

By Senator Storms

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1 A bill to be entitled

2 An act relating to adult protection and care; amending s.
3 322.142, F.S.; authorizing the Department of Children and
4 Family Services to obtain copies of driver's license files
5 maintained by the Department of Highway Safety and Motor
6 Vehicles for the purpose of conducting protective
7 investigations; amending s. 400.141, F.S.; requiring a
8 criminal records check to be conducted on all nursing home
9 residents; amending s. 400.19, F.S.; revising provisions
10 relating to unannounced inspections; amending s. 400.215,
11 F.S.; requiring contracted workers employed in a nursing
12 home to submit to background screening; prohibiting
13 employees and contracted workers who do not meet
14 background screening requirements from being employed in a
15 nursing home; providing certain exceptions; deleting an
16 obsolete provision; amending s. 408.810, F.S.; requiring
17 health care facilities regulated by the Agency for Health
18 Care Administration to post certain information in the
19 facility; amending s. 408.811, F.S.; providing that agency
20 employees who provide advance notice of unannounced agency
21 inspections are subject to suspension; amending s.
22 415.103, F.S.; requiring certain reports to the central
23 abuse hotline relating to vulnerable adults to be
24 immediately transferred to the county sheriff's office;
25 amending s. 415.1051, F.S.; authorizing the Department of
26 Children and Family Services to file the petition to
27 determine incapacity in adult protection proceedings;
28 prohibiting the department from serving as the guardian or
29 providing legal counsel to the guardian; amending s.

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30 415.112, F.S.; specifying rules to be adopted by the
31 Department of Children and Family Services relating to
32 adult protective services under ch. 415, F.S.; amending s.
33 429.02, F.S.; revising the definition of "service plan" to
34 remove the limitation that plans are required only in
35 assisted living facilities that have an extended
36 congregate care license; amending s. 429.07, F.S.;
37 providing that license requirements for specialty licenses
38 apply to current licensees as well as applicants for an
39 extended congregate care and limited nursing license;
40 conforming a cross-reference; amending s. 429.174, F.S.;
41 requiring certain employees and contracted workers in
42 assisted living facilities to submit to background
43 screening; prohibiting employees and contracted workers
44 who do not meet background screening requirements from
45 being employed in an assisted living facility; providing
46 certain exceptions; requiring the person being screened to
47 pay for the cost of screening; amending s. 429.255, F.S.;
48 providing that the owner or administrator of an assisted
49 living facility is responsible for the services provided
50 in the facility; amending s. 429.26, F.S.; clarifying a
51 prohibition on moving a resident; providing for the
52 development of a service plan for all residents; requiring
53 a criminal records check to be conducted on all residents
54 of an assisted living facility; requiring residents to be
55 periodically assessed for competency to handle personal
56 affairs; amending s. 429.27, F.S.; prohibiting assisted
57 living facility personnel from making certain decisions
58 for a resident or act as the resident's representative or

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59 surrogate; amending s. 429.28, F.S.; requiring that notice
60 of a resident's relocation or termination of residency be
61 in writing and a copy sent to specified persons; requiring
62 the agency to compile an annual report for the Governor
63 and the Legislature; requiring facilities to have a
64 written grievance procedure that includes certain
65 information; requiring that grievances reported to the
66 local ombudsman council be included in a statewide
67 reporting system; revising provisions relating to agency
68 surveys to determine compliance with resident rights in
69 assisted living facilities; amending s. 429.294, F.S.;
70 deleting a cross-reference; amending s. 429.34, F.S.;
71 providing for unannounced inspections; providing for
72 additional 6-month inspections for certain violations;
73 providing for an additional fine for 6-month inspections;
74 amending s. 429.41, F.S.; requiring all residents of
75 assisted living facilities to have a service plan;
76 amending s. 429.67, F.S.; expanding the list of persons
77 who must have a background screening in adult family-care
78 homes; amending s. 429.69, F.S.; providing that the
79 failure of a adult family-care home provider to live in
80 the home is grounds for the denial, revocation, or
81 suspension of a license; amending s. 429.73, F.S.;
82 requiring adult family-care home residents to be
83 periodically assessed for competency to handle personal
84 affairs; amending ss. 435.03 and 435.04, F.S.; providing
85 additional criminal offenses for screening certain health
86 care facility personnel; repealing s. 400.141(13), F.S.,
87 relating to a requirement to post certain information in

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88 nursing homes; repealing s. 429.08(2), F.S., deleting a
89 provision relating to local workgroups of field offices of
90 the Agency for Health Care Administration; repealing s.
91 429.19(7), F.S., relating to survey fees charged for
92 complaint investigations of assisted living facilities;
93 repealing s. 429.41(5), F.S., relating to agency
94 inspections; amending ss. 430.80 and 651.118, F.S.;
95 conforming cross-references; providing an effective date.
96

97 Be It Enacted by the Legislature of the State of Florida:
98

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

101 322.142 Color photographic or digital imaged licenses.--

102 (4) The department may maintain a film negative or print
103 file. The department shall maintain a record of the digital image
104 and signature of the licensees, together with other data required
105 by the department for identification and retrieval. Reproductions
106 from the file or digital record are exempt from the provisions of
107 s. 119.07(1) and shall be made and issued only for departmental
108 administrative purposes; for the issuance of duplicate licenses;
109 in response to law enforcement agency requests; to the Department
110 of State pursuant to an interagency agreement to facilitate
111 determinations of eligibility of voter registration applicants
112 and registered voters in accordance with ss. 98.045 and 98.075;
113 to the Department of Revenue pursuant to an interagency agreement
114 for use in establishing paternity and establishing, modifying, or
115 enforcing support obligations in Title IV-D cases; to the
116 Department of Children and Family Services pursuant to an

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117 interagency agreement to conduct protective investigations under
118 chapter 415; or to the Department of Financial Services pursuant
119 to an interagency agreement to facilitate the location of owners
120 of unclaimed property, the validation of unclaimed property
121 claims, and the identification of fraudulent or false claims, ~~and~~
122 ~~are exempt from the provisions of s. 119.07(1).~~

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

125 400.141 Administration and management of nursing home
126 facilities.--Every licensed facility shall comply with all
127 applicable standards and rules of the agency and shall:

128 (25) Conduct a criminal records background check of a
129 prospective resident before admission or immediately after
130 admission at the resident's expense. The information obtained may
131 be used by the facility to assess the needs of the resident and
132 to provide adequate and appropriate health care and protective
133 and support services in accordance with this part.

134
135 Facilities that have been awarded a Gold Seal under the program
136 established in s. 400.235 may develop a plan to provide certified
137 nursing assistant training as prescribed by federal regulations
138 and state rules and may apply to the agency for approval of their
139 program.

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

142 400.19 Right of entry and inspection.--

143 (3) The agency shall every 15 months conduct at least one
144 unannounced inspection to determine compliance by the licensee
145 with statutes, and related ~~with rules promulgated under the~~

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146 ~~provisions of those statutes,~~ governing minimum standards of
147 construction, quality and adequacy of care, and rights of
148 residents. The survey shall be conducted every 6 months for the
149 next 2-year period if the facility has been cited for a class I
150 deficiency, has been cited for two or more class II deficiencies
151 arising from separate surveys or investigations within a 60-day
152 period, or has had three or more substantiated complaints within
153 a 6-month period, each resulting in at least one class I or class
154 II deficiency. In addition to any other fees or fines in this
155 part, the agency shall assess a fine for each facility that is
156 subject to the 6-month survey cycle. The fine for the 2-year
157 period shall be \$6,000, one-half to be paid at the completion of
158 each survey. The agency may adjust this fine by the change in the
159 Consumer Price Index, based on the 12 months immediately
160 preceding the change ~~increase~~, to cover the cost of the
161 additional surveys. The agency shall verify through subsequent
162 inspection that any deficiency identified during inspection is
163 corrected. However, the agency may verify the correction of a
164 class III or class IV deficiency unrelated to resident rights or
165 resident care without reinspecting the facility if adequate
166 written documentation has been received from the facility, which
167 provides assurance that the deficiency has been corrected. ~~The~~
168 ~~giving or causing to be given of advance notice of such~~
169 ~~unannounced inspections by an employee of the agency to any~~
170 ~~unauthorized person shall constitute cause for suspension of not~~
171 ~~fewer than 5 working days according to the provisions of chapter~~
172 ~~110.~~

173 Section 4. Section 400.215, Florida Statutes, is amended to
174 read:

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175 400.215 Background Personnel screening requirement.--

176 (1) ~~The agency shall require~~ Background screening as
177 provided in chapter 435 is required for all nursing home facility
178 employees and contracted workers ~~or prospective employees of~~
179 ~~facilities licensed under this part~~ who are expected to, or whose
180 responsibilities may require them to:

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

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

183 (c) Have access to resident funds or other personal
184 property.

185 (2) Employers, and employees, contractors, and contracted
186 workers shall comply with the requirements of s. 435.05.

187 (a) Notwithstanding ~~the provisions of~~ s. 435.05(1),
188 facilities must have in their possession evidence that level 1
189 screening under s. 435.03 has been completed before allowing an
190 employee or contracted worker to begin employment in the facility
191 ~~working with patients~~ as provided in subsection (1). All
192 information necessary for conducting level 1 background screening
193 ~~using level 1 standards as specified in s. 435.03~~ shall be
194 submitted by the nursing facility to the agency. Results of the
195 background screening shall be provided by the agency to the
196 requesting nursing facility.

197 (b) Employees and contracted workers qualified under ~~the~~
198 ~~provisions of~~ paragraph (a) who have not maintained continuous
199 residency within the state for the 5 years immediately preceding
200 the date of request for background screening must complete level
201 2 screening, as provided in s. 435.04 ~~chapter 435~~. Such Employees
202 may work in a conditional status for up to 180 days pending the
203 receipt of written findings evidencing the completion of level 2

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204 screening. Contracted workers who are awaiting the completion of
205 level 2 screening may work only under the direct and visual
206 supervision of persons who have met the screening requirements of
207 this section. Level 2 screening ~~is~~ shall not be required ~~for~~ ~~of~~
208 employees, or prospective employees, or contracted workers who
209 attest in writing under penalty of perjury that they meet the
210 residency requirement. To complete ~~Completion of~~ level 2
211 screening: ~~shall require~~

212 1. The employee or contracted worker shall ~~prospective~~
213 ~~employee to~~ furnish to the nursing facility a full set of
214 fingerprints for conducting a federal criminal records check to
215 ~~enable a criminal background investigation to be conducted.~~

216 2. The nursing facility shall submit the completed
217 fingerprint card to the agency.

218 3. The agency shall establish a record of the request in
219 the database provided for in paragraph (c) and forward the
220 request to the Department of Law Enforcement, which is authorized
221 to submit the fingerprints to the Federal Bureau of Investigation
222 for a national criminal history records check.

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

226 5. The agency shall notify the administrator of the
227 requesting nursing facility or the administrator of any other
228 requesting facility licensed under chapter 393, chapter 394,
229 chapter 395, chapter 397, chapter 429, or this chapter, ~~as~~
230 ~~requested by such facility,~~ as to whether ~~or not~~ the employee has
231 qualified under level 1 or level 2 screening.
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233 An employee or contracted worker ~~prospective employee~~ who has
234 qualified under level 2 screening and has maintained ~~such~~
235 continuous residency within the state ~~is shall~~ not be required to
236 complete a subsequent level 2 screening as a condition of
237 employment at another facility.

238 (c) The agency shall establish and maintain a database that
239 includes ~~of background screening information which shall include~~
240 the results of all ~~both~~ level 1 and level 2 screening. The
241 Department of Law Enforcement shall timely provide to the agency,
242 electronically, the results of each statewide screening for
243 incorporation into the database. The agency shall, upon request
244 from any facility, agency, or program required by or authorized
245 by law to screen its employees or contracted workers ~~applicants~~,
246 notify the administrator of the facility, agency, or program of
247 the qualifying or disqualifying status of the person ~~employee or~~
248 ~~applicant~~ named in the request.

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

254 (3) The person being screened ~~applicant~~ is responsible for
255 paying the fees associated with obtaining the required screening.
256 Payment for the screening shall be submitted to the agency. The
257 agency shall establish a schedule of fees to cover the costs of
258 level 1 and level 2 screening. Facilities may reimburse employees
259 or contracted workers for these costs. The Department of Law
260 Enforcement shall charge the agency for a level 1 or level 2
261 screening a rate sufficient to cover the costs of ~~such~~ screening

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262 | pursuant to s. 943.053(3). The agency shall, as allowable,
263 | reimburse nursing facilities for the cost of conducting
264 | background screening as required by this section. This
265 | reimbursement is ~~will~~ not be subject to any rate ceilings or
266 | payment targets in the Medicaid Reimbursement plan.

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

268 | (a) The agency may grant an exemption from disqualification
269 | to an employee, ~~or~~ prospective employee, or contracted worker who
270 | is subject to this section and who has not received a
271 | professional license or certification from the Department of
272 | Health.

273 | ~~(b) As provided in s. 435.07,~~ The appropriate regulatory
274 | board within the Department of Health, or that department itself
275 | when there is no board, may grant an exemption from
276 | disqualification to an employee, ~~or~~ prospective employee, or
277 | contracted worker who is subject to this section and who has
278 | received a professional license or certification from the
279 | Department of Health or a regulatory board within that
280 | department.

281 | ~~(5) Any provision of law to the contrary notwithstanding,~~
282 | Persons who have been screened and qualified as required by this
283 | section, ~~and~~ who have not been unemployed for more than 180 days
284 | ~~thereafter,~~ and who, under penalty of perjury, attest to not
285 | having been convicted of a disqualifying offense since the
286 | completion of such screening are, ~~shall~~ not be required to be
287 | rescreened. An employer may obtain, pursuant to s. 435.10,
288 | written verification of qualifying screening results from the
289 | previous employer, contractor, or other entity that ~~which~~ caused
290 | the ~~such~~ screening to be performed.

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

294 ~~(7) All employees shall comply with the requirements of~~
295 ~~this section by October 1, 1998. No current employee of a nursing~~
296 ~~facility as of the effective date of this act shall be required~~
297 ~~to submit to rescreening if the nursing facility has in its~~
298 ~~possession written evidence that the person has been screened and~~
299 ~~qualified according to level 1 standards as specified in s.~~
300 ~~435.03(1). Any current employee who meets the level 1 requirement~~
301 ~~but does not meet the 5-year residency requirement as specified~~
302 ~~in this section must provide to the employing nursing facility~~
303 ~~written attestation under penalty of perjury that the employee~~
304 ~~has not been convicted of a disqualifying offense in another~~
305 ~~state or jurisdiction. All applicants hired on or after October~~
306 ~~1, 1998, shall comply with the requirements of this section.~~

307 ~~(7)(8)~~ There is no monetary or unemployment liability on
308 the part of, and a ~~no~~ cause of action for damages does not arise
309 ~~arising~~ against, an employer that, upon notice of a disqualifying
310 offense listed under chapter 435 or an act of domestic violence,
311 terminates the employee against whom the report was issued,
312 whether or not the employee has filed for an exemption with the
313 Department of Health or the agency ~~for Health Care~~
314 ~~Administration.~~

315 Section 5. Subsection (5) of section 408.810, Florida
316 Statutes, is amended to read:

317 408.810 Minimum licensure requirements.--In addition to the
318 licensure requirements specified in this part, authorizing
319 statutes, and applicable rules, each applicant and licensee must

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320 comply with the requirements of this section in order to obtain
321 and maintain a license.

322 (5) Each licensee must:

323 (a) On or before the first day services are provided to a
324 client, ~~a licensee must~~ inform the client and his or her
325 immediate family or representative, if appropriate, of the right
326 to report:

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

332 2. Abusive, neglectful, or exploitative practices. The
333 statewide toll-free telephone number for the central abuse
334 hotline must be provided to clients in a manner that is clearly
335 legible and must include the words: "To report abuse, neglect, or
336 exploitation, please call toll-free (phone number)." The agency
337 shall publish a minimum of a 90-day advance notice of a change in
338 the toll-free telephone numbers.

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

341 (c) Publicly display a poster provided by the agency
342 containing the names, addresses, and telephone numbers for the
343 state's central abuse hotline, the State Long-Term Care
344 Ombudsman, the agency's consumer hotline, the Advocacy Center for
345 Persons with Disabilities, the Florida Statewide Advocacy
346 Council, the Medicaid Fraud Control Unit, and the Statewide
347 Public Guardianship Office, along with a clear description of the
348 assistance to be expected from each.

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349 Section 6. Paragraph (a) of subsection (1) of section
350 408.811, Florida Statutes, is amended to read:

351 408.811 Right of inspection; copies; inspection reports.--

352 (1) An authorized officer or employee of the agency may
353 make or cause to be made any inspection or investigation deemed
354 necessary by the agency to determine the state of compliance with
355 this part, authorizing statutes, and applicable rules. The right
356 of inspection extends to any business that the agency has reason
357 to believe is being operated as a provider without a license, but
358 inspection of any business suspected of being operated without
359 the appropriate license may not be made without the permission of
360 the owner or person in charge unless a warrant is first obtained
361 from a circuit court. Any application for a license issued under
362 this part, authorizing statutes, or applicable rules constitutes
363 permission for an appropriate inspection to verify the
364 information submitted on or in connection with the application.

365 (a) All inspections shall be unannounced, except as
366 specified in s. 408.806. The giving or causing to be given of
367 advance notice of the unannounced inspection by an agency
368 employee to any unauthorized person shall, in accordance with
369 chapter 110, constitute cause for suspension of the employee for
370 at least 5 working days.

371 Section 7. Subsection (2) of section 415.103, Florida
372 Statutes, is amended to read:

373 415.103 Central abuse hotline.--

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

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378 (a) For reports requiring an immediate onsite protective
379 investigation, the central abuse hotline must immediately notify
380 the department's designated protective investigative district
381 staff responsible for protective investigations to ensure prompt
382 initiation of an onsite investigation.

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

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

397 Section 8. Paragraph (e) of subsection (1) and paragraph
398 (g) of subsection (2) of section 415.1051, Florida Statutes, are
399 amended to read:

400 415.1051 Protective services interventions when capacity to
401 consent is lacking; nonemergencies; emergencies; orders;
402 limitations.--

403 (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.--If the
404 department has reasonable cause to believe that a vulnerable
405 adult or a vulnerable adult in need of services is being abused,
406 neglected, or exploited and is in need of protective services but

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407 lacks the capacity to consent to protective services, the
408 department shall petition the court for an order authorizing the
409 provision of protective services.

410 (e) Continued protective services.--

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

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

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

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

419 d. A petition for guardianship shall ~~should~~ be filed
420 pursuant to chapter 744.

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

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

430 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If the
431 department has reasonable cause to believe that a vulnerable
432 adult is suffering from abuse or neglect that presents a risk of
433 death or serious physical injury to the vulnerable adult and that
434 the vulnerable adult lacks the capacity to consent to emergency
435 protective services, the department may take action under this

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436 subsection. If the vulnerable adult has the capacity to consent
437 and refuses consent to emergency protective services, emergency
438 protective services may not be provided.

439 (g) Continued emergency protective services.--

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

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

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

447 c. Emergency protective services are to ~~will~~ be
448 discontinued; or

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

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

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

458 Section 9. Section 415.112, Florida Statutes, is amended to
459 read:

460 415.112 ~~Rules for implementation of ss. 415.101-~~
461 ~~415.113.--~~The department shall adopt promulgate rules to
462 administer this chapter including, but not limited to: for the
463 implementation of ss. 415.101-415.113.

464 (1) Background screening of department employees and

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465 employee applicants which includes a criminal records check and
466 drug testing of adult protective investigators and adult
467 protective investigator supervisors.

468 (2) The reporting of adult abuse, neglect, exploitation, a
469 vulnerable adult in need of services, false reporting, and adult
470 protective investigations.

471 (3) Confidentiality and retention of department records,
472 access to records, and record requests.

473 (4) Injunctions and other protective orders.

474 (5) The provision of emergency and nonemergency protective
475 services intervention.

476 (6) Agreements with law enforcement and other state
477 agencies.

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

481 (8) The legal and casework management of cases involving
482 protective supervision, protective orders, judicial reviews,
483 administrative reviews, case plans, and documentation
484 requirements.

485 Section 10. Subsection (21) of section 429.02, Florida
486 Statutes, is amended to read:

487 429.02 Definitions.--When used in this part, the term:

488 (21) "Service plan" means a written plan, developed and
489 agreed upon by the resident and, if applicable, the resident's
490 representative or designee or the resident's surrogate, guardian,
491 or attorney in fact, if any, and the administrator or designee
492 representing the facility, which addresses the unique physical
493 and psychosocial needs, abilities, and personal preferences of

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494 each resident ~~receiving extended congregate care services~~. The
495 plan must ~~shall~~ include a brief written description, in easily
496 understood language, of what services shall be provided, who
497 shall provide the services, when the services shall be rendered,
498 and the purposes and benefits of the services.

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

501 429.07 License required; fee.--

502 (3) In addition to the requirements of s. 408.806, each
503 license granted by the agency must state the type of care for
504 which the license is granted. Licenses shall be issued for one or
505 more of the following categories of care: standard, extended
506 congregate care, limited nursing services, or limited mental
507 health.

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

516 1. To obtain an ~~In order for~~ extended congregate care
517 license ~~services to be provided in a facility licensed under this~~
518 ~~part~~, the agency must first determine that all requirements
519 established in law and rule are met and must specifically
520 designate, on the facility's license, that such services may be
521 provided and whether the designation applies to all or part of
522 the ~~a~~ facility. Such designation may be made at the time of

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523 initial licensure or relicensure, or upon request in writing by a
524 licensee under this part and part II of chapter 408. Notification
525 of approval or denial of the ~~such~~ request shall be made in
526 accordance with part II of chapter 408. ~~Existing~~

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

- 533 a. A class I or class II violation;
- 534 b. Three or more repeat or recurring class III violations
535 of identical or similar resident care standards as specified in
536 rule from which a pattern of noncompliance is found by the
537 agency;
- 538 c. Three or more class III violations that were not
539 corrected in accordance with the corrective action plan approved
540 by the agency;

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

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

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

550 ~~3.2.~~ A facility that is ~~Facilities that are~~ licensed to
551 provide extended congregate care services must ~~shall~~ maintain a

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552 written progress report on each person who receives ~~such~~
553 services, which report describes the type, amount, duration,
554 scope, and outcome of services that are rendered and the general
555 status of the resident's health. A registered nurse, or
556 appropriate designee, representing the agency shall visit the
557 facility ~~such facilities~~ at least quarterly to monitor residents
558 who are receiving extended congregate care services and to
559 determine if the facility is in compliance with this part, part
560 II of chapter 408, and rules that relate to extended congregate
561 care. One of these visits may be in conjunction with the regular
562 survey. The monitoring visits may be provided through contractual
563 arrangements with appropriate community agencies. A registered
564 nurse shall serve as part of the team that inspects the ~~such~~
565 facility. The agency may waive one of the required yearly
566 monitoring visits for a facility that has been licensed for at
567 least 24 months to provide extended congregate care services, if,
568 during the inspection, the registered nurse determines that
569 extended congregate care services are being provided
570 appropriately, and if the facility has no class I or class II
571 violations and no uncorrected class III violations. ~~Before such~~
572 ~~decision is made,~~ The agency must first ~~shall~~ consult with the
573 long-term care ombudsman council for the area in which the
574 facility is located to determine if any complaints have been made
575 and substantiated about the quality of services or care. The
576 agency may not waive one of the required yearly monitoring visits
577 if complaints have been made and substantiated.

578 4.3. Facilities that are licensed to provide extended
579 congregate care services must ~~shall~~:

580 a. Demonstrate the capability to meet unanticipated

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581 resident service needs.

582 b. Offer a physical environment that promotes a homelike
583 setting, provides for resident privacy, promotes resident
584 independence, and allows sufficient congregate space as defined
585 by rule.

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

589 d. Adopt and follow policies and procedures that maximize
590 resident independence, dignity, choice, and decisionmaking to
591 permit residents to age in place ~~to the extent possible~~, so that
592 moves due to changes in functional status are minimized or
593 avoided.

594 e. Allow residents or, if applicable, a resident's
595 representative, designee, surrogate, guardian, or attorney in
596 fact to make a variety of personal choices, participate in
597 developing service plans, and share responsibility in
598 decisionmaking.

599 f. Implement the concept of managed risk.

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

602 h. In addition to the training mandated in s. 429.52,
603 provide specialized training as defined by rule for facility
604 staff.

605 5.4. Facilities licensed to provide extended congregate
606 care services are exempt from the criteria for continued
607 residency ~~as~~ set forth in rules adopted under s. 429.41.
608 Facilities so licensed must ~~shall~~ adopt their own requirements
609 within guidelines for continued residency set forth by rule.

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610 However, such facilities may not serve residents who require 24-
611 hour nursing supervision. Facilities licensed to provide extended
612 congregate care services must ~~shall~~ provide each resident with a
613 written copy of facility policies governing admission and
614 retention.

615 ~~6.5.~~ The primary purpose of extended congregate care
616 services is to allow residents, as they become more impaired, the
617 option of remaining in a familiar setting from which they would
618 otherwise be disqualified for continued residency. A facility
619 licensed to provide extended congregate care services may also
620 admit an individual who exceeds the admission criteria for a
621 facility with a standard license, if the individual is determined
622 appropriate for admission to the extended congregate care
623 facility.

624 ~~7.6.~~ Before admission of an individual to a facility
625 licensed to provide extended congregate care services, the
626 individual must undergo a medical examination ~~as provided in s.~~
627 ~~429.26(4)~~ and the facility must develop a preliminary service
628 plan for the individual as provided in s. 429.26.

629 ~~8.7.~~ When a facility can no longer provide or arrange for
630 services in accordance with the resident's service plan and needs
631 and the facility's policy, the facility shall make arrangements
632 for relocating the person in accordance with s. 429.28(1)(k).

633 ~~9.8.~~ Failure to provide extended congregate care services
634 may result in denial of extended congregate care license renewal.

635 ~~9.~~ ~~No later than January 1 of each year, the department, in~~
636 ~~consultation with the agency, shall prepare and submit to the~~
637 ~~Governor, the President of the Senate, the Speaker of the House~~
638 ~~of Representatives, and the chairs of appropriate legislative~~

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639 ~~committees, a report on the status of, and recommendations~~
640 ~~related to, extended congregate care services. The status report~~
641 ~~must include, but need not be limited to, the following~~
642 ~~information:~~

643 ~~a. A description of the facilities licensed to provide such~~
644 ~~services, including total number of beds licensed under this~~
645 ~~part.~~

646 ~~b. The number and characteristics of residents receiving~~
647 ~~such services.~~

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

650 ~~d. An analysis of deficiencies cited during licensure~~
651 ~~inspections.~~

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

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

655 ~~g. The availability of extended congregate care to state~~
656 ~~clients residing in facilities licensed under this part and in~~
657 ~~need of additional services, and recommendations for~~
658 ~~appropriations to subsidize extended congregate care services for~~
659 ~~such persons.~~

660 ~~h. Such other information as the department considers~~
661 ~~appropriate.~~

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

665 1. To obtain a ~~In order for~~ limited nursing services
666 license ~~to be provided in a facility licensed under this part,~~
667 the agency must first determine that all requirements established

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668 in law and rule are met and must specifically designate, on the
669 facility's license, that such services may be provided. Such
670 designation may be made at the time of initial licensure or
671 relicensure, or upon request in writing by a licensee under this
672 part and part II of chapter 408. Notification of approval or
673 denial of such request shall be made in accordance with part II
674 of chapter 408. ~~Existing~~

675 2. Facilities applying for, and facilities currently
676 licensed ~~qualifying~~ to provide, limited nursing services must
677 ~~shall~~ have ~~maintained~~ a standard license and may not have been
678 subject to administrative sanctions that affect the health,
679 safety, and welfare of residents for the previous 2 years or
680 since initial licensure if the facility has been licensed for
681 less than 2 years.

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

695 ~~4.3.~~ A person who receives limited nursing services ~~under~~
696 ~~this part~~ must meet the admission criteria established by the

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697 agency for assisted living facilities. ~~If~~ When a resident no
698 longer meets the admission criteria for a facility licensed under
699 this part, arrangements for relocating the person shall be made
700 in accordance with s. 429.28(1)(k), unless the facility is also
701 licensed to provide extended congregate care services.

702 Section 12. Section 429.174, Florida Statutes, is amended
703 to read:

704 429.174 Background screening; exemptions.--The owner or
705 administrator of an assisted living facility must conduct level 1
706 ~~background~~ screening, as set forth in chapter 435, on all
707 employees and contracted workers hired on or after October 1,
708 1998, who perform personal services or who have access to
709 resident living areas ~~as defined in s. 429.02(16)~~. The agency may
710 exempt an individual from ~~employment~~ disqualification as set
711 forth in s. 435.07 ~~chapter 435~~. However, such person may not be
712 employed or resume employment pending the granting of an
713 exemption or until all appeals have been resolved in favor of the
714 person screened. Employees and contracted workers ~~Such persons~~
715 shall be considered as having met the screening requirements ~~this~~
716 ~~requirement~~ if:

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

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

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726 | which exceeds 180 days, and proof of compliance with the level 1
727 | screening requirement which is no more than 2 years old is
728 | provided. Proof of compliance shall be provided directly from one
729 | employer or contractor to another, and not from the person
730 | screened. Upon request, a copy of screening results shall be
731 | provided by the employer or contractor retaining documentation of
732 | the screening to the person screened.

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

740 | (4) The person being screened is responsible for paying the
741 | fees associated with obtaining the required screening. Payment
742 | for the screening shall be submitted to the agency. The agency
743 | shall establish a schedule of fees to cover the costs of level 1
744 | and level 2 screening. Facilities may reimburse employees or
745 | contracted workers for these costs. The Department of Law
746 | Enforcement shall charge the agency for a level 1 or level 2
747 | screening a rate sufficient to cover the costs of screening
748 | pursuant to s. 943.053(3).

749 | Section 13. Subsection (1) of section 429.255, Florida
750 | Statutes, is amended to read:

751 | 429.255 Use of personnel; emergency care.--

752 | (1) (a) Facility staff, including persons under contract to
753 | the facility, facility employees ~~staff~~, or volunteers, who are
754 | licensed according to part I of chapter 464, or those persons

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755 exempt under s. 464.022(1), and others as defined by rule, may
756 administer medications to residents, take residents' vital signs,
757 manage individual weekly pill organizers for residents who self-
758 administer medication, give prepackaged enemas ordered by a
759 physician, observe residents, document observations on the
760 appropriate resident's record, report observations to the
761 resident's physician, and contract or allow residents or a
762 resident's representative, designee, surrogate, guardian, or
763 attorney in fact to contract with a third party, provided
764 residents meet the criteria for appropriate placement as defined
765 in s. 429.26. Nursing assistants certified pursuant to part II of
766 chapter 464 may take residents' vital signs as directed by a
767 licensed nurse or physician.

768 (b) Facility All staff, including persons under contract to
769 the facility, facility employees, and volunteers in facilities
770 ~~licensed under this part~~ shall exercise their professional
771 responsibility to observe residents, to document observations on
772 the appropriate resident's record, ~~and~~ to report the observations
773 to the resident's physician, and to provide needed services
774 competently. However, the owner or administrator of the facility
775 ~~is shall be~~ responsible for determining that the resident
776 receiving services is appropriate for residence in the facility
777 and for the provision of and quality of care and services
778 provided to the resident.

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

782 Section 14. Present subsections (8) through (12) of section
783 429.26, Florida Statutes, are renumbered as sections (6) through

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784 (10), respectively, and present subsections (1) through (7) of
785 that section, are amended to read:

786 429.26 Appropriateness of placements; examinations of
787 residents.--

788 (1) The owner or administrator of a facility is responsible
789 for determining the appropriateness of admission of an individual
790 to the facility and for determining the continued appropriateness
791 of residence of an individual in the facility. A determination
792 shall be based upon an assessment of the strengths, needs, and
793 preferences of the resident, the care and services offered or
794 arranged for by the facility in accordance with facility policy,
795 and any limitations in law or rule related to admission criteria
796 or continued residency for the type of license held by the
797 facility under this part. Except as provided in s. 429.28(1)(k),
798 a resident may not be moved from one facility to another without
799 consultation with and agreement from the resident or, if
800 applicable, the resident's representative or designee or the
801 resident's family, guardian, surrogate, or attorney in fact. If
802 ~~In the case of~~ a resident ~~who~~ has been placed by the department
803 or the Department of Children and Family Services, the
804 administrator must notify the appropriate contact person in the
805 applicable department.

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

810 ~~(3) Persons licensed under part I of chapter 464 who are~~
811 ~~employed by or under contract with a facility shall, on a routine~~
812 ~~basis or at least monthly, perform a nursing assessment of the~~

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813 ~~residents for whom they are providing nursing services ordered by~~
814 ~~a physician, except administration of medication, and shall~~
815 ~~document such assessment, including any substantial changes in a~~
816 ~~resident's status which may necessitate relocation to a nursing~~
817 ~~home, hospital, or specialized health care facility. Such records~~
818 ~~shall be maintained in the facility for inspection by the agency~~
819 ~~and shall be forwarded to the resident's case manager, if~~
820 ~~applicable.~~

821 (2)~~(4)~~ If possible, each resident shall have been examined
822 by a licensed physician, a licensed physician assistant, or a
823 licensed nurse practitioner within 60 days before admission to
824 the facility. The person conducting an examination under this
825 subsection may not have financial interest in the facility. The
826 signed and completed medical examination report shall be
827 submitted to the owner or administrator of the facility who shall
828 use the information contained in the report therein to assist in
829 determining the determination of the appropriateness of the
830 resident's admission and continued stay in the facility and to
831 develop a service plan for the resident. The medical examination
832 report and service plan shall become a permanent part of the
833 record of the resident at the facility and shall be made
834 available to the agency during inspection or upon request. An
835 assessment that has been completed through the Comprehensive
836 Assessment and Review for Long-Term Care Services (CARES) Program
837 fulfills the requirements for a medical examination under this
838 subsection ~~and s. 429.07(3)(b)6.~~

839 (a)~~(5)~~ Except as provided in s. 429.07, if a medical
840 examination has not been completed within 60 days before the
841 admission of the resident to the facility, medical personnel a

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842 ~~licensed physician, licensed physician assistant, or licensed~~
843 ~~nurse practitioner shall examine the resident and complete a~~
844 ~~medical examination form provided by the agency within 30 days~~
845 ~~following the admission to the facility to enable the facility~~
846 ~~owner or administrator to determine the appropriateness of the~~
847 ~~admission. The medical examination form shall become a permanent~~
848 ~~part of the record of the resident at the facility and shall be~~
849 ~~made available to the agency during inspection by the agency or~~
850 ~~upon request.~~

851 (b) (6) Any resident accepted in a facility and placed by
852 the department or the Department of Children and Family Services
853 must be shall have been examined by medical personnel within 30
854 days before placement in the facility and recorded on a medical
855 examination form provided by the agency. The examination shall
856 include an assessment of the appropriateness of placement in a
857 facility. ~~The findings of this examination shall be recorded on~~
858 ~~the examination form provided by the agency. The completed form~~
859 ~~shall accompany the resident and shall be submitted to the~~
860 ~~facility owner or administrator. For Additionally, in the case of~~
861 a mental health resident, the Department of Children and Family
862 Services must provide documentation that the individual has been
863 assessed by a psychiatrist, clinical psychologist, clinical
864 social worker, or psychiatric nurse, or an individual who is
865 supervised by one of these professionals, and determined to be
866 appropriate to reside in an assisted living facility. The
867 documentation must be in the facility within 30 days after the
868 mental health resident has been admitted to the facility. An
869 evaluation completed upon discharge from a state mental hospital
870 meets the requirements of this subsection related to

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871 | appropriateness for placement as a mental health resident
872 | providing it was completed within 90 days prior to admission to
873 | the facility. The applicable department shall provide to the
874 | facility administrator any information about the resident that
875 | would help the administrator meet his or her responsibilities
876 | under this section ~~subsection (1)~~. Further, department personnel
877 | shall explain to the facility operator any special needs of the
878 | resident and advise the operator whom to call should problems
879 | arise. The applicable department shall advise and assist the
880 | facility administrator where the special needs of residents who
881 | are recipients of optional state supplementation require such
882 | assistance.

883 | (3) A criminal records background check of a prospective
884 | resident must be conducted by the facility before admission or
885 | immediately after admission at the resident's expense. The
886 | information obtained may be used by the facility to assess the
887 | needs of the resident and the care and services offered or
888 | arranged by the facility in accordance with this section.

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

899 | (5)-(7) Residents shall be periodically assessed to

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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 designee,
903 guardian, surrogate, or attorney in fact is available to make
904 decisions on behalf of the resident. The facility must notify a
905 licensed physician when a resident exhibits signs of dementia or
906 cognitive impairment or has a change of condition in order to
907 rule out the presence of an underlying physiological condition
908 that may be contributing to such dementia or impairment. The
909 notification must occur within 30 days after the acknowledgment
910 of such signs by facility staff. If an underlying condition is
911 determined to exist, the facility shall arrange, with the
912 appropriate health care provider, the necessary care and services
913 to treat the condition.

914 Section 15. Subsections (3) through (8) of section 429.27,
915 Florida Statutes, are renumbered as subsections (6) through (11),
916 respectively, and subsections (1) and (2) of that section, are
917 amended to read:

918 429.27 Property and personal affairs of residents.--

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

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

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929 ~~of the resident; nor shall such admission or presence confer on~~
930 ~~any of such persons any authority or responsibility for the~~
931 ~~personal affairs of the resident, except if that which may be~~
932 necessary for the safe management of the facility or for the
933 safety of the resident.

934 (3)~~(2)~~ A facility, or an owner, administrator, staff
935 ~~employee~~, or representative thereof, may not act as the
936 resident's representative or designee, guardian, health care
937 surrogate, trustee, or conservator for a any resident ~~of the~~
938 ~~assisted living facility~~ or any of the ~~such~~ resident's property
939 unless the person is a relative of the resident.

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

950 (5) Any facility ~~whose~~ owner, administrator, or staff, or a
951 representative thereof ~~who~~, is granted power of attorney for a
952 ~~any~~ resident must ~~of the facility shall~~ file a surety bond with
953 the agency for each resident for whom such power of attorney is
954 granted. The surety bond must ~~shall~~ be in an amount equal to
955 twice the average monthly income of the resident, plus the value
956 of any resident's property under the control of the attorney in
957 fact. The bond must ~~shall~~ be executed by the facility as

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

974 Section 16. Paragraphs (k) and (l) of subsection (1) and
975 subsection (3) of section 429.28, Florida Statutes, are amended
976 to read:

977 429.28 Resident bill of rights.--

978 (1) No resident of a facility shall be deprived of any
979 civil or legal rights, benefits, or privileges guaranteed by law,
980 the Constitution of the State of Florida, or the Constitution of
981 the United States as a resident of a facility. Every resident of
982 a facility shall have the right to:

983 (k) At least 45 days' written notice of relocation or
984 termination of residency from the facility unless, for medical
985 reasons, the resident is certified by a physician to require an
986 emergency relocation to a facility providing a more skilled level

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

1007 (1) Present grievances and recommend changes in policies,
1008 procedures, and services to the staff of the facility, governing
1009 officials, or any other person without restraint, interference,
1010 coercion, discrimination, or reprisal. Each facility shall
1011 establish a written grievance procedure to facilitate the
1012 residents' exercise of this right which must include, at a
1013 minimum, maintaining a written record of each grievance, the
1014 stated reason for the grievance, actions taken by the facility,
1015 and reporting each grievance within 3 days after receiving the

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1016 grievance to the local ombudsman council. The local ombudsman
1017 council shall maintain a record of all grievances received from
1018 each facility in the local area which shall be submitted by the
1019 local council to the Office of the State Long-Term Care Ombudsman
1020 pursuant to s. 400.0089. This right also includes access to
1021 ombudsman volunteers and advocates and the right to be a member
1022 of, to be active in, and to associate with advocacy or special
1023 interest groups.

1024 ~~(3)(a) The agency shall conduct a survey to determine~~
1025 ~~general compliance with facility standards and compliance with~~
1026 ~~residents' rights as a prerequisite to initial licensure or~~
1027 ~~licensure renewal.~~

1028 ~~(b)~~ In order to determine whether the facility is
1029 adequately protecting residents' rights, the agency's biennial
1030 survey shall include private informal conversations with a sample
1031 of residents and consultation with the ombudsman council in the
1032 planning and service area in which the facility is located to
1033 discuss residents' experiences within the facility.

1034 ~~(c) During any calendar year in which no survey is~~
1035 ~~conducted, the agency shall conduct at least one monitoring visit~~
1036 ~~of each facility cited in the previous year for a class I or~~
1037 ~~class II violation, or more than three uncorrected class III~~
1038 ~~violations.~~

1039 ~~(d) The agency may conduct periodic followup inspections as~~
1040 ~~necessary to monitor the compliance of facilities with a history~~
1041 ~~of any class I, class II, or class III violations that threaten~~
1042 ~~the health, safety, or security of residents.~~

1043 ~~(e) The agency may conduct complaint investigations as~~
1044 ~~warranted to investigate any allegations of noncompliance with~~

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1045 ~~requirements required under this part or rules adopted under this~~
1046 ~~part.~~

1047 Section 17. Subsection (1) of section 429.294, Florida
1048 Statutes, is amended to read:

1049 429.294 Availability of facility records for investigation
1050 of resident's rights violations and defenses; penalty.--

1051 (1) Failure to provide complete copies of a resident's
1052 records, including, but not limited to, all medical records and
1053 the resident's chart, within the control or possession of the
1054 facility within 10 days, ~~in accordance with the provisions of s.~~
1055 ~~400.145,~~ shall constitute evidence of failure of that party to
1056 comply with good faith discovery requirements and shall waive the
1057 good faith certificate and presuit notice requirements under this
1058 part by the requesting party.

1059 Section 18. Section 429.34, Florida Statutes, is amended to
1060 read:

1061 429.34 Right of entry and inspection.--In addition to the
1062 requirements of s. 408.811:7

1063 (1) Any duly designated officer or employee of the
1064 department, the Department of Children and Family Services, the
1065 Medicaid Fraud Control Unit of the Office of the Attorney
1066 General, the state or local fire marshal, or a member of the
1067 state or local long-term care ombudsman council shall have the
1068 right to enter unannounced upon and into the premises of any
1069 facility licensed pursuant to this part in order to determine the
1070 state of compliance with the provisions of this part, part II of
1071 chapter 408, and applicable rules. Data collected by the state or
1072 local long-term care ombudsman councils or the state or local
1073 advocacy councils may be used by the agency in investigations

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1074 involving violations of regulatory standards.

1075 (2) Every 15 months the agency shall conduct at least one
1076 unannounced inspection to determine compliance with this chapter
1077 and related rules governing minimum standards of construction and
1078 maintenance, the quality and adequacy of care, and the rights of
1079 residents. Two additional surveys shall be conducted every 6
1080 months for the next year if the facility has been cited for a
1081 class I deficiency or two or more class II deficiencies arising
1082 from separate surveys or investigations within a 60-day period.
1083 In addition to any fines imposed on a facility under s. 429.19,
1084 the agency shall assess a fine of \$160 per bed for each of the
1085 additional two surveys. The agency shall adjust this fine by the
1086 change in the Consumer Price Index, based on the 12 months
1087 immediately preceding the change, to cover the cost of the
1088 additional two surveys. The agency shall verify through
1089 subsequent inspections that any deficiency identified during an
1090 inspection is corrected. However, the agency may verify the
1091 correction of a class III or class IV deficiency unrelated to
1092 resident rights or resident care without reinspecting the
1093 facility if adequate written documentation has been received from
1094 the facility which provides assurance that the deficiency has
1095 been corrected.

1096 Section 19. Paragraphs (k) and (l) of subsection (1) of
1097 section 429.41, Florida Statutes, are redesignated as paragraphs
1098 (l) and (m), respectively, and a new paragraph (k) is added to
1099 that subsection, to read:

1100 (1) It is the intent of the Legislature that rules
1101 published and enforced pursuant to this section shall include
1102 criteria by which a reasonable and consistent quality of resident

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1103 care and quality of life may be ensured and the results of such
1104 resident care may be demonstrated. Such rules shall also ensure a
1105 safe and sanitary environment that is residential and
1106 noninstitutional in design or nature. It is further intended that
1107 reasonable efforts be made to accommodate the needs and
1108 preferences of residents to enhance the quality of life in a
1109 facility. The agency, in consultation with the department, may
1110 adopt rules to administer the requirements of part II of chapter
1111 408. In order to provide safe and sanitary facilities and the
1112 highest quality of resident care accommodating the needs and
1113 preferences of residents, the department, in consultation with
1114 the agency, the Department of Children and Family Services, and
1115 the Department of Health, shall adopt rules, policies, and
1116 procedures to administer this part, which must include reasonable
1117 and fair minimum standards in relation to:

1118 (k) The requirement that all residents have service plans.
1119 The service plan must be reviewed and updated annually; however,
1120 for a resident receiving nursing services ordered by a physician,
1121 except administration of medication, the plan must be reviewed
1122 and updated quarterly.

1123 Section 20. Subsection (4) of section 429.67, Florida
1124 Statutes, is amended to read:

1125 429.67 Licensure.--

1126 (4) Upon receipt of a completed license application or
1127 license renewal, and the fee, the agency shall initiate a level 1
1128 background screening as provided under chapter 435 on the adult
1129 family-care home provider, the designated relief person, all
1130 adult household members, ~~and~~ all staff members, and any other
1131 person who provides personal services to residents or who have

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1132 access to the adult family-care home.

1133 (a) Proof of compliance with level 1 screening standards
1134 which has been submitted within the previous 5 years to meet any
1135 facility or professional licensure requirements of the agency or
1136 the Department of Health satisfies the requirements of this
1137 subsection. Such proof must be accompanied, under penalty of
1138 perjury, by a copy of the person's current professional license
1139 and an affidavit of current compliance with the background
1140 screening requirements.

1141 (b) The person required to be screened must have been
1142 continuously employed in the same type of occupation for which
1143 the person is seeking employment without a breach in service that
1144 exceeds 180 days, and proof of compliance with the level 1
1145 screening requirement which is no more than 2 years old must be
1146 provided. Proof of compliance shall be provided directly from one
1147 employer or contractor to another, and not from the person
1148 screened. Upon request, a copy of screening results shall be
1149 provided to the person screened by the employer retaining
1150 documentation of the screening.

1151 Section 21. Subsection (3) is added to section 429.69,
1152 Florida Statutes, to read:

1153 429.69 Denial, revocation, and suspension of a license.--In
1154 addition to the requirements of part II of chapter 408, the
1155 agency may deny, suspend, and revoke a license for any of the
1156 following reasons:

1157 (3) Failure of the adult family-care home provider who owns
1158 or rents the home to live in the home.

1159 Section 22. Paragraph (b) of subsection (1) of section
1160 429.73, Florida Statutes, is amended to read:

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1161 429.73 Rules and standards relating to adult family-care
1162 homes.--

1163 (1) The agency, in consultation with the department, may
1164 adopt rules to administer the requirements of part II of chapter
1165 408. The department, in consultation with the Department of
1166 Health, the Department of Children and Family Services, and the
1167 agency shall, by rule, establish minimum standards to ensure the
1168 health, safety, and well-being of each resident in the adult
1169 family-care home pursuant to this part. The rules must address:

1170 (b) Services that must be provided to all residents of an
1171 adult family-care home and standards for such services, which
1172 must include, but need not be limited to:

- 1173 1. Room and board.
- 1174 2. Assistance necessary to perform the activities of daily
1175 living.
- 1176 3. Assistance necessary to administer medication.
- 1177 4. Supervision of residents.
- 1178 5. Health monitoring, including periodic assessments to
1179 determine if the resident is competent to handle his or her
1180 personal and financial affairs, and, if not, whether a
1181 responsible person such as a guardian, surrogate, or attorney in
1182 fact is available to make decisions on behalf of the resident.

1183 6. Social and leisure activities.

1184 Section 23. Subsections (2) and (3) of section 435.03,
1185 Florida Statutes, are amended to read:

1186 435.03 Level 1 screening standards.--

1187 (2) Any person for whom employment screening is required by
1188 statute must not have been convicted of ~~found guilty of,~~
1189 ~~regardless of adjudication,~~ or entered a plea of guilty or nolo

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1190 ~~contendere or guilty to,~~ regardless of adjudication, to any
1191 offense prohibited under any of the following ~~provisions of the~~
1192 ~~Florida~~ statutes or under any similar statute of another
1193 jurisdiction:

1194 (a) Section 393.135, relating to sexual misconduct with
1195 certain developmentally disabled clients and reporting of such
1196 sexual misconduct.

1197 (b) Section 394.4593, relating to sexual misconduct with
1198 certain mental health patients and reporting of such sexual
1199 misconduct.

1200 (c) Section 415.111, relating to abuse, neglect, or
1201 exploitation of a vulnerable adult.

1202 (d) Section 782.04, relating to murder.

1203 (e) Section 782.07, relating to manslaughter, aggravated
1204 manslaughter of an elderly person or disabled adult, or
1205 aggravated manslaughter of a child.

1206 (f) Section 782.071, relating to vehicular homicide.

1207 (g) Section 782.09, relating to killing of an unborn quick
1208 child by injury to the mother.

1209 (h) Section 784.011, relating to assault, if the victim of
1210 the offense was a minor.

1211 (i) Section 784.021, relating to aggravated assault.

1212 (j) Section 784.03, relating to battery, if the victim of
1213 the offense was a minor.

1214 (k) Section 784.045, relating to aggravated battery.

1215 (l) Section 787.01, relating to kidnapping.

1216 (m) Section 787.02, relating to false imprisonment.

1217 (n) Section 794.011, relating to sexual battery.

1218 (o) Former s. 794.041, relating to prohibited acts of

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- 1219 persons in familial or custodial authority.
- 1220 (p) Chapter 796, relating to prostitution.
- 1221 (q) Section 798.02, relating to lewd and lascivious
1222 behavior.
- 1223 (r) Chapter 800, relating to lewdness and indecent
1224 exposure.
- 1225 (s) Section 806.01, relating to arson.
- 1226 (t) Chapter 812, relating to theft, robbery, and related
1227 crimes, if the offense was a felony.
- 1228 (u) Section 817.563, relating to fraudulent sale of
1229 controlled substances, only if the offense was a felony.
- 1230 (v) Section 825.102, relating to abuse, aggravated abuse,
1231 or neglect of an elderly person or disabled adult.
- 1232 (w) Section 825.1025, relating to lewd or lascivious
1233 offenses committed upon or in the presence of an elderly person
1234 or disabled adult.
- 1235 (x) Section 825.103, relating to exploitation of an elderly
1236 person or disabled adult, if the offense was a felony.
- 1237 (y) Section 826.04, relating to incest.
- 1238 (z) Section 827.03, relating to child abuse, aggravated
1239 child abuse, or neglect of a child.
- 1240 (aa) Section 827.04, relating to contributing to the
1241 delinquency or dependency of a child.
- 1242 (bb) Former s. 827.05, relating to negligent treatment of
1243 children.
- 1244 (cc) Section 827.071, relating to sexual performance by a
1245 child.
- 1246 (dd) Chapter 847, relating to obscene literature.
- 1247 (ee) Chapter 893, relating to drug abuse prevention and

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1248 control, only if the offense was a felony or if any other person
1249 involved in the offense was a minor.

1250 (ff) Section 916.1075, relating to sexual misconduct with
1251 certain forensic clients and reporting of such sexual misconduct.

1252 (3) Standards must also ensure that the person:

1253 (a) For employees and employers licensed or registered
1254 pursuant to chapter 400 or chapter 429, and for employees and
1255 employers of developmental disabilities institutions as defined
1256 in s. 393.063, intermediate care facilities for the
1257 developmentally disabled as defined in s. 400.960, and mental
1258 health treatment facilities as defined in s. 394.455, has not
1259 been convicted of, or entered a plea of guilty or nolo

1260 contendere, regardless of adjudication, to offenses prohibited
1261 under any of the following statutes or under any similar statute
1262 of another jurisdiction: ~~meets the requirements of this chapter.~~

1263 1. Sections 409.920 and 409.9201, relating to Medicaid
1264 fraud.

1265 2. Chapter 429, relating to assisted care communities.

1266 3. Chapter 784, relating to assault, battery, and culpable
1267 negligence, if the offense is a felony.

1268 4. Section 810.02, relating to burglary, if the offense is
1269 a felony.

1270 5. Section 817.034, relating to communications fraud.

1271 6. Section 817.234, relating to fraudulent insurance
1272 claims.

1273 7. Section 817.505, relating to patient brokering.

1274 8. Section 817.568, relating to identification theft.

1275 9. Sections 817.60 and 817.61, relating to credit cards, if
1276 the offense is a felony.

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1277 10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and
1278 831.31 relating to forgery, uttering, and counterfeiting.

1279 (b) Has not committed an act that constitutes domestic
1280 violence as defined in s. 741.28.

1281 Section 24. Subsections (2) and (4) of section 435.04,
1282 Florida Statutes, are amended to read:

1283 435.04 Level 2 screening standards.--

1284 (2) The security background investigations under this
1285 section must ensure that no persons subject to ~~the provisions of~~
1286 this section have been convicted ~~found guilty of, regardless of~~
1287 ~~adjudication,~~ or entered a plea of guilty or nolo contendere ~~or~~
1288 ~~guilty to,~~ regardless of adjudication, to any offense prohibited
1289 under any of the following ~~provisions of the Florida~~ statutes or
1290 under any similar statute of another jurisdiction:

1291 (a) Section 393.135, relating to sexual misconduct with
1292 certain developmentally disabled clients and reporting of such
1293 sexual misconduct.

1294 (b) Section 394.4593, relating to sexual misconduct with
1295 certain mental health patients and reporting of such sexual
1296 misconduct.

1297 (c) Section 415.111, relating to adult abuse, neglect, or
1298 exploitation of aged persons or disabled adults.

1299 (d) Section 782.04, relating to murder.

1300 (e) Section 782.07, relating to manslaughter, aggravated
1301 manslaughter of an elderly person or disabled adult, or
1302 aggravated manslaughter of a child.

1303 (f) Section 782.071, relating to vehicular homicide.

1304 (g) Section 782.09, relating to killing of an unborn quick
1305 child by injury to the mother.

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- 1306 (h) Section 784.011, relating to assault, if the victim of
1307 the offense was a minor.
- 1308 (i) Section 784.021, relating to aggravated assault.
- 1309 (j) Section 784.03, relating to battery, if the victim of
1310 the offense was a minor.
- 1311 (k) Section 784.045, relating to aggravated battery.
- 1312 (l) Section 784.075, relating to battery on a detention or
1313 commitment facility staff.
- 1314 (m) Section 787.01, relating to kidnapping.
- 1315 (n) Section 787.02, relating to false imprisonment.
- 1316 (o) Section 787.04(2), relating to taking, enticing, or
1317 removing a child beyond the state limits with criminal intent
1318 pending custody proceedings.
- 1319 (p) Section 787.04(3), relating to carrying a child beyond
1320 the state lines with criminal intent to avoid producing a child
1321 at a custody hearing or delivering the child to the designated
1322 person.
- 1323 (q) Section 790.115(1), relating to exhibiting firearms or
1324 weapons within 1,000 feet of a school.
- 1325 (r) Section 790.115(2)(b), relating to possessing an
1326 electric weapon or device, destructive device, or other weapon on
1327 school property.
- 1328 (s) Section 794.011, relating to sexual battery.
- 1329 (t) Former s. 794.041, relating to prohibited acts of
1330 persons in familial or custodial authority.
- 1331 (u) Chapter 796, relating to prostitution.
- 1332 (v) Section 798.02, relating to lewd and lascivious
1333 behavior.
- 1334 (w) Chapter 800, relating to lewdness and indecent

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- 1335 exposure.
- 1336 (x) Section 806.01, relating to arson.
- 1337 (y) Chapter 812, relating to theft, robbery, and related
1338 crimes, if the offense is a felony.
- 1339 (z) Section 817.563, relating to fraudulent sale of
1340 controlled substances, only if the offense was a felony.
- 1341 (aa) Section 825.102, relating to abuse, aggravated abuse,
1342 or neglect of an elderly person or disabled adult.
- 1343 (bb) Section 825.1025, relating to lewd or lascivious
1344 offenses committed upon or in the presence of an elderly person
1345 or disabled adult.
- 1346 (cc) Section 825.103, relating to exploitation of an
1347 elderly person or disabled adult, if the offense was a felony.
- 1348 (dd) Section 826.04, relating to incest.
- 1349 (ee) Section 827.03, relating to child abuse, aggravated
1350 child abuse, or neglect of a child.
- 1351 (ff) Section 827.04, relating to contributing to the
1352 delinquency or dependency of a child.
- 1353 (gg) Former s. 827.05, relating to negligent treatment of
1354 children.
- 1355 (hh) Section 827.071, relating to sexual performance by a
1356 child.
- 1357 (ii) Section 843.01, relating to resisting arrest with
1358 violence.
- 1359 (jj) Section 843.025, relating to depriving a law
1360 enforcement, correctional, or correctional probation officer
1361 means of protection or communication.
- 1362 (kk) Section 843.12, relating to aiding in an escape.
- 1363 (ll) Section 843.13, relating to aiding in the escape of

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1364 juvenile inmates in correctional institutions.
1365 (mm) Chapter 847, relating to obscene literature.
1366 (nn) Section 874.05(1), relating to encouraging or
1367 recruiting another to join a criminal gang.
1368 (oo) Chapter 893, relating to drug abuse prevention and
1369 control, only if the offense was a felony or if any other person
1370 involved in the offense was a minor.
1371 (pp) Section 916.1075, relating to sexual misconduct with
1372 certain forensic clients and reporting of such sexual misconduct.
1373 (qq) Section 944.35(3), relating to inflicting cruel or
1374 inhuman treatment on an inmate resulting in great bodily harm.
1375 (rr) Section 944.46, relating to harboring, concealing, or
1376 aiding an escaped prisoner.
1377 (ss) Section 944.47, relating to introduction of contraband
1378 into a correctional facility.
1379 (tt) Section 985.701, relating to sexual misconduct in
1380 juvenile justice programs.
1381 (uu) Section 985.711, relating to contraband introduced
1382 into detention facilities.
1383 (4) Standards must also ensure that the person:
1384 (a) For employees or employers licensed or registered
1385 pursuant to chapter 400 or chapter 429, and for employees and
1386 employers of developmental disabilities institutions as defined
1387 in s. 393.063, intermediate care facilities for the
1388 developmentally disabled as defined in s. 400.960, and mental
1389 health treatment facilities as defined in s. 394.455, has not
1390 been convicted of, or entered a plea of guilty or nolo
1391 contendere, regardless of adjudication, to offenses prohibited
1392 under any of the following statutes or under similar statutes of

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1393 another jurisdiction: ~~does not have a confirmed report of abuse,~~
1394 ~~neglect, or exploitation as defined in s. 415.102(6), which has~~
1395 ~~been uncontested or upheld under s. 415.103.~~

1396 1. Sections 409.920 and 409.9201, relating to Medicaid
1397 fraud.

1398 2. Chapter 429, relating to assisted care communities.

1399 3. Chapter 784, relating to assault, battery, and culpable
1400 negligence, if the offense is a felony.

1401 4. Section 810.02, relating to burglary, if the offense is
1402 a felony.

1403 5. Section 817.034, relating to communications fraud.

1404 6. Section 817.234, relating to fraudulent insurance
1405 claims.

1406 7. Section 817.505, relating to patient brokering.

1407 8. Section 817.568, relating to identification theft.

1408 9. Sections 817.60 and 817.61, relating to credit cards, if
1409 the offense is a felony.

1410 10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and
1411 831.31 relating to forgery, uttering, and counterfeiting.

1412 (b) Has not committed an act that constitutes domestic
1413 violence as defined in s. 741.28 ~~s. 741.30~~.

1414 Section 25. Subsection (13) of section 400.141, subsection
1415 (2) of section 429.08, subsection (7) of section 429.19, and
1416 subsection (5) of section 429.41, Florida Statutes, are repealed.

1417 Section 26. Paragraph (h) of subsection (3) of section
1418 430.80, Florida Statutes, is amended to read:

1419 430.80 Implementation of a teaching nursing home pilot
1420 project.--

1421 (3) To be designated as a teaching nursing home, a nursing

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1422 home licensee must, at a minimum:

1423 (h) Maintain insurance coverage pursuant to s. 400.141(19)
1424 ~~s. 400.141(20)~~ or proof of financial responsibility in a minimum
1425 amount of \$750,000. ~~Such~~ Proof of financial responsibility may
1426 include:

1427 1. Maintaining an escrow account consisting of cash or
1428 assets eligible for deposit in accordance with s. 625.52; or

1429 2. Obtaining and maintaining, pursuant to chapter 675, an
1430 unexpired, irrevocable, nontransferable and nonassignable letter
1431 of credit issued by a ~~any~~ bank or savings association organized
1432 and existing under the laws of this state or a ~~any~~ bank or
1433 savings association organized under the laws of the United States
1434 that has its principal place of business in this state or has a
1435 branch office which is authorized to receive deposits in this
1436 state. The letter of credit shall be used to satisfy the
1437 obligation of the facility to the claimant upon presentment of a
1438 final judgment indicating liability and awarding damages to be
1439 paid by the facility or upon presentment of a settlement
1440 agreement signed by all parties if the ~~to the agreement when such~~
1441 final judgment or settlement is a result of a liability claim
1442 against the facility.

1443 Section 27. Subsection (13) of section 651.118, Florida
1444 Statutes, is amended to read:

1445 651.118 Agency for Health Care Administration; certificates
1446 of need; sheltered beds; community beds.--

1447 (13) Residents, ~~as defined in this chapter,~~ are not
1448 considered new admissions for the purpose of s. 400.141(14) (d) ~~s.~~
1449 ~~400.141(15) (d)~~.

1450 Section 28. This act shall take effect July 1, 2008.