

By the Committee on Children, Families, and Elder Affairs; and  
Senator Storms

586-04936-08

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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. 408.809, F.S.; requiring  
17          the agency to establish a fee schedule to cover the cost  
18          of a level 1 or level 2 screening and giving the agency  
19          rule making authority; amending s. 408.810, F.S.;  
20          requiring health care facilities regulated by the Agency  
21          for Health Care Administration to post certain information  
22          in the facility and allowing the agency to charge a fee to  
23          cover production and distribution; amending s. 408.811,  
24          F.S.; providing that agency employees who provide advance  
25          notice of unannounced agency inspections are subject to  
26          suspension, providing a timeline and process for  
27          correction of deficiencies, and providing that the agency  
28          may provide electronic access to documents; amending s.  
29          415.103, F.S.; requiring certain reports to the central

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30 abuse hotline relating to vulnerable adults to be  
31 immediately transferred to the county sheriff's office;  
32 amending s. 415.1051, F.S.; authorizing the Department of  
33 Children and Family Services to file the petition to  
34 determine incapacity in adult protection proceedings;  
35 prohibiting the department from serving as the guardian or  
36 providing legal counsel to the guardian; amending s.  
37 415.112, F.S.; specifying rules to be adopted by the  
38 Department of Children and Family Services relating to  
39 adult protective services under ch. 415, F.S.; amending s.  
40 429.02, F.S.; revising the definition of "service plan" to  
41 remove the limitation that plans are required only in  
42 assisted living facilities that have an extended  
43 congregate care license and providing that the agency  
44 develop a service plan form; amending s. 429.07, F.S.;  
45 providing that license requirements for specialty licenses  
46 apply to current licensees as well as applicants for an  
47 extended congregate care and limited nursing license;  
48 conforming a cross-reference; amending s. 429.174, F.S.;  
49 requiring certain employees and contracted workers in  
50 assisted living facilities to submit to background  
51 screening; prohibiting employees and contracted workers  
52 who do not meet background screening requirements from  
53 being employed in an assisted living facility; providing  
54 certain exceptions; requiring the person being screened to  
55 pay for the cost of screening; amending s. 429.255, F.S.;  
56 providing that the owner or administrator of an assisted  
57 living facility is responsible for the services provided  
58 in the facility; amending s. 429.26, F.S.; clarifying a

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59 prohibition on moving a resident; providing for the  
60 development of a service plan for all residents; requiring  
61 a criminal records check to be conducted on all residents  
62 of an assisted living facility; requiring residents to be  
63 periodically assessed for competency to handle personal  
64 affairs; amending s. 429.27, F.S.; prohibiting assisted  
65 living facility personnel from making certain decisions  
66 for a resident or act as the resident's representative or  
67 surrogate; amending s. 429.28, F.S.; requiring that notice  
68 of a resident's relocation or termination of residency be  
69 in writing and a copy sent to specified persons; requiring  
70 the agency to compile an annual report for the Governor  
71 and the Legislature; requiring facilities to have a  
72 written grievance procedure that includes certain  
73 information; requiring that grievances reported to the  
74 local ombudsman council be included in a statewide  
75 reporting system; revising provisions relating to agency  
76 surveys to determine compliance with resident rights in  
77 assisted living facilities; amending s. 429.294, F.S.;  
78 deleting a cross-reference; amending s. 429.34, F.S.;  
79 providing for unannounced inspections; providing for  
80 additional 6-month inspections for certain violations;  
81 providing for an additional fine for 6-month inspections;  
82 amending s. 429.41, F.S.; requiring all residents of  
83 assisted living facilities to have a service plan;  
84 amending s. 429.65, F.S.; providing a definition of the  
85 term "Reside"; amending s. 429.67, F.S.; expanding the  
86 list of persons who must have a background screening in  
87 adult family-care homes; amending s. 429.69, F.S.;

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88 providing that the failure of a adult family-care home  
89 provider to live in the home is grounds for the denial,  
90 revocation, or suspension of a license; amending s.  
91 429.73, F.S.; requiring adult family-care home residents  
92 to be periodically assessed for competency to handle  
93 personal affairs; amending ss. 435.03 and 435.04, F.S.;  
94 providing additional criminal offenses for screening  
95 certain health care facility personnel; repealing s.  
96 400.141(13), F.S., relating to a requirement to post  
97 certain information in nursing homes; repealing s.  
98 408.809(3), F.S., relating to the granting of a  
99 provisional license while awaiting the results of a  
100 background screening; repealing s. 429.08(2), F.S.,  
101 deleting a provision relating to local workgroups of field  
102 offices of the Agency for Health Care Administration;  
103 repealing s. 429.41(5), F.S., relating to agency  
104 inspections; amending ss. 430.80 and 651.118, F.S.;  
105 conforming cross-references; providing an effective date.  
106

107 Be It Enacted by the Legislature of the State of Florida:  
108

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

111 322.142 Color photographic or digital imaged licenses.--

112 (4) The department may maintain a film negative or print  
113 file. The department shall maintain a record of the digital image  
114 and signature of the licensees, together with other data required  
115 by the department for identification and retrieval. Reproductions  
116 from the file or digital record are exempt from the provisions of

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117 s. 119.07(1) and shall be made and issued only for departmental  
118 administrative purposes; for the issuance of duplicate licenses;  
119 in response to law enforcement agency requests; to the Department  
120 of State pursuant to an interagency agreement to facilitate  
121 determinations of eligibility of voter registration applicants  
122 and registered voters in accordance with ss. 98.045 and 98.075;  
123 to the Department of Revenue pursuant to an interagency agreement  
124 for use in establishing paternity and establishing, modifying, or  
125 enforcing support obligations in Title IV-D cases; to the  
126 Department of Children and Family Services pursuant to an  
127 interagency agreement to conduct protective investigations under  
128 chapter 415; or to the Department of Financial Services pursuant  
129 to an interagency agreement to facilitate the location of owners  
130 of unclaimed property, the validation of unclaimed property  
131 claims, and the identification of fraudulent or false claims, ~~and~~  
132 ~~are exempt from the provisions of s. 119.07(1).~~

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

135 400.141 Administration and management of nursing home  
136 facilities.--Every licensed facility shall comply with all  
137 applicable standards and rules of the agency and shall:

138 (25) Conduct a level 1 background screening as defined in  
139 chapter 435, of a prospective resident before admission or  
140 immediately after admission at the resident's expense. The  
141 information obtained may be used by the facility to assess the  
142 needs of the resident and to provide adequate and appropriate  
143 health care and protective and support services in accordance  
144 with this part. The Agency's employee background screening  
145 database may not be used for resident screening. If a resident

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146 transfers between facilities, the resident's background screening  
147 results shall be transferred with the resident.

148  
149 Facilities that have been awarded a Gold Seal under the program  
150 established in s. 400.235 may develop a plan to provide certified  
151 nursing assistant training as prescribed by federal regulations  
152 and state rules and may apply to the agency for approval of their  
153 program.

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

156 400.19 Right of entry and inspection.--

157 (3) The agency shall every 15 months conduct at least one  
158 unannounced inspection to determine compliance by the licensee  
159 with statutes, and related ~~with rules promulgated under the~~  
160 ~~provisions of these statutes,~~ governing minimum standards of  
161 construction, quality and adequacy of care, and rights of  
162 residents. The survey shall be conducted every 6 months for the  
163 next 2-year period if the facility has been cited for a class I  
164 deficiency, has been cited for two or more class II deficiencies  
165 arising from separate surveys or investigations within a 60-day  
166 period, or has had three or more substantiated complaints within  
167 a 6-month period, each resulting in at least one class I or class  
168 II deficiency. In addition to any other fees or fines in this  
169 part, the agency shall assess a fine for each facility that is  
170 subject to the 6-month survey cycle. The fine for the 2-year  
171 period shall be \$6,000, one-half to be paid at the completion of  
172 each survey. The agency may adjust this fine by the change in the  
173 Consumer Price Index, based on the 12 months immediately  
174 preceding the change ~~increase~~, to cover the cost of the

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175 additional surveys. The agency shall verify through subsequent  
176 inspection that any deficiency identified during inspection is  
177 corrected. However, the agency may verify the correction of a  
178 class III or class IV deficiency unrelated to resident rights or  
179 resident care without reinspecting the facility if adequate  
180 written documentation has been received from the facility, which  
181 provides assurance that the deficiency has been corrected. ~~The~~  
182 ~~giving or causing to be given of advance notice of such~~  
183 ~~unannounced inspections by an employee of the agency to any~~  
184 ~~unauthorized person shall constitute cause for suspension of not~~  
185 ~~fewer than 5 working days according to the provisions of chapter~~  
186 ~~110.~~

187 Section 4. Section 400.215, Florida Statutes, is amended to  
188 read:

189 400.215 Background Personnel screening requirement.--

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

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

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

197 (c) Have access to resident funds or other personal  
198 property.

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

201 (a) Notwithstanding ~~the provisions of~~ s. 435.05(1),  
202 facilities must have in their possession evidence that level 1  
203 screening under s. 435.03 has been completed before allowing an

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204 employee or contracted worker to begin employment in the facility  
205 ~~working with patients~~ as provided in subsection (1). All  
206 information necessary for conducting level 1 background screening  
207 ~~using level 1 standards as specified in s. 435.03~~ shall be  
208 submitted by the nursing facility to the agency. Results of the  
209 background screening shall be provided by the agency to the  
210 requesting nursing facility.

211 (b) Employees and contracted workers qualified under ~~the~~  
212 ~~provisions of~~ paragraph (a) who have not maintained continuous  
213 residency within the state for the 5 years immediately preceding  
214 the date of request for background screening must complete level  
215 2 screening, as provided in s. 435.04 ~~chapter 435~~. Such Employees  
216 may work in a conditional status for up to 180 days pending the  
217 receipt of written findings evidencing the completion of level 2  
218 screening. Contracted workers who are awaiting the completion of  
219 level 2 screening may work only under the direct and visual  
220 supervision of persons who have met the screening requirements of  
221 this section. Level 2 screening is ~~shall not be~~ required for ~~of~~  
222 employees, ~~or~~ prospective employees, or contracted workers who  
223 attest in writing under penalty of perjury that they meet the  
224 residency requirement. To complete ~~Completion of~~ level 2  
225 screening: ~~shall require~~

226 1. The employee or contracted worker shall ~~prospective~~  
227 ~~employee to~~ furnish to the nursing facility a full set of  
228 fingerprints for conducting a federal criminal records check ~~to~~  
229 ~~enable a criminal background investigation to be conducted.~~

230 2. The nursing facility shall submit the completed  
231 fingerprint card to the agency.

232 3. The agency shall establish a record of the request in



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233 the database provided for in paragraph (c) and forward the  
234 request to the Department of Law Enforcement, which is authorized  
235 to submit the fingerprints to the Federal Bureau of Investigation  
236 for a national criminal history records check.

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

240 5. The agency shall notify the administrator of the  
241 requesting nursing facility or the administrator of any other  
242 requesting facility licensed under chapter 393, chapter 394,  
243 chapter 395, chapter 397, chapter 429, or this chapter, ~~as~~  
244 ~~requested by such facility,~~ as to whether ~~or not~~ the employee has  
245 qualified under level 1 or level 2 screening.

246  
247 An employee or contracted worker ~~prospective employee~~ who has  
248 qualified under level 2 screening and has maintained ~~such~~  
249 continuous residency within the state ~~is shall~~ not be required to  
250 complete a subsequent level 2 screening as a condition of  
251 employment at another facility. A contract worker who does not  
252 provide personal care or services to residents or have access to  
253 resident funds or other personal property is not required to be  
254 screened pursuant to this section but must sign in at the  
255 reception desk or nurses' station upon entering the facility,  
256 wear an identification badge, and sign out before leaving the  
257 facility. The nursing facility shall maintain a log containing  
258 the information collected.

259 (c) The agency shall establish and maintain a database that  
260 includes ~~of background screening information which shall include~~  
261 the results of all ~~both~~ level 1 and level 2 screening. The

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262 Department of Law Enforcement shall timely provide to the agency,  
263 electronically, the results of each statewide screening for  
264 incorporation into the database. The agency shall, upon request  
265 from any facility, agency, or program required by or authorized  
266 by law to screen its employees or contracted workers ~~applicants~~,  
267 notify the administrator of the facility, agency, or program of  
268 the qualifying or disqualifying status of the person ~~employee or~~  
269 ~~applicant~~ named in the request.

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

275 (3) The person being screened ~~applicant~~ is responsible for  
276 paying the fees associated with obtaining the required screening.  
277 Payment for the screening shall be submitted to the agency. The  
278 agency shall establish a schedule of fees to cover the costs of  
279 level 1 and level 2 screening. Facilities may pay ~~reimburse~~  
280 ~~employees~~ for these costs. The Department of Law Enforcement  
281 shall charge the agency for a level 1 or level 2 screening a rate  
282 sufficient to cover the costs of ~~such~~ screening pursuant to s.  
283 943.053(3). The agency shall, as allowable, reimburse nursing  
284 facilities for the cost of conducting background screening as  
285 required by this section. This reimbursement is ~~will~~ not be  
286 subject to any rate ceilings or payment targets in the Medicaid  
287 Reimbursement plan.

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

289 (a) The agency may grant an exemption from disqualification  
290 to an employee, ~~or~~ prospective employee, or contracted worker who

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291 | is subject to this section and who has not received a  
292 | professional license or certification from the Department of  
293 | Health.

294 |       (b) ~~As provided in s. 435.07,~~ The appropriate regulatory  
295 | board within the Department of Health, or that department itself  
296 | when there is no board, may grant an exemption from  
297 | disqualification to an employee, ~~or~~ prospective employee, or  
298 | contracted worker who is subject to this section and who has  
299 | received a professional license or certification from the  
300 | Department of Health or a regulatory board within that  
301 | department.

302 |       (5) ~~Any provision of law to the contrary notwithstanding,~~  
303 | Persons who have been screened and qualified as required by this  
304 | section, ~~and~~ who have not been unemployed for more than 180 days  
305 | ~~thereafter,~~ and who, under penalty of perjury, attest to not  
306 | having been convicted of a disqualifying offense since the  
307 | completion of such screening are, ~~shall not be~~ required to be  
308 | rescreened. An employer may obtain, pursuant to s. 435.10,  
309 | written verification of qualifying screening results from the  
310 | previous employer, contractor, or other entity that ~~which~~ caused  
311 | the ~~such~~ screening to be performed.

312 |       (6) The agency and the Department of Health may ~~shall have~~  
313 | ~~authority to~~ adopt rules to administer ~~pursuant to the~~  
314 | ~~Administrative Procedure Act to implement~~ this section.

315 |       (7) ~~All employees shall comply with the requirements of~~  
316 | ~~this section by October 1, 1998. No current employee of a nursing~~  
317 | ~~facility as of the effective date of this act shall be required~~  
318 | ~~to submit to rescreening if the nursing facility has in its~~  
319 | ~~possession written evidence that the person has been screened and~~

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320 ~~qualified according to level 1 standards as specified in s.~~  
321 ~~435.03(1). Any current employee who meets the level 1 requirement~~  
322 ~~but does not meet the 5-year residency requirement as specified~~  
323 ~~in this section must provide to the employing nursing facility~~  
324 ~~written attestation under penalty of perjury that the employee~~  
325 ~~has not been convicted of a disqualifying offense in another~~  
326 ~~state or jurisdiction. All applicants hired on or after October~~  
327 ~~1, 1998, shall comply with the requirements of this section.~~

328 (7)~~(8)~~ There is no monetary or unemployment liability on  
329 the part of, and a ~~no~~ cause of action for damages does not arise  
330 ~~arising~~ against, an employer that, upon notice of a disqualifying  
331 offense listed under chapter 435 or an act of domestic violence,  
332 terminates the employee against whom the report was issued,  
333 whether or not the employee has filed for an exemption with the  
334 Department of Health or the agency ~~for Health Care~~  
335 ~~Administration.~~

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

338 408.809 Background screening; prohibited offenses.--

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

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

345 408.810 Minimum licensure requirements.--In addition to the  
346 licensure requirements specified in this part, authorizing  
347 statutes, and applicable rules, each applicant and licensee must  
348 comply with the requirements of this section in order to obtain

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349 and maintain a license.

350 (5) Each licensee must:

351 (a) On or before the first day services are provided to a  
352 client, ~~a licensee must~~ inform the client and his or her  
353 immediate family or representative, if appropriate, of the right  
354 to report:

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

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

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

369 (c) Publicly display a poster approved by the agency  
370 containing the names, addresses, and telephone numbers for the  
371 state's central abuse hotline, the State Long-Term Care  
372 Ombudsman, the agency's consumer hotline, the Advocacy Center for  
373 Persons with Disabilities, the Florida Statewide Advocacy  
374 Council, the Medicaid Fraud Control Unit, and the Statewide  
375 Public Guardianship Office, along with a clear description of the  
376 assistance to be expected from each. The agency may charge a fee  
377 for the cost of production and distribution of the poster.

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378 Section 7. Section 408.811, Florida Statutes, is amended to  
379 read:

380 408.811 Right of inspection; copies; inspection reports.--

381 (1) An authorized officer or employee of the agency may  
382 make or cause to be made any inspection or investigation deemed  
383 necessary by the agency to determine the state of compliance with  
384 this part, authorizing statutes, and applicable rules. The right  
385 of inspection extends to any business that the agency has reason  
386 to believe is being operated as a provider without a license, but  
387 inspection of any business suspected of being operated without  
388 the appropriate license may not be made without the permission of  
389 the owner or person in charge unless a warrant is first obtained  
390 from a circuit court. Any application for a license issued under  
391 this part, authorizing statutes, or applicable rules constitutes  
392 permission for an appropriate inspection to verify the  
393 information submitted on or in connection with the application.

394 (a) All inspections shall be unannounced, except as  
395 specified in s. 408.806. The giving or causing to be given of  
396 advance notice of the unannounced inspection by an agency  
397 employee to any unauthorized person shall, in accordance with  
398 chapter 110, constitute cause for suspension of the employee for  
399 at least 5 working days.

400 (b) Inspections for relicensure shall be conducted  
401 biennially unless otherwise specified by authorizing statutes or  
402 applicable rules.

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

406 (d) The agency may require an applicant or licensee to

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407 submit a plan of correction for deficiencies. If required, the  
408 plan of correction must be filed with the agency within 10 days  
409 unless an alternative timeframe is required.

410 (2) Inspections conducted in conjunction with certification  
411 may be accepted in lieu of a complete licensure inspection.  
412 However, a licensure inspection may also be conducted to review  
413 any licensure requirements that are not also requirements for  
414 certification.

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

418 (4) (a) Each licensee shall maintain as public information,  
419 available upon request, records of all inspection reports  
420 pertaining to that provider that have been filed by the agency  
421 unless those reports are exempt from or contain information that  
422 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
423 Constitution or is otherwise made confidential by law. Effective  
424 October 1, 2006, copies of such reports shall be retained in the  
425 records of the provider for at least 3 years following the date  
426 the reports are filed and issued, regardless of a change of  
427 ownership.

428 (b) A licensee shall, upon the request of any person who  
429 has completed a written application with intent to be admitted by  
430 such provider, any person who is a client of such provider, or  
431 any relative, spouse, or guardian of any such person, furnish to  
432 the requester a copy of the last inspection report pertaining to  
433 the licensed provider that was issued by the agency or by an  
434 accrediting organization if such report is used in lieu of a  
435 licensure inspection.

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

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

441 415.103 Central abuse hotline.--

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

446 (a) For reports requiring an immediate onsite protective  
447 investigation, the central abuse hotline must immediately notify  
448 the department's designated protective investigative district  
449 staff responsible for protective investigations to ensure prompt  
450 initiation of an onsite investigation.

451 (b) For reports not requiring an immediate onsite  
452 protective investigation, the central abuse hotline must notify  
453 the department's designated protective investigative district  
454 staff responsible for protective investigations in sufficient  
455 time to allow for an investigation to be commenced within 24  
456 hours. At the time of notification ~~of district staff with respect~~  
457 ~~to the report~~, the central abuse hotline must also provide any  
458 ~~known information on any previous~~ reports ~~report~~ concerning the a  
459 subject of the present report or any pertinent information  
460 relative to the present report or any noted earlier reports.

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



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

468 415.1051 Protective services interventions when capacity to  
469 consent is lacking; nonemergencies; emergencies; orders;  
470 limitations.--

471 (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.--If the  
472 department has reasonable cause to believe that a vulnerable  
473 adult or a vulnerable adult in need of services is being abused,  
474 neglected, or exploited and is in need of protective services but  
475 lacks the capacity to consent to protective services, the  
476 department shall petition the court for an order authorizing the  
477 provision of protective services.

478 (e) Continued protective services.--

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

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

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

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

487 d. A petition for guardianship shall ~~should~~ be filed  
488 pursuant to chapter 744.

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

493 3. If the department has a good faith belief that the

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494 vulnerable adult lacks capacity, the petition to determine  
495 incapacity under s. 744.3201 may be filed by the department. Once  
496 the petition is filed, the department may not be appointed  
497 guardian and may not provide legal counsel for the guardian.

498 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If the  
499 department has reasonable cause to believe that a vulnerable  
500 adult is suffering from abuse or neglect that presents a risk of  
501 death or serious physical injury to the vulnerable adult and that  
502 the vulnerable adult lacks the capacity to consent to emergency  
503 protective services, the department may take action under this  
504 subsection. If the vulnerable adult has the capacity to consent  
505 and refuses consent to emergency protective services, emergency  
506 protective services may not be provided.

507 (g) Continued emergency protective services.--

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

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

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

515 c. Emergency protective services are to ~~will~~ be  
516 discontinued; or

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

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

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

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523 incapacity under s. 744.3201 may be filed by the department. Once  
524 the petition is filed, the department may not be appointed  
525 guardian and may not provide legal counsel for the guardian.

526 Section 10. Section 415.112, Florida Statutes, is amended  
527 to read:

528 415.112 ~~Rules for implementation of ss. 415.101-~~  
529 ~~415.113.~~--The department shall adopt promulgate rules to  
530 administer this chapter including, but not limited to, rules  
531 concerning: for the implementation of ss. 415.101-415.113.

532 (1) Background screening of department employees and  
533 employee applicants which includes a criminal records check and  
534 drug testing of adult protective investigators and adult  
535 protective investigator supervisors.

536 (2) The reporting of adult abuse, neglect, exploitation, a  
537 vulnerable adult in need of services, false reporting, and adult  
538 protective investigations.

539 (3) Confidentiality and retention of department records,  
540 access to records, and record requests.

541 (4) Injunctions and other protective orders.

542 (5) The provision of emergency and nonemergency protective  
543 services intervention.

544 (6) Agreements with law enforcement agencies and other  
545 state agencies.

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

549 (8) The legal and casework management of cases involving  
550 protective supervision, protective orders, judicial reviews,  
551 administrative reviews, case plans, and documentation

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552 | requirements.

553 |       Section 11. Subsection (21) of section 429.02, Florida  
554 | Statutes, is amended to read:

555 |       429.02 Definitions.--When used in this part, the term:

556 |       (21) "Service plan" means a written plan, developed and  
557 | agreed upon by the resident and, if applicable, the resident's  
558 | representative or designee or the resident's surrogate, guardian,  
559 | or attorney in fact, if any, and the administrator or designee  
560 | representing the facility, which addresses the unique physical  
561 | and psychosocial needs, abilities, and personal preferences of  
562 | each resident ~~receiving extended congregate care services~~. The  
563 | plan must ~~shall~~ include a brief written description, in easily  
564 | understood language, of what services shall be provided, who  
565 | shall provide the services, when the services shall be rendered,  
566 | and the purposes and benefits of the services. The agency shall  
567 | develop a service plan form for use by providers.

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

570 |       429.07 License required; fee.--

571 |       (3) In addition to the requirements of s. 408.806, each  
572 | license granted by the agency must state the type of care for  
573 | which the license is granted. Licenses shall be issued for one or  
574 | more of the following categories of care: standard, extended  
575 | congregate care, limited nursing services, or limited mental  
576 | health.

577 |       (b) An extended congregate care license shall be issued to  
578 | facilities providing, directly or through contract, services  
579 | beyond those authorized in paragraph (a), including services  
580 | performed by persons licensed under ~~acts performed pursuant to~~

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581 | part I of chapter 464 ~~by persons licensed thereunder,~~ and  
582 | supportive services, as defined by rule, to persons who would  
583 | otherwise ~~would~~ be disqualified from continued residence in a  
584 | facility licensed under this part.

585 |       1. To obtain an ~~In order for~~ extended congregate care  
586 | license services to be provided in a facility licensed under this  
587 | ~~part,~~ the agency must first determine that all requirements  
588 | established in law and rule are met and must specifically  
589 | designate, on the facility's license, that such services may be  
590 | provided and whether the designation applies to all or part of  
591 | the a facility. Such designation may be made at the time of  
592 | initial licensure or relicensure, or upon request in writing by a  
593 | licensee under this part and part II of chapter 408. Notification  
594 | of approval or denial of the ~~such~~ request shall be made in  
595 | accordance with part II of chapter 408. ~~Existing~~

596 |       2. Facilities applying for, and facilities currently  
597 | licensed ~~qualifying~~ to provide, extended congregate care services  
598 | must have ~~maintained~~ a standard license and may not have been  
599 | subject to administrative sanctions during the previous 2 years,  
600 | or since initial licensure if the facility has been licensed for  
601 | less than 2 years, for any of the following reasons:

- 602 |           a. A class I or class II violation;
- 603 |           b. Three or more repeat or recurring class III violations  
604 | of identical or similar resident care standards as specified in  
605 | rule from which a pattern of noncompliance is found by the  
606 | agency;
- 607 |           c. Three or more class III violations that were not  
608 | corrected in accordance with the corrective action plan approved  
609 | by the agency;

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

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

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

619 3.2. A facility that is ~~Facilities that are~~ licensed to  
620 provide extended congregate care services must ~~shall~~ maintain a  
621 written progress report on each person who receives ~~such~~  
622 services, which report describes the type, amount, duration,  
623 scope, and outcome of services that are rendered and the general  
624 status of the resident's health. A registered nurse, or  
625 appropriate designee, representing the agency shall visit the  
626 facility ~~such facilities~~ at least quarterly to monitor residents  
627 who are receiving extended congregate care services and to  
628 determine if the facility is in compliance with this part, part  
629 II of chapter 408, and rules that relate to extended congregate  
630 care. One of these visits may be in conjunction with the regular  
631 survey. The monitoring visits may be provided through contractual  
632 arrangements with appropriate community agencies. A registered  
633 nurse shall serve as part of the team that inspects the ~~such~~  
634 facility. The agency may waive one of the required yearly  
635 monitoring visits for a facility that has been licensed for at  
636 least 24 months to provide extended congregate care services, if,  
637 during the inspection, the registered nurse determines that  
638 extended congregate care services are being provided

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639 appropriately, and if the facility has no class I or class II  
640 violations and no uncorrected class III violations. ~~Before such~~  
641 ~~decision is made,~~ The agency must first ~~shall~~ consult with the  
642 long-term care ombudsman council for the area in which the  
643 facility is located to determine if any complaints have been made  
644 and substantiated about the quality of services or care. The  
645 agency may not waive one of the required yearly monitoring visits  
646 if complaints have been made and substantiated.

647 ~~4.3.~~ Facilities that are licensed to provide extended  
648 congregate care services must ~~shall~~:

649 a. Demonstrate the capability to meet unanticipated  
650 resident service needs.

651 b. Offer a physical environment that promotes a homelike  
652 setting, provides for resident privacy, promotes resident  
653 independence, and allows sufficient congregate space as defined  
654 by rule.

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

658 d. Adopt and follow policies and procedures that maximize  
659 resident independence, dignity, choice, and decisionmaking to  
660 permit residents to age in place ~~to the extent possible,~~ so that  
661 moves due to changes in functional status are minimized or  
662 avoided.

663 e. Allow residents or, if applicable, a resident's  
664 representative, designee, surrogate, guardian, or attorney in  
665 fact to make a variety of personal choices, participate in  
666 developing service plans, and share responsibility in  
667 decisionmaking.

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668 f. Implement the concept of managed risk.

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

671 h. In addition to the training mandated in s. 429.52,  
672 provide specialized training as defined by rule for facility  
673 staff.

674 5.4. Facilities licensed to provide extended congregate  
675 care services are exempt from the criteria for continued  
676 residency ~~as~~ set forth in rules adopted under s. 429.41.  
677 Facilities so licensed must ~~shall~~ adopt their own requirements  
678 within guidelines for continued residency set forth by rule.  
679 However, such facilities may not serve residents who require 24-  
680 hour nursing supervision. Facilities licensed to provide extended  
681 congregate care services must ~~shall~~ provide each resident with a  
682 written copy of facility policies governing admission and  
683 retention.

684 6.5. The primary purpose of extended congregate care  
685 services is to allow residents, as they become more impaired, the  
686 option of remaining in a familiar setting from which they would  
687 otherwise be disqualified for continued residency. A facility  
688 licensed to provide extended congregate care services may also  
689 admit an individual who exceeds the admission criteria for a  
690 facility with a standard license, if the individual is determined  
691 appropriate for admission to the extended congregate care  
692 facility.

693 7.6. Before admission of an individual to a facility  
694 licensed to provide extended congregate care services, the  
695 individual must undergo a medical examination ~~as provided in s.~~  
696 ~~429.26(4)~~ and the facility must develop a preliminary service



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697 plan for the individual as provided in s. 429.26.

698 ~~8.7.~~ When a facility can no longer provide or arrange for  
699 services in accordance with the resident's service plan and needs  
700 and the facility's policy, the facility shall make arrangements  
701 for relocating the person in accordance with s. 429.28(1)(k).

702 ~~9.8.~~ Failure to provide extended congregate care services  
703 may result in denial of extended congregate care license renewal.

704 ~~9.~~ No later than January 1 of each year, the department, in  
705 consultation with the agency, shall prepare and submit to the  
706 Governor, the President of the Senate, the Speaker of the House  
707 of Representatives, and the chairs of appropriate legislative  
708 committees, a report on the status of, and recommendations  
709 related to, extended congregate care services. The status report  
710 must include, but need not be limited to, the following  
711 information:

712 a. ~~A description of the facilities licensed to provide such~~  
713 ~~services, including total number of beds licensed under this~~  
714 ~~part.~~

715 b. ~~The number and characteristics of residents receiving~~  
716 ~~such services.~~

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

719 d. ~~An analysis of deficiencies cited during licensure~~  
720 ~~inspections.~~

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

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

724 g. ~~The availability of extended congregate care to state~~  
725 ~~clients residing in facilities licensed under this part and in~~

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726 ~~need of additional services, and recommendations for~~  
727 ~~appropriations to subsidize extended congregate care services for~~  
728 ~~such persons.~~

729 ~~h. Such other information as the department considers~~  
730 ~~appropriate.~~

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

734 1. To obtain a ~~In order for~~ limited nursing services  
735 license ~~to be provided in a facility licensed under this part,~~  
736 the agency must first determine that all requirements established  
737 in law and rule are met and must specifically designate, on the  
738 facility's license, that such services may be provided. Such  
739 designation may be made at the time of initial licensure or  
740 relicensure, or upon request in writing by a licensee under this  
741 part and part II of chapter 408. Notification of approval or  
742 denial of such request shall be made in accordance with part II  
743 of chapter 408. ~~Existing~~

744 2. Facilities applying for, and facilities currently  
745 licensed ~~qualifying~~ to provide, limited nursing services must  
746 ~~shall~~ have ~~maintained~~ a standard license and may not have been  
747 subject to administrative sanctions that affect the health,  
748 safety, and welfare of residents for the previous 2 years or  
749 since initial licensure if the facility has been licensed for  
750 less than 2 years.

751 3.2. Facilities that are licensed to provide limited  
752 nursing services shall maintain a written progress report on each  
753 person who receives ~~such~~ nursing services, which report describes  
754 the type, amount, duration, scope, and outcome of services that

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755 are rendered and the general status of the resident's health. A  
756 registered nurse representing the agency shall visit such  
757 facilities at least twice a year to monitor residents who are  
758 receiving limited nursing services and to determine if the  
759 facility is in compliance with applicable provisions of this  
760 part, part II of chapter 408, and related rules. The monitoring  
761 visits may be provided through contractual arrangements with  
762 appropriate community agencies. A registered nurse shall also  
763 serve as part of the team that inspects the ~~such~~ facility.

764 ~~4.3.~~ A person who receives limited nursing services ~~under~~  
765 ~~this part~~ must meet the admission criteria established by the  
766 agency for assisted living facilities. ~~If~~ ~~When~~ a resident no  
767 longer meets the admission criteria for a facility licensed under  
768 this part, arrangements for relocating the person shall be made  
769 in accordance with s. 429.28(1)(k), unless the facility is also  
770 licensed to provide extended congregate care services.

771 Section 13. Section 429.174, Florida Statutes, is amended  
772 to read:

773 429.174 Background screening; exemptions.--

774 (1) The owner or administrator of an assisted living  
775 facility must conduct level 1 ~~background~~ screening, as set forth  
776 in chapter 435, on all employees and contracted workers hired on  
777 or after October 1, 1998, who perform personal services or who  
778 have access to resident living areas as defined in s. 429.02(16).  
779 The agency may exempt an individual from ~~employment~~  
780 disqualification as set forth in s. 435.07 ~~chapter 435~~. However,  
781 such person may not be employed or resume employment pending the  
782 granting of an exemption or until all appeals have been resolved  
783 in favor of the person screened. Employees and contracted workers

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784 ~~Such persons~~ shall be considered as having met the screening  
785 requirements ~~this requirement~~ if:

786 (a) (1) Proof of compliance with level 1 screening  
787 ~~requirements~~ obtained to meet any professional license  
788 requirements in this state is provided and accompanied, under  
789 penalty of perjury, by a copy of the person's current  
790 professional license and an affidavit of current compliance with  
791 the background screening requirements.

792 (b) (2) The person required to be screened has been  
793 continuously employed in the same type of occupation for which  
794 the person is seeking employment without a breach in service  
795 which exceeds 180 days, and proof of compliance with the level 1  
796 screening requirement which is no more than 2 years old is  
797 provided. Proof of compliance shall be provided directly from one  
798 employer or contractor to another, and not from the person  
799 screened. Upon request, a copy of screening results shall be  
800 provided by the employer or contractor retaining documentation of  
801 the screening to the person screened.

802 (c) (3) The person required to be screened is employed by or  
803 contracts with a corporation or business entity or related  
804 corporation or business entity that owns, operates, or manages  
805 more than one facility or agency licensed under this chapter, and  
806 for whom a level 1 screening was conducted by the corporation or  
807 business entity as a condition of initial or continued  
808 employment.

809 (2) A contract worker who does not provide personal care or  
810 services to residents or have access to resident funds or other  
811 personal property is not required to be screened pursuant to this  
812 section but must sign in at the reception desk upon entering the

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813 facility, wear an identification badge, and sign out before  
814 leaving the facility. The facility shall maintain a log  
815 containing the information collected.

816 (3) The person being screened is responsible for paying the  
817 fees associated with obtaining the required screening. Payment  
818 for the screening shall be submitted to the agency. The agency  
819 shall establish a schedule of fees to cover the costs of level 1  
820 and level 2 screening. Facilities may reimburse employees or  
821 contracted workers for these costs. The Department of Law  
822 Enforcement shall charge the agency for a level 1 or level 2  
823 screening a rate sufficient to cover the costs of screening  
824 pursuant to s. 943.053(3).

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

827 429.255 Use of personnel; emergency care.--

828 (1) (a) Facility staff, including persons under contract to  
829 the facility, facility ~~employees~~ staff, or volunteers, who are  
830 licensed according to part I of chapter 464, or those persons  
831 exempt under s. 464.022(1), and others as defined by rule, may  
832 administer medications to residents, take residents' vital signs,  
833 manage individual weekly pill organizers for residents who self-  
834 administer medication, give prepackaged enemas ordered by a  
835 physician, observe residents, document observations on the  
836 appropriate resident's record, report observations to the  
837 resident's physician, and contract or allow residents or a  
838 resident's representative, designee, surrogate, guardian, or  
839 attorney in fact to contract with a third party, provided  
840 residents meet the criteria for appropriate placement as defined  
841 in s. 429.26. Nursing assistants certified pursuant to part II of

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

844 (b) Facility All staff, including persons under contract to  
845 the facility and facility employees, in facilities licensed under  
846 this part shall exercise their professional responsibility to  
847 observe residents, to document observations on the appropriate  
848 resident's record, ~~and~~ to report the observations to the  
849 resident's physician, and to provide needed services competently.  
850 Volunteers shall have the same obligations but shall report to a  
851 facility employee who shall make the appropriate notation in the  
852 resident's records. However, the owner or administrator of the  
853 facility ~~is shall be~~ responsible for determining that the  
854 resident receiving services is appropriate for residence in the  
855 facility and for the provision of and quality of care and  
856 services provided to the resident.

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

860 Section 15. Present subsections (8) through (12) of section  
861 429.26, Florida Statutes, are renumbered as sections (6) through  
862 (10), respectively, and present subsections (1) through (7) of  
863 that section, are amended to read:

864 429.26 Appropriateness of placements; examinations of  
865 residents.--

866 (1) The owner or administrator of a facility is responsible  
867 for determining the appropriateness of admission of an individual  
868 to the facility and for determining the continued appropriateness  
869 of residence of an individual in the facility. A determination  
870 shall be based upon an assessment of the strengths, needs, and

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871 | preferences of the resident, the care and services offered or  
872 | arranged for by the facility in accordance with facility policy,  
873 | and any limitations in law or rule related to admission criteria  
874 | or continued residency for the type of license held by the  
875 | facility under this part. Except as provided in s. 429.28(1)(k),  
876 | a resident may not be moved from one facility to another without  
877 | consultation with and agreement from the resident or, if  
878 | applicable, the resident's representative or designee or the  
879 | resident's family, guardian, surrogate, or attorney in fact. If  
880 | ~~In the case of~~ a resident ~~who~~ has been placed by the department  
881 | or the Department of Children and Family Services, the  
882 | administrator must notify the appropriate contact person in the  
883 | applicable department.

884 | ~~(2) A physician, physician assistant, or nurse practitioner~~  
885 | ~~who is employed by an assisted living facility to provide an~~  
886 | ~~initial examination for admission purposes may not have financial~~  
887 | ~~interest in the facility.~~

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

899 | (2)(4) If possible, each resident shall have been examined

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900 | by a licensed physician, a licensed physician assistant, or a  
901 | licensed nurse practitioner within 60 days before admission to  
902 | the facility. The person conducting an examination under this  
903 | subsection may not have financial interest in the facility. The  
904 | signed and completed medical examination report shall be  
905 | submitted to the owner or administrator of the facility who shall  
906 | use the information contained in the report ~~therein~~ to assist in  
907 | determining the determination of the appropriateness of the  
908 | resident's admission and continued stay in the facility and to  
909 | develop a service plan for the resident. The medical examination  
910 | report and service plan shall become a permanent part of the  
911 | record of the resident at the facility and shall be made  
912 | available to the agency during inspection or upon request. An  
913 | assessment that has been completed through the Comprehensive  
914 | Assessment and Review for Long-Term Care Services (CARES) Program  
915 | fulfills the requirements for a medical examination under this  
916 | subsection ~~and s. 429.07(3)(b)6.~~

917 | (a)(5) Except as provided in s. 429.07, if a medical  
918 | examination has not been completed within 60 days before the  
919 | admission of the resident to the facility, medical personnel a  
920 | ~~licensed physician, licensed physician assistant, or licensed~~  
921 | ~~nurse practitioner~~ shall examine the resident and complete a  
922 | medical examination form provided by the agency within 30 days  
923 | following the admission to the facility ~~to enable the facility~~  
924 | ~~owner or administrator to determine the appropriateness of the~~  
925 | ~~admission. The medical examination form shall become a permanent~~  
926 | ~~part of the record of the resident at the facility and shall be~~  
927 | ~~made available to the agency during inspection by the agency or~~  
928 | ~~upon request.~~



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929        (b)~~(6)~~ Any resident accepted in a facility and placed by  
930 the department or the Department of Children and Family Services  
931 must be ~~shall have been~~ examined by medical personnel within 30  
932 days before placement in the facility and recorded on a medical  
933 examination form provided by the agency. The examination shall  
934 include an assessment of the appropriateness of placement in a  
935 facility. ~~The findings of this examination shall be recorded on~~  
936 ~~the examination form provided by the agency. The completed form~~  
937 ~~shall accompany the resident and shall be submitted to the~~  
938 ~~facility owner or administrator. For~~ Additionally, ~~in the case of~~  
939 a mental health resident, the Department of Children and Family  
940 Services must provide documentation that the individual has been  
941 assessed by a psychiatrist, clinical psychologist, clinical  
942 social worker, or psychiatric nurse, or an individual who is  
943 supervised by one of these professionals, and determined to be  
944 appropriate to reside in an assisted living facility. The  
945 documentation must be in the facility within 30 days after the  
946 mental health resident has been admitted to the facility. An  
947 evaluation completed upon discharge from a state mental hospital  
948 meets the requirements of this subsection related to  
949 appropriateness for placement as a mental health resident  
950 providing it was completed within 90 days prior to admission to  
951 the facility. The applicable department shall provide to the  
952 facility administrator any information about the resident that  
953 would help the administrator meet his or her responsibilities  
954 under this section ~~subsection (1)~~. Further, department personnel  
955 shall explain to the facility operator any special needs of the  
956 resident and advise the operator whom to call should problems  
957 arise. The applicable department shall advise and assist the

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958 facility administrator where the special needs of residents who  
959 are recipients of optional state supplementation require such  
960 assistance.

961 (3) A level 1 criminal background screening, as defined in  
962 chapter 435, of a prospective resident must be conducted by the  
963 facility before admission or immediately after admission at the  
964 resident's expense. The information obtained may be used by the  
965 facility to assess the needs of the resident and the care and  
966 services offered or arranged by the facility in accordance with  
967 this section. The agency's employee background screening database  
968 may not be used for resident screening. If a resident transfers  
969 between facilities, the resident's background screening results  
970 shall be transferred with the resident.

971 (4) Persons licensed under part I of chapter 464 who are  
972 employed by or under contract with a facility shall, at least  
973 monthly, perform a nursing assessment of residents for whom they  
974 are providing nursing services ordered by a physician, except the  
975 administration of medication, and shall document such assessment,  
976 including any substantial change in a resident's status which may  
977 necessitate relocation to a nursing home, hospital, or  
978 specialized health care facility. The records must be maintained  
979 in the facility for inspection by the agency and shall be  
980 forwarded to the resident's case manager, if applicable.

981 (5)~~(7)~~ Residents shall be periodically assessed to  
982 determine if the resident is competent to handle his or her  
983 personal and financial affairs, and, if not, whether a  
984 responsible person such as a resident representative or designee,  
985 guardian, surrogate, or attorney in fact is available to make  
986 decisions on behalf of the resident. If a resident is having

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987 difficulty handling his or her personal or financial affairs  
988 because of a decline in health or cognitive abilities, the owner  
989 or administrator shall contact the resident's representative or  
990 designee, guardian, surrogate, or attorney in fact. If a resident  
991 does not have family or a legal representative to make decisions  
992 on his or her behalf, the owner or administrator must contact the  
993 Florida Abuse Hotline. The facility must notify a licensed  
994 physician when a resident exhibits signs of dementia or cognitive  
995 impairment or has a change of condition in order to rule out the  
996 presence of an underlying physiological condition that may be  
997 contributing to such dementia or impairment. The notification  
998 must occur within 30 days after the acknowledgment of such signs  
999 by facility staff. If an underlying condition is determined to  
1000 exist, the facility shall arrange, with the appropriate health  
1001 care provider, the necessary care and services to treat the  
1002 condition.

1003 Section 16. Present subsections (3) through (8) of section  
1004 429.27, Florida Statutes, are renumbered as subsections (6)  
1005 through (11), respectively, and subsections (1) and (2) of that  
1006 section are amended to read:

1007 429.27 Property and personal affairs of residents.--

1008 (1)~~(a)~~ A resident shall be given the option of using his or  
1009 her own belongings, as space permits; choosing his or her  
1010 roommate; and, whenever possible, unless the resident is  
1011 adjudicated incompetent or incapacitated under state law,  
1012 managing his or her own affairs.

1013 (2)~~(b)~~ The admission of a resident to a facility does ~~and~~  
1014 ~~his or her presence therein shall~~ not confer on the facility or  
1015 its owner, administrator, staff ~~employees~~, or representatives any

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1016 authority to manage, use, or dispose of any property of the  
1017 resident or to make financial or health care decisions on behalf  
1018 of the resident; ~~nor shall such admission or presence confer on~~  
1019 ~~any of such persons any authority or responsibility for the~~  
1020 ~~personal affairs of the resident, except if that which may be~~  
1021 necessary for the safe management of the facility or for the  
1022 safety of the resident.

1023 (3) ~~(2)~~ A facility, or an owner, administrator, staff  
1024 ~~employee,~~ or representative thereof, may not act as the  
1025 resident's representative or designee, guardian, health care  
1026 surrogate, trustee, or conservator for a any resident ~~of the~~  
1027 ~~assisted living facility~~ or any of the ~~such~~ resident's property  
1028 unless the person is a relative of the resident.

1029 (4) A facility ~~An~~ owner, administrator, or staff member, or  
1030 representative thereof, may not act as a competent resident's  
1031 payee for social security, veteran's, or railroad benefits  
1032 without the consent of the resident. Any facility ~~whose~~ owner,  
1033 administrator, or staff, or representative thereof who, serves as  
1034 representative payee for a any resident must ~~of the facility~~  
1035 ~~shall~~ file a surety bond with the agency in an amount equal to  
1036 twice the average monthly aggregate income or personal funds due  
1037 to residents, or expendable for his or her ~~their~~ account, which  
1038 are received by a facility.

1039 (5) Any facility ~~whose~~ owner, administrator, or staff, or a  
1040 representative thereof, who, is granted power of attorney for a  
1041 ~~any~~ resident must ~~of the facility shall~~ file a surety bond with  
1042 the agency for each resident for whom such power of attorney is  
1043 granted. The surety bond must ~~shall~~ be in an amount equal to  
1044 twice the average monthly income of the resident, plus the value

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1045 of any resident's property under the control of the attorney in  
1046 fact. The bond must ~~shall~~ be executed by the facility as  
1047 principal and a licensed surety company. The bond shall be  
1048 conditioned upon the faithful compliance of the facility with  
1049 this section and shall run to the agency for the benefit of any  
1050 resident who suffers a financial loss as a result of the misuse  
1051 or misappropriation ~~by a facility~~ of funds held pursuant to this  
1052 subsection. Any surety company that cancels or does not renew the  
1053 bond of any licensee shall notify the agency in writing not less  
1054 than 30 days in advance of such action, giving the reason for the  
1055 cancellation or nonrenewal. Any facility owner, administrator, or  
1056 staff, or representative thereof, who is granted power of  
1057 attorney for a ~~any~~ resident ~~of the facility~~ shall, on a monthly  
1058 basis, ~~be required to~~ provide the resident with a written  
1059 statement of any transaction made on behalf of the resident  
1060 pursuant to this subsection, and a copy of such statement ~~given~~  
1061 ~~to the resident~~ shall be retained in each resident's file and  
1062 available for agency inspection.

1063 Section 17. Paragraphs (k) and (l) of subsection (1) and  
1064 subsection (3) of section 429.28, Florida Statutes, are amended  
1065 to read:

1066 429.28 Resident bill of rights.--

1067 (1) No resident of a facility shall be deprived of any  
1068 civil or legal rights, benefits, or privileges guaranteed by law,  
1069 the Constitution of the State of Florida, or the Constitution of  
1070 the United States as a resident of a facility. Every resident of  
1071 a facility shall have the right to:

1072 (k) At least 45 days' written notice of relocation or  
1073 termination of residency from the facility unless, for medical

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1074 reasons, the resident is certified by a physician to require an  
1075 emergency relocation to a facility providing a more skilled level  
1076 of care or the resident engages in a pattern of conduct that is  
1077 harmful or offensive to other residents. The notice must specify  
1078 the reasons for the relocation or termination and a copy of the  
1079 notice must be sent by registered mail to the resident's  
1080 representative or designee, guardian, surrogate, attorney in  
1081 fact, the local ombudsman council, and the agency at the same  
1082 time the notice is delivered to the resident. The agency shall  
1083 compile an annual report summarizing the information received in  
1084 the notice, including the number and reasons for relocation or  
1085 termination of facility residents, type and size of facilities,  
1086 and other information that the agency considers relevant, which  
1087 shall be submitted to the Governor, the President of the Senate,  
1088 and the Speaker of the House of Representatives. In the case of a  
1089 ~~resident who has been adjudicated mentally incapacitated, the~~  
1090 ~~guardian shall be given at least 45 days' notice of a~~  
1091 ~~nonemergency relocation or residency termination. Reasons for~~  
1092 ~~relocation shall be set forth in writing. In order for a facility~~  
1093 to terminate the residency of an individual without notice as  
1094 provided in this paragraph herein, the facility must ~~shall~~ show  
1095 good cause in a court of competent jurisdiction.

1096 (1) Present grievances and recommend changes in policies,  
1097 procedures, and services to the staff of the facility, governing  
1098 officials, or any other person without restraint, interference,  
1099 coercion, discrimination, or reprisal. Each facility shall  
1100 establish a written grievance procedure to facilitate the  
1101 residents' exercise of this right which must include, at a  
1102 minimum, maintaining a written record of each grievance, the

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1103 stated reason for the grievance, actions taken by the facility,  
1104 and reporting each grievance within 3 business days after  
1105 receiving the grievance to the local ombudsman council. Each  
1106 facility must accept grievances orally and may accept grievances  
1107 in writing. The local ombudsman council shall maintain a record  
1108 of all grievances received from each facility in the local area  
1109 which shall be submitted by the local council to the Office of  
1110 State Long-Term Care Ombudsman pursuant to s. 400.0089. This  
1111 right also includes access to ombudsman volunteers and advocates  
1112 and the right to be a member of, to be active in, and to  
1113 associate with advocacy or special interest groups.

1114 ~~(3) (a) The agency shall conduct a survey to determine~~  
1115 ~~general compliance with facility standards and compliance with~~  
1116 ~~residents' rights as a prerequisite to initial licensure or~~  
1117 ~~licensure renewal.~~

1118 ~~(b)~~ In order to determine whether the facility is  
1119 adequately protecting residents' rights, the agency's biennial  
1120 survey shall include private informal conversations with a sample  
1121 of residents and consultation with the ombudsman council in the  
1122 planning and service area in which the facility is located to  
1123 discuss residents' experiences within the facility.

1124 ~~(c) During any calendar year in which no survey is~~  
1125 ~~conducted, the agency shall conduct at least one monitoring visit~~  
1126 ~~of each facility cited in the previous year for a class I or~~  
1127 ~~class II violation, or more than three uncorrected class III~~  
1128 ~~violations.~~

1129 ~~(d) The agency may conduct periodic followup inspections as~~  
1130 ~~necessary to monitor the compliance of facilities with a history~~  
1131 ~~of any class I, class II, or class III violations that threaten~~

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1132 ~~the health, safety, or security of residents.~~

1133 ~~(c) The agency may conduct complaint investigations as~~  
1134 ~~warranted to investigate any allegations of noncompliance with~~  
1135 ~~requirements required under this part or rules adopted under this~~  
1136 ~~part.~~

1137 Section 18. Subsection (1) of section 429.294, Florida  
1138 Statutes, is amended to read:

1139 429.294 Availability of facility records for investigation  
1140 of resident's rights violations and defenses; penalty.--

1141 (1) Failure to provide complete copies of a resident's  
1142 records, including, but not limited to, all medical records and  
1143 the resident's chart, within the control or possession of the  
1144 facility within 10 days, ~~in accordance with the provisions of s.~~  
1145 ~~400.145,~~ shall constitute evidence of failure of that party to  
1146 comply with good faith discovery requirements and shall waive the  
1147 good faith certificate and presuit notice requirements under this  
1148 part by the requesting party.

1149 Section 19. Section 429.34, Florida Statutes, is amended to  
1150 read:

1151 429.34 Right of entry and inspection.--In addition to the  
1152 requirements of s. 408.811:7

1153 (1) Any duly designated officer or employee of the  
1154 department, the Department of Children and Family Services, the  
1155 Medicaid Fraud Control Unit of the Office of the Attorney  
1156 General, the state or local fire marshal, or a member of the  
1157 state or local long-term care ombudsman council shall have the  
1158 right to enter unannounced upon and into the premises of any  
1159 facility licensed pursuant to this part in order to determine the  
1160 state of compliance with the provisions of this part, part II of



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1161 chapter 408, and applicable rules. Data collected by the state or  
1162 local long-term care ombudsman councils or the state or local  
1163 advocacy councils may be used by the agency in investigations  
1164 involving violations of regulatory standards.

1165 (2) Every 15 months the agency shall conduct at least one  
1166 unannounced inspection to determine compliance with this chapter  
1167 and related rules, including minimum standards of quality and  
1168 adequacy of care and the rights of residents. Two additional  
1169 surveys shall be conducted every 6 months for the next year if  
1170 the facility has been cited for a class I deficiency or two or  
1171 more class II deficiencies arising from separate surveys or  
1172 investigations within a 60-day period. In addition to any fines  
1173 imposed on a facility under s. 429.19, the agency shall assess a  
1174 fine of \$160 per bed for each of the additional two surveys. The  
1175 agency shall adjust this fine by the change in the Consumer Price  
1176 Index, based on the 12 months immediately preceding the change,  
1177 to cover the cost of the additional two surveys. The agency shall  
1178 verify through subsequent inspections that any deficiency  
1179 identified during an inspection is corrected. However, the agency  
1180 may verify the correction of a class III or class IV deficiency  
1181 unrelated to resident rights or resident care without  
1182 reinspecting the facility if adequate written documentation has  
1183 been received from the facility which provides assurance that the  
1184 deficiency has been corrected.

1185 Section 20. Paragraphs (k) and (l) of subsection (1) of  
1186 section 429.41, Florida Statutes, are redesignated as paragraphs  
1187 (l) and (m), respectively, and a new paragraph (k) is added to  
1188 that subsection, to read:

1189 (1) It is the intent of the Legislature that rules

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1190 published and enforced pursuant to this section shall include  
1191 criteria by which a reasonable and consistent quality of resident  
1192 care and quality of life may be ensured and the results of such  
1193 resident care may be demonstrated. Such rules shall also ensure a  
1194 safe and sanitary environment that is residential and  
1195 noninstitutional in design or nature. It is further intended that  
1196 reasonable efforts be made to accommodate the needs and  
1197 preferences of residents to enhance the quality of life in a  
1198 facility. The agency, in consultation with the department, may  
1199 adopt rules to administer the requirements of part II of chapter  
1200 408. In order to provide safe and sanitary facilities and the  
1201 highest quality of resident care accommodating the needs and  
1202 preferences of residents, the department, in consultation with  
1203 the agency, the Department of Children and Family Services, and  
1204 the Department of Health, shall adopt rules, policies, and  
1205 procedures to administer this part, which must include reasonable  
1206 and fair minimum standards in relation to:

1207 (k) The requirement that all residents have service plans.  
1208 The service plan must be reviewed and updated annually; however,  
1209 for a resident receiving nursing services ordered by a physician,  
1210 except administration of medication, the plan must be reviewed  
1211 and updated quarterly and whenever a resident experiences a  
1212 significant change in condition.

1213 Section 21. Present subsection (14) of section 429.65,  
1214 Florida Statutes, is renumbered as subsection (15) and a new  
1215 subsection (14) is added to that section, to read:

1216 429.65 Definitions.--As used in this part, the term:

1217 (14) "Reside" means the licensee or applicant lives in the  
1218 adult family care home as a primary residence. For the purposes

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1219 of this part, any two of the following documents, including the  
1220 adult family care home address and the name of the licensee or  
1221 applicant, may be accepted by the agency as proof that the  
1222 licensee or applicant resides in the adult family care home:

1223 (a) Homestead exemption documentation;

1224 (b) A lease or rental agreement accompanied by a  
1225 corresponding utility bill; or

1226 (c) Personal identification issued by a state or federal  
1227 agency.

1228 Section 22. Subsection (4) of section 429.67, Florida  
1229 Statutes, is amended to read:

1230 429.67 Licensure.--

1231 (4) Upon receipt of a completed license application or  
1232 license renewal, and the fee, the agency shall initiate a level 1  
1233 background screening as provided under chapter 435 on the adult  
1234 family-care home provider, the designated relief person, all  
1235 adult household members, ~~and~~ all staff members, and any other  
1236 person who provides personal services to residents or who have  
1237 routine access to the adult family-care home.

1238 (a) Proof of compliance with level 1 screening standards  
1239 which has been submitted within the previous 5 years to meet any  
1240 facility or professional licensure requirements of the agency or  
1241 the Department of Health satisfies the requirements of this  
1242 subsection. Such proof must be accompanied, under penalty of  
1243 perjury, by a copy of the person's current professional license  
1244 and an affidavit of current compliance with the background  
1245 screening requirements.

1246 (b) The person required to be screened must have been  
1247 continuously employed in the same type of occupation for which

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1248 the person is seeking employment without a breach in service that  
1249 exceeds 180 days, and proof of compliance with the level 1  
1250 screening requirement which is no more than 2 years old must be  
1251 provided. Proof of compliance shall be provided directly from one  
1252 employer or contractor to another, and not from the person  
1253 screened. Upon request, a copy of screening results shall be  
1254 provided to the person screened by the employer retaining  
1255 documentation of the screening.

1256 Section 23. Subsection (3) is added to section 429.69,  
1257 Florida Statutes, to read:

1258 429.69 Denial, revocation, and suspension of a license.--In  
1259 addition to the requirements of part II of chapter 408, the  
1260 agency may deny, suspend, and revoke a license for any of the  
1261 following reasons:

1262 (3) Failure of the adult family-care home provider who owns  
1263 or rents the home to live in the home.

1264 Section 24. Paragraph (b) of subsection (1) of section  
1265 429.73, Florida Statutes, is amended to read:

1266 429.73 Rules and standards relating to adult family-care  
1267 homes.--

1268 (1) The agency, in consultation with the department, may  
1269 adopt rules to administer the requirements of part II of chapter  
1270 408. The department, in consultation with the Department of  
1271 Health, the Department of Children and Family Services, and the  
1272 agency shall, by rule, establish minimum standards to ensure the  
1273 health, safety, and well-being of each resident in the adult  
1274 family-care home pursuant to this part. The rules must address:

1275 (b) Services that must be provided to all residents of an  
1276 adult family-care home and standards for such services, which

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1277 must include, but need not be limited to:

- 1278 1. Room and board.
- 1279 2. Assistance necessary to perform the activities of daily  
1280 living.
- 1281 3. Assistance necessary to administer medication.
- 1282 4. Supervision of residents.
- 1283 5. Health monitoring, including periodic assessments to  
1284 determine if the resident is competent to handle his or her  
1285 personal and financial affairs, and, if not, whether a  
1286 responsible person such as a guardian, surrogate, or attorney in  
1287 fact is available to make decisions on behalf of the resident.
- 1288 6. Social and leisure activities.

1289 Section 25. Subsections (2) and (3) of section 435.03,  
1290 Florida Statutes, are amended to read:

1291 435.03 Level 1 screening standards.--

1292 (2) Any person for whom employment screening is required by  
1293 statute must not have been convicted of ~~found guilty of,~~  
1294 ~~regardless of adjudication,~~ or entered a plea of guilty or nolo  
1295 ~~contendere or guilty to,~~ regardless of adjudication, to any  
1296 offense prohibited under any of the following ~~provisions of the~~  
1297 ~~Florida~~ statutes or under any similar statute of another  
1298 jurisdiction:

1299 (a) Section 393.135, relating to sexual misconduct with  
1300 certain developmentally disabled clients and reporting of such  
1301 sexual misconduct.

1302 (b) Section 394.4593, relating to sexual misconduct with  
1303 certain mental health patients and reporting of such sexual  
1304 misconduct.

1305 (c) Section 415.111, relating to abuse, neglect, or

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- 1306 exploitation of a vulnerable adult.
- 1307 (d) Section 782.04, relating to murder.
- 1308 (e) Section 782.07, relating to manslaughter, aggravated
- 1309 manslaughter of an elderly person or disabled adult, or
- 1310 aggravated manslaughter of a child.
- 1311 (f) Section 782.071, relating to vehicular homicide.
- 1312 (g) Section 782.09, relating to killing of an unborn quick
- 1313 child by injury to the mother.
- 1314 (h) Section 784.011, relating to assault, if the victim of
- 1315 the offense was a minor.
- 1316 (i) Section 784.021, relating to aggravated assault.
- 1317 (j) Section 784.03, relating to battery, if the victim of
- 1318 the offense was a minor.
- 1319 (k) Section 784.045, relating to aggravated battery.
- 1320 (l) Section 787.01, relating to kidnapping.
- 1321 (m) Section 787.02, relating to false imprisonment.
- 1322 (n) Section 794.011, relating to sexual battery.
- 1323 (o) Former s. 794.041, relating to prohibited acts of
- 1324 persons in familial or custodial authority.
- 1325 (p) Chapter 796, relating to prostitution.
- 1326 (q) Section 798.02, relating to lewd and lascivious
- 1327 behavior.
- 1328 (r) Chapter 800, relating to lewdness and indecent
- 1329 exposure.
- 1330 (s) Section 806.01, relating to arson.
- 1331 (t) Chapter 812, relating to theft, robbery, and related
- 1332 crimes, if the offense was a felony.
- 1333 (u) Section 817.563, relating to fraudulent sale of
- 1334 controlled substances, only if the offense was a felony.

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- 1335 (v) Section 825.102, relating to abuse, aggravated abuse,  
1336 or neglect of an elderly person or disabled adult.
- 1337 (w) Section 825.1025, relating to lewd or lascivious  
1338 offenses committed upon or in the presence of an elderly person  
1339 or disabled adult.
- 1340 (x) Section 825.103, relating to exploitation of an elderly  
1341 person or disabled adult, if the offense was a felony.
- 1342 (y) Section 826.04, relating to incest.
- 1343 (z) Section 827.03, relating to child abuse, aggravated  
1344 child abuse, or neglect of a child.
- 1345 (aa) Section 827.04, relating to contributing to the  
1346 delinquency or dependency of a child.
- 1347 (bb) Former s. 827.05, relating to negligent treatment of  
1348 children.
- 1349 (cc) Section 827.071, relating to sexual performance by a  
1350 child.
- 1351 (dd) Chapter 847, relating to obscene literature.
- 1352 (ee) Chapter 893, relating to drug abuse prevention and  
1353 control, only if the offense was a felony or if any other person  
1354 involved in the offense was a minor.
- 1355 (ff) Section 916.1075, relating to sexual misconduct with  
1356 certain forensic clients and reporting of such sexual misconduct.
- 1357 (3) Standards must also ensure that the person:
- 1358 (a) For employees and employers licensed or registered  
1359 pursuant to part II of chapter 408 ~~400 or chapter 429~~, and ~~for~~  
1360 employees and employers of developmental disabilities  
1361 institutions as defined in s. 393.063, ~~intermediate care~~  
1362 ~~facilities for the developmentally disabled as defined in s.~~  
1363 ~~400.960~~, and mental health treatment facilities as defined in s.

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1364 394.455, has not been convicted of, or entered a plea of guilty  
1365 or nolo contendere, regardless of adjudication, to offenses  
1366 prohibited under any of the following statutes or under any  
1367 similar statute of another jurisdiction: ~~meets the requirements~~  
1368 of this chapter.

1369 1. Sections 409.920 and 409.9201, relating to Medicaid  
1370 fraud.

1371 2. Chapter 429, relating to assisted care communities.

1372 3. Chapter 784, relating to assault, battery, and culpable  
1373 negligence, if the offense is a felony.

1374 4. Section 810.02, relating to burglary, if the offense is  
1375 a felony.

1376 5. Section 817.034, relating to communications fraud.

1377 6. Section 817.234, relating to fraudulent insurance  
1378 claims.

1379 7. Section 817.505, relating to patient brokering.

1380 8. Section 817.568, relating to identification theft.

1381 9. Sections 817.60 and 817.61, relating to credit cards, if  
1382 the offense is a felony.

1383 10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and  
1384 831.31 relating to forgery, uttering, and counterfeiting.

1385 (b) Has not committed an act that constitutes domestic  
1386 violence as defined in s. 741.28.

1387 Section 26. Subsections (2) and (4) of section 435.04,  
1388 Florida Statutes, are amended to read:

1389 435.04 Level 2 screening standards.--

1390 (2) The security background investigations under this  
1391 section must ensure that no persons subject to ~~the provisions of~~  
1392 this section have been convicted ~~found guilty of, regardless of~~



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1393 ~~adjudication,~~ or entered a plea of guilty or nolo contendere ~~or~~  
1394 ~~guilty to,~~ regardless of adjudication, to any offense prohibited  
1395 under any of the following ~~provisions of the Florida~~ statutes or  
1396 under any similar statute of another jurisdiction:

1397 (a) Section 393.135, relating to sexual misconduct with  
1398 certain developmentally disabled clients and reporting of such  
1399 sexual misconduct.

1400 (b) Section 394.4593, relating to sexual misconduct with  
1401 certain mental health patients and reporting of such sexual  
1402 misconduct.

1403 (c) Section 415.111, relating to adult abuse, neglect, or  
1404 exploitation of aged persons or disabled adults.

1405 (d) Section 782.04, relating to murder.

1406 (e) Section 782.07, relating to manslaughter, aggravated  
1407 manslaughter of an elderly person or disabled adult, or  
1408 aggravated manslaughter of a child.

1409 (f) Section 782.071, relating to vehicular homicide.

1410 (g) Section 782.09, relating to killing of an unborn quick  
1411 child by injury to the mother.

1412 (h) Section 784.011, relating to assault, if the victim of  
1413 the offense was a minor.

1414 (i) Section 784.021, relating to aggravated assault.

1415 (j) Section 784.03, relating to battery, if the victim of  
1416 the offense was a minor.

1417 (k) Section 784.045, relating to aggravated battery.

1418 (l) Section 784.075, relating to battery on a detention or  
1419 commitment facility staff.

1420 (m) Section 787.01, relating to kidnapping.

1421 (n) Section 787.02, relating to false imprisonment.

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1422 (o) Section 787.04(2), relating to taking, enticing, or  
1423 removing a child beyond the state limits with criminal intent  
1424 pending custody proceedings.

1425 (p) Section 787.04(3), relating to carrying a child beyond  
1426 the state lines with criminal intent to avoid producing a child  
1427 at a custody hearing or delivering the child to the designated  
1428 person.

1429 (q) Section 790.115(1), relating to exhibiting firearms or  
1430 weapons within 1,000 feet of a school.

1431 (r) Section 790.115(2)(b), relating to possessing an  
1432 electric weapon or device, destructive device, or other weapon on  
1433 school property.

1434 (s) Section 794.011, relating to sexual battery.

1435 (t) Former s. 794.041, relating to prohibited acts of  
1436 persons in familial or custodial authority.

1437 (u) Chapter 796, relating to prostitution.

1438 (v) Section 798.02, relating to lewd and lascivious  
1439 behavior.

1440 (w) Chapter 800, relating to lewdness and indecent  
1441 exposure.

1442 (x) Section 806.01, relating to arson.

1443 (y) Chapter 812, relating to theft, robbery, and related  
1444 crimes, if the offense is a felony.

1445 (z) Section 817.563, relating to fraudulent sale of  
1446 controlled substances, only if the offense was a felony.

1447 (aa) Section 825.102, relating to abuse, aggravated abuse,  
1448 or neglect of an elderly person or disabled adult.

1449 (bb) Section 825.1025, relating to lewd or lascivious  
1450 offenses committed upon or in the presence of an elderly person

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1451 or disabled adult.

1452 (cc) Section 825.103, relating to exploitation of an  
1453 elderly person or disabled adult, if the offense was a felony.

1454 (dd) Section 826.04, relating to incest.

1455 (ee) Section 827.03, relating to child abuse, aggravated  
1456 child abuse, or neglect of a child.

1457 (ff) Section 827.04, relating to contributing to the  
1458 delinquency or dependency of a child.

1459 (gg) Former s. 827.05, relating to negligent treatment of  
1460 children.

1461 (hh) Section 827.071, relating to sexual performance by a  
1462 child.

1463 (ii) Section 843.01, relating to resisting arrest with  
1464 violence.

1465 (jj) Section 843.025, relating to depriving a law  
1466 enforcement, correctional, or correctional probation officer  
1467 means of protection or communication.

1468 (kk) Section 843.12, relating to aiding in an escape.

1469 (ll) Section 843.13, relating to aiding in the escape of  
1470 juvenile inmates in correctional institutions.

1471 (mm) Chapter 847, relating to obscene literature.

1472 (nn) Section 874.05(1), relating to encouraging or  
1473 recruiting another to join a criminal gang.

1474 (oo) Chapter 893, relating to drug abuse prevention and  
1475 control, only if the offense was a felony or if any other person  
1476 involved in the offense was a minor.

1477 (pp) Section 916.1075, relating to sexual misconduct with  
1478 certain forensic clients and reporting of such sexual misconduct.

1479 (qq) Section 944.35(3), relating to inflicting cruel or

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1480 inhuman treatment on an inmate resulting in great bodily harm.  
1481 (rr) Section 944.46, relating to harboring, concealing, or  
1482 aiding an escaped prisoner.  
1483 (ss) Section 944.47, relating to introduction of contraband  
1484 into a correctional facility.  
1485 (tt) Section 985.701, relating to sexual misconduct in  
1486 juvenile justice programs.  
1487 (uu) Section 985.711, relating to contraband introduced  
1488 into detention facilities.  
1489 (4) Standards must also ensure that the person:  
1490 (a) For employees or employers licensed or registered  
1491 pursuant to part II of chapter 408 and employees and employers of  
1492 developmental disabilities institutions as defined in s. 393.063  
1493 and mental health treatment facilities as defined in s. 394.455,  
1494 has not been convicted of, or entered a plea of guilty or nolo  
1495 contendere, regardless of adjudication, to offenses prohibited  
1496 under any of the following statutes or under similar statutes of  
1497 another jurisdiction: 400 or chapter 429, does not have a  
1498 confirmed report of abuse, neglect, or exploitation as defined in  
1499 s. 415.102(6), which has been uncontested or upheld under s.  
1500 415.103.  
1501 1. Sections 409.920 and 409.9201, relating to Medicaid  
1502 fraud.  
1503 2. Chapter 429, relating to assisted care communities.  
1504 3. Chapter 784, relating to assault, battery, and culpable  
1505 negligence, if the offense is a felony.  
1506 4. Section 810.02, relating to burglary, if the offense is  
1507 a felony.  
1508 5. Section 817.034, relating to communications fraud.

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1509        6. Section 817.234, relating to fraudulent insurance  
 1510 claims.

1511        7. Section 817.505, relating to patient brokering.

1512        8. Section 817.568, relating to identification theft.

1513        9. Sections 817.60 and 817.61, relating to credit cards, if  
 1514 the offense is a felony.

1515        10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and  
 1516 831.31 relating to forgery, uttering, and counterfeiting.

1517        (b) Has not committed an act that constitutes domestic  
 1518 violence as defined in s. 741.28 ~~s. 741.30~~.

1519        Section 27. Subsection (13) of section 400.141, subsection  
 1520 (3) of section 408.809, subsection (2) of section 429.08, and  
 1521 subsection (5) of section 429.41, Florida Statutes, are repealed.

1522        Section 28. Paragraph (h) of subsection (3) of section  
 1523 430.80, Florida Statutes, is amended to read:

1524        430.80 Implementation of a teaching nursing home pilot  
 1525 project.--

1526        (3) To be designated as a teaching nursing home, a nursing  
 1527 home licensee must, at a minimum:

1528        (h) Maintain insurance coverage pursuant to s. 400.141(19)  
 1529 ~~s. 400.141(20)~~ or proof of financial responsibility in a minimum  
 1530 amount of \$750,000. ~~Such~~ Proof of financial responsibility may  
 1531 include:

1532        1. Maintaining an escrow account consisting of cash or  
 1533 assets eligible for deposit in accordance with s. 625.52; or

1534        2. Obtaining and maintaining, pursuant to chapter 675, an  
 1535 unexpired, irrevocable, nontransferable and nonassignable letter  
 1536 of credit issued by a ~~any~~ bank or savings association organized  
 1537 and existing under the laws of this state or a ~~any~~ bank or

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1538 savings association organized under the laws of the United States  
1539 that has its principal place of business in this state or has a  
1540 branch office which is authorized to receive deposits in this  
1541 state. The letter of credit shall be used to satisfy the  
1542 obligation of the facility to the claimant upon presentment of a  
1543 final judgment indicating liability and awarding damages to be  
1544 paid by the facility or upon presentment of a settlement  
1545 agreement signed by all parties if the ~~to the agreement when such~~  
1546 final judgment or settlement is a result of a liability claim  
1547 against the facility.

1548 Section 29. Subsection (13) of section 651.118, Florida  
1549 Statutes, is amended to read:

1550 651.118 Agency for Health Care Administration; certificates  
1551 of need; sheltered beds; community beds.--

1552 (13) Residents, ~~as defined in this chapter,~~ are not  
1553 considered new admissions for the purpose of s. 400.141(14)(d) ~~s.~~  
1554 ~~400.141(15)(d)~~.

1555 Section 30. This act shall take effect October 1, 2008.