the home is grounds for the denial,
1573 revocation, or suspension of a license; amending s.

Bill No. SB 2216



853468

1574 429.73, F.S.; requiring adult family-care home residents
1575 to be periodically assessed for competency to handle
1576 personal affairs; amending ss. 435.03 and 435.04, F.S.;
1577 providing additional criminal offenses for screening
1578 certain health care facility personnel; repealing s.
1579 400.141(13), F.S., relating to a requirement to post
1580 certain information in nursing homes; repealing s.
1581 408.809(3), F.S., relating to the granting of a
1582 provisional license while awaiting the results of a
1583 background screening; repealing s. 429.08(2), F.S.,
1584 deleting a provision relating to local workgroups of field
1585 offices of the Agency for Health Care Administration;
1586 repealing s. 429.41(5), F.S., relating to agency
1587 inspections; amending ss. 430.80 and 651.118, F.S.;
1588 conforming cross-references; providing an effective date.