Florida Senate - 2008

By the Committees on Health Regulation; Children, Families, and Elder Affairs; and Senator Storms

588-05373A-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	search of the Department of Law Enforcement's sexual
9	offender database to be conducted on all nursing home
10	residents; amending s. 400.19, F.S.; revising provisions
11	relating to unannounced inspections; amending s. 400.215,
12	F.S.; requiring contracted workers employed in a nursing
13	home to submit to background screening; prohibiting
14	employees and contracted workers who do not meet
15	background screening requirements from being employed in a
16	nursing home; providing certain exceptions; deleting an
17	obsolete provision; amending s. 408.809, F.S.; requiring
18	the agency to establish a fee schedule to cover the cost
19	of a level 1 or level 2 screening and giving the agency
20	rulemaking authority; amending s. 408.810, F.S.; requiring
21	health care facilities regulated by the Agency for Health
22	Care Administration to post certain information in the
23	facility; authorizing the agency to charge a fee to cover
24	production and distribution unless the information is
25	downloaded from the agency's website; amending s. 408.811,
26	F.S.; providing that agency employees who provide advance
27	notice of unannounced agency inspections are subject to
28	suspension; providing a timeline and process for
29	correction of deficiencies; providing that the agency may

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30 provide electronic access to documents; amending s. 31 415.103, F.S.; requiring certain reports to the central 32 abuse hotline relating to vulnerable adults to be 33 immediately transferred to the county sheriff's office; 34 amending s. 415.1051, F.S.; authorizing the Department of 35 Children and Family Services to file the petition to 36 determine incapacity in adult protection proceedings; 37 prohibiting the department from serving as the guardian or 38 providing legal counsel to the guardian; amending s. 39 415.112, F.S.; specifying rules to be adopted by the Department of Children and Family Services relating to 40 41 adult protective services under ch. 415, F.S.; amending s. 42 429.02, F.S.; revising the definition of "service plan" to 43 remove the limitation that plans are required only in 44 assisted living facilities that have an extended 45 congregate care license; requiring that the agency develop a service plan form; amending s. 429.07, F.S.; providing 46 that license requirements for specialty licenses apply to 47 48 current licensees as well as applicants for an extended 49 congregate care and limited nursing license; conforming a 50 cross-reference; amending s. 429.174, F.S.; requiring 51 certain employees and contracted workers in assisted 52 living facilities to submit to background screening; 53 prohibiting employees and contracted workers who do not 54 meet background screening requirements from being employed 55 in an assisted living facility; providing certain 56 exceptions; requiring the person being screened to pay for 57 the cost of screening; amending s. 429.255, F.S.; 58 providing that the owner or administrator of an assisted

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59 living facility is responsible for the services provided 60 in the facility; amending s. 429.26, F.S.; clarifying a prohibition on moving a resident; providing for the 61 development of a service plan for all residents; requiring 62 63 a search of the Department of Law Enforcement's sexual offender database to be conducted on all residents of an 64 assisted living facility; requiring residents to be 65 66 periodically assessed for competency to handle personal affairs; amending s. 429.27, F.S.; prohibiting assisted 67 68 living facility personnel from making certain decisions 69 for a resident or acting as the resident's representative 70 or surrogate; amending s. 429.28, F.S.; requiring that 71 notice of a resident's relocation or termination of 72 residency be in writing and a copy sent to specified 73 persons; requiring the State Long-Term Ombudsman Program 74 include information within their annual report to the 75 Governor and the Legislature; requiring facilities to have 76 a written grievance procedure that includes certain 77 information; requiring that grievances reported to the local ombudsman council be included in a statewide 78 79 reporting system; revising provisions relating to agency 80 surveys to determine compliance with resident rights in 81 assisted living facilities; amending s. 429.294, F.S.; 82 deleting a cross-reference; amending s. 429.34, F.S.; 83 providing for unannounced inspections; providing for 84 additional 6-month inspections for certain violations; 85 providing for an additional fine for 6-month inspections; 86 amending s. 429.41, F.S.; requiring all residents of 87 assisted living facilities to have a service plan;

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amending s. 429.65, F.S.; providing a definition of the 88 89 term "reside"; amending s. 429.67, F.S.; expanding the 90 list of persons who must have a background screening in 91 adult family-care homes; amending s. 429.69, F.S.; 92 providing that the failure of a adult family-care home 93 provider to live in the home is grounds for the denial, 94 revocation, or suspension of a license; amending s. 95 429.73, F.S.; requiring adult family-care home residents 96 to be periodically assessed for competency to handle 97 personal affairs; amending ss. 435.03 and 435.04, F.S.; providing additional criminal offenses for screening 98 certain health care facility personnel; repealing s. 99 100 400.141(13), F.S., relating to a requirement to post certain information in nursing homes; repealing s. 101 408.809(3), F.S., relating to the granting of a 102 103 provisional license while awaiting the results of a 104 background screening; repealing s. 429.08(2), F.S., 105 deleting a provision relating to local workgroups of field 106 offices of the Agency for Health Care Administration; 107 repealing s. 429.41(5), F.S., relating to agency 108 inspections; amending ss. 430.80 and 651.118, F.S.; 109 conforming cross-references; providing an effective date. 110 111 Be It Enacted by the Legislature of the State of Florida: 112 113 Section 1. Subsection (4) of section 322.142, Florida 114 Statutes, is amended to read: 115 322.142 Color photographic or digital imaged licenses.--116 (4) The department may maintain a film negative or print

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file. The department shall maintain a record of the digital image 117 118 and signature of the licensees, together with other data required 119 by the department for identification and retrieval. Reproductions from the file or digital record are exempt from the provisions of 120 s. 119.07(1) and shall be made and issued only for departmental 121 administrative purposes; for the issuance of duplicate licenses; 122 123 in response to law enforcement agency requests; to the Department 124 of State pursuant to an interagency agreement to facilitate 125 determinations of eligibility of voter registration applicants 126 and registered voters in accordance with ss. 98.045 and 98.075; 127 to the Department of Revenue pursuant to an interagency agreement 128 for use in establishing paternity and establishing, modifying, or 129 enforcing support obligations in Title IV-D cases; to the 130 Department of Children and Family Services pursuant to an 131 interagency agreement to conduct protective investigations under 132 chapter 415; or to the Department of Financial Services pursuant 133 to an interagency agreement to facilitate the location of owners 134 of unclaimed property, the validation of unclaimed property 135 claims, and the identification of fraudulent or false claims, and 136 are exempt from the provisions of s. 119.07(1). 137 Section 2. Subsection (25) is added to section 400.141,

138 Florida Statutes, to read:

139 400.141 Administration and management of nursing home 140 facilities.--Every licensed facility shall comply with all 141 applicable standards and rules of the agency and shall:

142 (25) Conduct a search of the Department of Law
 143 Enforcement's sexual offender database for each prospective
 144 resident before admission or immediately after admission. A
 145 facility must maintain verification that each resident has been

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146 screened within the previous year. The information obtained may 147 be used by the facility to assess the needs of the resident and 148 to provide adequate and appropriate health care and protective 149 and support services in accordance with this part. The 150 information obtained may be disclosed to other residents. The 151 facility does not have to rescreen a resident who is away from a 152 facility for no more than 45 days. 153 154 Facilities that have been awarded a Gold Seal under the program 155 established in s. 400.235 may develop a plan to provide certified 156 nursing assistant training as prescribed by federal regulations 157 and state rules and may apply to the agency for approval of their 158 program. 159 Section 3. Subsection (3) of section 400.19, Florida 160 Statutes, is amended to read: 161 400.19 Right of entry and inspection .--162 The agency shall every 15 months conduct at least one (3) 163 unannounced inspection to determine compliance by the licensee 164 with statutes, and related with rules promulgated under the 165 provisions of those statutes, governing minimum standards of 166 construction, quality and adequacy of care, and rights of 167 residents. The survey shall be conducted every 6 months for the 168 next 2-year period if the facility has been cited for a class I 169 deficiency, has been cited for two or more class II deficiencies 170 arising from separate surveys or investigations within a 60-day 171 period, or has had three or more substantiated complaints within 172 a 6-month period, each resulting in at least one class I or class

174 part, the agency shall assess a fine for each facility that is

II deficiency. In addition to any other fees or fines in this

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subject to the 6-month survey cycle. The fine for the 2-year 175 176 period shall be \$6,000, one-half to be paid at the completion of 177 each survey. The agency may adjust this fine by the change in the 178 Consumer Price Index, based on the 12 months immediately 179 preceding the change increase, to cover the cost of the additional surveys. The agency shall verify through subsequent 180 181 inspection that any deficiency identified during inspection is 182 corrected. However, the agency may verify the correction of a 183 class III or class IV deficiency unrelated to resident rights or 184 resident care without reinspecting the facility if adequate written documentation has been received from the facility, which 185 186 provides assurance that the deficiency has been corrected. The 187 giving or causing to be given of advance notice of such unannounced inspections by an employee of the agency to any 188 189 unauthorized person shall constitute cause for suspension of not 190 fewer than 5 working days according to the provisions of chapter 110. 191

192 Section 4. Section 400.215, Florida Statutes, is amended to 193 read:

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400.215 Background Personnel screening requirement. --

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

200 201 (a) Provide personal care or services to residents;

(b) Have access to resident living areas; or

202 (c) Have access to resident funds or other personal 203 property.

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204 (2) Background screening as provided in chapter 435 is 205 required for all nursing home facility contracted workers who are 206 expected to, or whose responsibilities may require them to, provide personal care or services to residents. The facility 207 shall maintain verification that such contracted workers have 208 209 been screened pursuant to this section. Contracted workers who do 210 not provide personal care or services to residents are not 211 required to be screened pursuant to this section but must sign in 212 at the reception desk or nurses' station upon entering the 213 facility, wear an identification badge while on the premises, and 214 sign out before leaving the facility. The nursing facility shall 215 maintain a log containing the information collected. 216 (3) (2) Employers, and employees, contractors, and 217 contracted workers shall comply with the requirements of s. 218 435.05. 219 Notwithstanding the provisions of s. 435.05(1), (a) 220 facilities must have in their possession evidence that level 1 221 screening under s. 435.03 has been completed before allowing an 222 employee or contracted worker to begin employment in the facility 223 working with patients as provided in subsection (1). All 224 information necessary for conducting level 1 background screening 225 using level 1 standards as specified in s. 435.03 shall be 226 submitted by the nursing facility to the agency. Results of the 227 background screening shall be provided by the agency to the 228 requesting nursing facility.

(b) Employees <u>and contracted workers</u> qualified under the provisions of paragraph (a) who have not maintained continuous residency within the state for the 5 years immediately preceding the date of request for background screening must complete level

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2 screening, as provided in s. 435.04 chapter 435. Such Employees 233 234 may work in a conditional status for up to 180 days pending the 235 receipt of written findings evidencing the completion of level 2 236 screening. Contracted workers who are awaiting the completion of level 2 screening may work only under the direct and visual 237 238 supervision of persons who have met the screening requirements of this section. Level 2 screening is $\frac{1}{2}$ not $\frac{1}{2}$ required for $\frac{1}{2}$ 239 240 employees, or prospective employees, or contracted workers who 241 attest in writing under penalty of perjury that they meet the residency requirement. To complete Completion of level 2 242 screening: shall require 243

244 <u>1.</u> The employee or <u>contracted worker shall</u> prospective 245 employee to furnish to the nursing facility a full set of 246 fingerprints <u>for conducting a federal criminal records check</u> to 247 enable a criminal background investigation to be conducted.

2482. The nursing facility shall submit the completed249fingerprint card to the agency.

250 <u>3.</u> The agency shall establish a record of the request in 251 the database provided for in paragraph (c) and forward the 252 request to the Department of Law Enforcement, which is authorized 253 to submit the fingerprints to the Federal Bureau of Investigation 254 for a national criminal history records check.

255 <u>4.</u> The results of the national criminal history records 256 check shall be returned to the agency, which shall maintain the 257 results in the database provided for in paragraph (c).

258 <u>5.</u> The agency shall notify the administrator of the
 259 requesting nursing facility or the administrator of any other
 260 <u>requesting</u> facility licensed under chapter 393, chapter 394,
 261 chapter 395, chapter 397, chapter 429, or this chapter, as

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262 requested by such facility, as to whether or not the employee has 263 qualified under level 1 or level 2 screening.

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An employee or <u>contracted worker</u> prospective employee who has qualified under level 2 screening and has maintained such continuous residency within the state <u>is</u> shall not be required to complete a subsequent level 2 screening as a condition of employment at another facility.

270 The agency shall establish and maintain a database that (C) 271 includes of background screening information which shall include 272 the results of all both level 1 and level 2 screening. The 273 Department of Law Enforcement shall timely provide to the agency, 274 electronically, the results of each statewide screening for 275 incorporation into the database. The agency shall, upon request 276 from any facility, agency, or program required by or authorized 277 by law to screen its employees or contracted workers applicants, 278 notify the administrator of the facility, agency, or program of 279 the qualifying or disqualifying status of the person employee or 280 applicant named in the request.

281 Applicants and Employees, prospective employees, and (d) 282 contracted workers shall be excluded from employment pursuant to 283 s. 435.06, and may not be employed or resume employment until 284 exempted or all appeals have been resolved in favor of the person 285 screened. However, an employee of a nursing facility, employed 286 prior to October 1, 1998, who is determined to have a 287 disqualifying offense may continue employment pending the outcome 288 of an exemption request if that request is made by October 1, 289 2009.

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(4) (3) The person being screened applicant is responsible

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291 for paying the fees associated with obtaining the required 292 screening. Payment for the screening shall be submitted to the 293 agency. The agency shall establish a schedule of fees to cover 294 the costs of level 1 and level 2 screening. Facilities may pay 295 reimburse employees for these costs. The Department of Law 296 Enforcement shall charge the agency for a level 1 or level 2 297 screening a rate sufficient to cover the costs of such screening 298 pursuant to s. 943.053(3). The agency shall, as allowable, 299 reimburse nursing facilities for the cost of conducting 300 background screening as required by this section. This 301 reimbursement is will not be subject to any rate ceilings or 302 payment targets in the Medicaid Reimbursement plan.

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<u>(5)</u> (4) (a) As provided in s. 435.07:

304 <u>(a)</u> The agency may grant an exemption from disqualification 305 to an employee, or prospective employee, or contracted worker who 306 is subject to this section and who has not received a 307 professional license or certification from the Department of 308 Health.

309 As provided in s. 435.07, The appropriate regulatory (b) 310 board within the Department of Health, or that department itself 311 when there is no board, may grant an exemption from 312 disqualification to an employee, or prospective employee, or 313 contracted worker who is subject to this section and who has 314 received a professional license or certification from the 315 Department of Health or a regulatory board within that 316 department.

317 <u>(6) (5)</u> Any provision of law to the contrary 318 notwithstanding, Persons who have been screened and qualified as 319 required by this section, and who have not been unemployed for

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320 more than 180 days thereafter, and who, under penalty of perjury, 321 attest to not having been convicted of a disqualifying offense 322 since the completion of such screening <u>are</u>, shall not be required 323 to be rescreened. An employer may obtain, pursuant to s. 435.10, 324 written verification of qualifying screening results from the 325 previous employer, contractor, or other entity that which caused 326 the such screening to be performed.

327 (7)(6) The agency and the Department of Health may shall
 328 have authority to adopt rules to administer pursuant to the
 329 Administrative Procedure Act to implement this section.

(7) All employees shall comply with the requirements of 330 331 this section by October 1, 1998. No current employee of a nursing facility as of the effective date of this act shall be required 332 333 to submit to rescreening if the nursing facility has in its 334 possession written evidence that the person has been screened and 335 qualified according to level 1 standards as specified in s. 336 435.03(1). Any current employee who meets the level 1 requirement 337 but does not meet the 5-year residency requirement as specified 338 in this section must provide to the employing nursing facility 339 written attestation under penalty of perjury that the employee has not been convicted of a disqualifying offense in another 340 341 state or jurisdiction. All applicants hired on or after October 342 1, 1998, shall comply with the requirements of this section.

(8) There is no monetary or unemployment liability on the part of, and <u>a</u> no cause of action for damages <u>does not arise</u> arising against, an employer that, upon notice of a disqualifying offense listed under chapter 435 or an act of domestic violence, terminates the employee against whom the report was issued, whether or not the employee has filed for an exemption with the

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349	Department of Health or the agency for Health Care
350	Administration.
351	Section 5. Subsection (6) is added to section 408.809,
352	Florida Statutes, to read:
353	408.809 Background screening; prohibited offenses
354	(6) The agency shall establish a schedule of fees to cover
355	the costs of any Level 1 or Level 2 screening required pursuant
356	to this part or other authorizing statutes and may adopt rules to
357	carry out these screenings and for the schedule of fees.
358	Section 6. Subsection (5) of section 408.810, Florida
359	Statutes, is amended to read:
360	408.810 Minimum licensure requirementsIn addition to the
361	licensure requirements specified in this part, authorizing
362	statutes, and applicable rules, each applicant and licensee must
363	comply with the requirements of this section in order to obtain
364	and maintain a license.
365	(5) <u>Each licensee must:</u>
366	(a) On or before the first day services are provided to a
367	client, a licensee must inform the client and his or her
368	immediate family or representative, if appropriate, of the right
369	to report:
370	1. Complaints. The statewide toll-free telephone number for
371	reporting complaints to the agency must be provided to clients in
372	a manner that is clearly legible and must include the words: "To
373	report a complaint regarding the services you receive, please
374	call toll-free (phone number)."
375	2. Abusive, neglectful, or exploitative practices. The
376	statewide toll-free telephone number for the central abuse
377	hotline must be provided to clients in a manner that is clearly
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378 legible and must include the words: "To report abuse, neglect, or 379 exploitation, please call toll-free (phone number)." The agency 380 shall publish a minimum of a 90-day advance notice of a change in 381 the toll-free telephone numbers.

382 (b) Each licensee shall Establish appropriate policies and
 383 procedures for providing such notice to clients.

384 (C) Publicly display a poster approved by the agency containing the names, addresses, and telephone numbers for the 385 386 state's central abuse hotline, the State Long-Term Care 387 Ombudsman, the agency's consumer hotline, the Advocacy Center for Persons with Disabilities, the Florida Statewide Advocacy 388 389 Council, the Medicaid Fraud Control Unit, and the Statewide 390 Public Guardianship Office, along with a clear description of the 391 assistance to be expected from each. The agency may charge a fee 392 for the cost of production and distribution of the poster. 393 However, providers may download the poster, at no charge, from 394 the agency's website.

395 Section 7. Section 408.811, Florida Statutes, is amended to 396 read:

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

398 (1) An authorized officer or employee of the agency may 399 make or cause to be made any inspection or investigation deemed 400 necessary by the agency to determine the state of compliance with 401 this part, authorizing statutes, and applicable rules. The right 402 of inspection extends to any business that the agency has reason 403 to believe is being operated as a provider without a license, but 404 inspection of any business suspected of being operated without 405 the appropriate license may not be made without the permission of 406 the owner or person in charge unless a warrant is first obtained

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407	from a circuit court. Any application for a license issued under
408	this part, authorizing statutes, or applicable rules constitutes
409	permission for an appropriate inspection to verify the
410	information submitted on or in connection with the application.
411	(a) All inspections shall be unannounced, except as
412	specified in s. 408.806. The giving or causing to be given of
413	advance notice of the unannounced inspection by an agency
414	employee to any unauthorized person shall, in accordance with
415	chapter 110, constitute cause for suspension of the employee for
416	at least 5 working days.
417	(b) Inspections for relicensure shall be conducted
418	biennially unless otherwise specified by authorizing statutes or
419	applicable rules.
420	(c) Deficiencies found during an inspection or
421	investigation must be corrected within 30 days unless an
422	alternative timeframe is required or approved by the agency.
423	(d) The agency may require an applicant or licensee to
424	submit a plan of correction for deficiencies. If required, the
425	plan of correction must be filed with the agency within 10 days
426	unless an alternative timeframe is required.
427	(2) Inspections conducted in conjunction with certification
428	may be accepted in lieu of a complete licensure inspection.
429	However, a licensure inspection may also be conducted to review
430	any licensure requirements that are not also requirements for
431	certification.
432	(3) The agency shall have access to and the licensee shall
433	provide copies of all provider records required during an
434	inspection at no cost to the agency.
435	(4)(a) Each licensee shall maintain as public information,
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available upon request, records of all inspection reports 436 437 pertaining to that provider that have been filed by the agency 438 unless those reports are exempt from or contain information that 439 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State 440 Constitution or is otherwise made confidential by law. Effective 441 October 1, 2006, copies of such reports shall be retained in the 442 records of the provider for at least 3 years following the date 443 the reports are filed and issued, regardless of a change of 444 ownership.

445 (b) A licensee shall, upon the request of any person who has completed a written application with intent to be admitted by 446 such provider, any person who is a client of such provider, or 447 448 any relative, spouse, or guardian of any such person, furnish to 449 the requester a copy of the last inspection report pertaining to the licensed provider that was issued by the agency or by an 450 451 accrediting organization if such report is used in lieu of a 452 licensure inspection.

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

456 Section 8. Subsection (2) of section 415.103, Florida 457 Statutes, is amended to read:

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415.103 Central abuse hotline.--

(2) Upon receiving an oral or written report of known or
suspected abuse, neglect, or exploitation of a vulnerable adult,
the central abuse hotline <u>shall</u> must determine if the report
requires an immediate onsite protective investigation.

463 <u>(a)</u> For reports requiring an immediate onsite protective 464 investigation, the central abuse hotline must immediately notify

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465 the department's designated protective investigative district 466 staff responsible for protective investigations to ensure prompt 467 initiation of an onsite investigation.

468 (b) For reports not requiring an immediate onsite 469 protective investigation, the central abuse hotline must notify 470 the department's designated protective investigative district 471 staff responsible for protective investigations in sufficient 472 time to allow for an investigation to be commenced within 24 473 hours. At the time of notification of district staff with respect 474 to the report, the central abuse hotline must also provide any 475 known information on any previous reports report concerning the a subject of the present report or any pertinent information 476 477 relative to the present report or any noted earlier reports.

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

482 Section 9. Paragraph (e) of subsection (1) and paragraph 483 (g) of subsection (2) of section 415.1051, Florida Statutes, are 484 amended to read:

485 415.1051 Protective services interventions when capacity to 486 consent is lacking; nonemergencies; emergencies; orders; 487 limitations.--

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

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494	provision of protective services.
495	(e) Continued protective services
496	1. <u>Within</u> No more than 60 days after the date of the order
497	authorizing the provision of protective services, the department
498	shall petition the court to determine whether:
499	a. Protective services <u>are to</u> will be continued with the
500	consent of the vulnerable adult pursuant to this subsection;
501	b. Protective services <u>are to</u> ${ ext{will}}$ be continued for the
502	vulnerable adult who lacks capacity;
503	c. Protective services <u>are to</u> will be discontinued; or
504	d. A petition for guardianship <u>shall</u> should be filed
505	pursuant to chapter 744.
506	2. If the court determines that a petition for guardianship
507	shall should be filed pursuant to chapter 744, the court, for
508	good cause shown, may order continued protective services until
509	it makes a determination regarding capacity.
510	3. If the department has a good faith belief that the
511	vulnerable adult lacks capacity, the petition to determine
512	incapacity under s. 744.3201 may be filed by the department. Once
513	the petition is filed, the department may not be appointed
514	guardian and may not provide legal counsel for the guardian.
515	(2) EMERGENCY PROTECTIVE SERVICES INTERVENTIONIf the
516	department has reasonable cause to believe that a vulnerable
517	adult is suffering from abuse or neglect that presents a risk of
518	death or serious physical injury to the vulnerable adult and that
519	the vulnerable adult lacks the capacity to consent to emergency
520	protective services, the department may take action under this

522 and refuses consent to emergency protective services, emergency

subsection. If the vulnerable adult has the capacity to consent

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523	protective services may not be provided.
524	(g) Continued emergency protective services
525	1. <u>Within</u> Not more than 60 days after the date of the order
526	authorizing the provision of emergency protective services, the
527	department shall petition the court to determine whether:
528	a. Emergency protective services <u>are to</u> will be continued
529	with the consent of the vulnerable adult;
530	b. Emergency protective services <u>are to</u> will be continued
531	for the vulnerable adult who lacks capacity;
532	c. Emergency protective services are to will be
533	discontinued; or
534	d. A petition shall should be filed under chapter 744.
535	2. If it is decided to file a petition under chapter 744,
536	for good cause shown, the court may order continued emergency
537	protective services until a determination is made by the court.
538	3. If the department has a good faith belief that the
539	vulnerable adult lacks capacity, the petition to determine
540	incapacity under s. 744.3201 may be filed by the department. Once
541	the petition is filed, the department may not be appointed
542	guardian and may not provide legal counsel for the guardian.
543	Section 10. Section 415.112, Florida Statutes, is amended
544	to read:
545	415.112 Rules for implementation of ss. 415.101-
546	415.113The department shall <u>adopt</u> promulgate rules <u>to</u>
547	administer this chapter including, but not limited to: for the
548	implementation of ss. 415.101-415.113.
549	(1) Background screening of department employees and
550	employee applicants which includes a criminal records check and
551	drug testing of adult protective investigators and adult
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552	protective investigator supervisors.
553	(2) The reporting of adult abuse, neglect, exploitation, a
554	vulnerable adult in need of services, false reporting, and adult
555	protective investigations.
556	(3) Confidentiality and retention of department records,
557	access to records, and record requests.
558	(4) Injunctions and other protective orders.
559	(5) The provision of emergency and nonemergency protective
560	services intervention.
561	(6) Agreements with law enforcement and other state
562	agencies.
563	(7) Legal and casework procedures, including, but not
564	limited to, diligent search, petitions, emergency removals,
565	capacity to consent, and adult protection teams.
566	(8) The legal and casework management of cases involving
567	protective supervision, protective orders, judicial reviews,
568	administrative reviews, case plans, and documentation
569	requirements.
570	Section 11. Subsection (21) of section 429.02, Florida
571	Statutes, is amended to read:
572	429.02 DefinitionsWhen used in this part, the term:
573	(21) "Service plan" means a written plan, developed and
574	agreed upon by the resident and, if applicable, the resident's
575	representative or designee or the resident's surrogate, guardian,
576	or attorney in fact, if any, and the administrator or designee
577	representing the facility, which addresses the unique physical
578	and psychosocial needs, abilities, and personal preferences of
579	each resident receiving extended congregate care services . The
580	plan <u>must</u> shall include a brief written description, in easily

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581 understood language, of what services shall be provided, who 582 shall provide the services, when the services shall be rendered, 583 and the purposes and benefits of the services. <u>The agency shall</u> 584 <u>develop a service plan form for use by providers.</u>

585Section 12. Paragraphs (b) and (c) of subsection (3) of586section 429.07, Florida Statutes, are amended to read:

587 588 429.07 License required; fee.--

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

594 (b) An extended congregate care license shall be issued to 595 facilities providing, directly or through contract, services 596 beyond those authorized in paragraph (a), including services 597 performed by persons licensed under acts performed pursuant to 598 part I of chapter 464 by persons licensed thereunder, and supportive services, as defined by rule, to persons who would 599 600 otherwise would be disqualified from continued residence in a 601 facility licensed under this part.

602 To obtain an In order for extended congregate care 1. 603 license services to be provided in a facility licensed under this 604 part, the agency must first determine that all requirements 605 established in law and rule are met and must specifically 606 designate, on the facility's license, that such services may be 607 provided and whether the designation applies to all or part of 608 the a facility. Such designation may be made at the time of 609 initial licensure or relicensure, or upon request in writing by a

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610 licensee under this part and part II of chapter 408. Notification
611 of approval or denial of <u>the</u> such request shall be made in
612 accordance with part II of chapter 408. Existing

613 <u>2.</u> Facilities <u>applying for, and facilities currently</u> 614 <u>licensed qualifying</u> to provide, extended congregate care services 615 must have <u>maintained</u> a standard license and may not have been 616 subject to administrative sanctions during the previous 2 years, 617 or since initial licensure if the facility has been licensed for 618 less than 2 years, for any of the following reasons:

619

a. A class I or class II violation;

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

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

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

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

634 f. Imposition of a moratorium pursuant to this part or part635 II of chapter 408 or initiation of injunctive proceedings.

636 <u>3.2.</u> <u>A facility that is Facilities that are licensed to</u>
 637 provide extended congregate care services <u>must shall</u> maintain a
 638 written progress report on each person who receives such

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639 services, which report describes the type, amount, duration, 640 scope, and outcome of services that are rendered and the general 641 status of the resident's health. A registered nurse, or 642 appropriate designee, representing the agency shall visit the 643 facility such facilities at least quarterly to monitor residents 644 who are receiving extended congregate care services and to 645 determine if the facility is in compliance with this part, part 646 II of chapter 408, and rules that relate to extended congregate 647 care. One of these visits may be in conjunction with the regular 648 survey. The monitoring visits may be provided through contractual 649 arrangements with appropriate community agencies. A registered 650 nurse shall serve as part of the team that inspects the such 651 facility. The agency may waive one of the required yearly 652 monitoring visits for a facility that has been licensed for at 653 least 24 months to provide extended congregate care services, if, 654 during the inspection, the registered nurse determines that 655 extended congregate care services are being provided 656 appropriately, and if the facility has no class I or class II 657 violations and no uncorrected class III violations. Before such 658 decision is made, The agency must first shall consult with the 659 long-term care ombudsman council for the area in which the 660 facility is located to determine if any complaints have been made 661 and substantiated about the quality of services or care. The 662 agency may not waive one of the required yearly monitoring visits 663 if complaints have been made and substantiated.

664 <u>4.3.</u> Facilities that are licensed to provide extended
 665 congregate care services <u>must</u> shall:

a. Demonstrate the capability to meet unanticipatedresident service needs.

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

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

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

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

685

f. Implement the concept of managed risk.

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

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

691 <u>5.4.</u> Facilities licensed to provide extended congregate
692 care services are exempt from the criteria for continued
693 residency as set forth in rules adopted under s. 429.41.
694 Facilities so licensed <u>must shall</u> adopt their own requirements
695 within guidelines for continued residency set forth by rule.
696 However, such facilities may not serve residents who require 24-

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697 hour nursing supervision. Facilities licensed to provide extended 698 congregate care services <u>must</u> shall provide each resident with a 699 written copy of facility policies governing admission and 700 retention.

701 6.5. The primary purpose of extended congregate care 702 services is to allow residents, as they become more impaired, the 703 option of remaining in a familiar setting from which they would 704 otherwise be disqualified for continued residency. A facility 705 licensed to provide extended congregate care services may also 706 admit an individual who exceeds the admission criteria for a 707 facility with a standard license, if the individual is determined 708 appropriate for admission to the extended congregate care 709 facility.

710 <u>7.6.</u> Before admission of an individual to a facility 711 licensed to provide extended congregate care services, the 712 individual must undergo a medical examination as provided in s. 713 <u>429.26(4)</u> and the facility must develop a preliminary service 714 plan for the individual <u>as provided in s. 429.26</u>.

715 <u>8.7.</u> When a facility can no longer provide or arrange for 716 services in accordance with the resident's service plan and needs 717 and the facility's policy, the facility shall make arrangements 718 for relocating the person in accordance with s. 429.28(1)(k).

719 <u>9.8.</u> Failure to provide extended congregate care services
 720 may result in denial of extended congregate care license renewal.

9. No later than January 1 of each year, the department, in
consultation with the agency, shall prepare and submit to the
Governor, the President of the Senate, the Speaker of the House
of Representatives, and the chairs of appropriate legislative
committees, a report on the status of, and recommendations

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726	related to, extended congregate care services. The status report
727	must include, but need not be limited to, the following
728	information:
729	a. A description of the facilities licensed to provide such
730	services, including total number of beds licensed under this
731	part.
732	b. The number and characteristics of residents receiving
733	such services.
734	c. The types of services rendered that could not be
735	provided through a standard license.
736	d. An analysis of deficiencies cited during licensure
737	inspections.
738	e. The number of residents who required extended congregate
739	care services at admission and the source of admission.
740	f. Recommendations for statutory or regulatory changes.
741	g. The availability of extended congregate care to state
742	clients residing in facilities licensed under this part and in
743	need of additional services, and recommendations for
744	appropriations to subsidize extended congregate care services for
745	such persons.
746	h. Such other information as the department considers
747	appropriate.
748	(c) A limited nursing services license shall be issued to a
749	facility that provides services beyond those authorized in
750	paragraph (a) and as specified in this paragraph.
751	1. <u>To obtain a In order for limited nursing services</u>
752	license to be provided in a facility licensed under this part,
753	the agency must first determine that all requirements established
754	in law and rule are met and must specifically designate, on the

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facility's license, that such services may be provided. Such designation may be made at the time of initial licensure or relicensure, or upon request in writing by a licensee under this part and part II of chapter 408. Notification of approval or denial of such request shall be made in accordance with part II of chapter 408. Existing

761 <u>2.</u> Facilities <u>applying for, and facilities currently</u> 762 <u>licensed qualifying to provide</u>, limited nursing services <u>must</u> 763 shall have <u>maintained</u> a standard license and may not have been 764 subject to administrative sanctions that affect the health, 765 safety, and welfare of residents for the previous 2 years or 766 since initial licensure if the facility has been licensed for 767 less than 2 years.

768 3.2. Facilities that are licensed to provide limited 769 nursing services shall maintain a written progress report on each 770 person who receives such nursing services, which report describes 771 the type, amount, duration, scope, and outcome of services that 772 are rendered and the general status of the resident's health. A 773 registered nurse representing the agency shall visit such 774 facilities at least twice a year to monitor residents who are 775 receiving limited nursing services and to determine if the 776 facility is in compliance with applicable provisions of this 777 part, part II of chapter 408, and related rules. The monitoring 778 visits may be provided through contractual arrangements with 779 appropriate community agencies. A registered nurse shall also 780 serve as part of the team that inspects the such facility.

A person who receives limited nursing services under
 this part must meet the admission criteria established by the
 agency for assisted living facilities. <u>If When</u> a resident no

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784 longer meets the admission criteria for a facility licensed under

785 this part, arrangements for relocating the person shall be made

786 in accordance with s. 429.28(1)(k), unless the facility is <u>also</u>

787 licensed to provide extended congregate care services.
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788 Section 13. Section 429.174, Florida Statutes, is amended 789 to read:

790

429.174 Background screening; exemptions.--

791 (1)The owner or administrator of an assisted living 792 facility must conduct level 1 background screening, as set forth 793 in chapter 435, on all employees hired on or after October 1, 1998, who perform personal services or who have access to 794 resident living areas as defined in s. 429.02(16). The agency may 795 796 exempt an individual from employment disqualification as set 797 forth in s. 435.07 chapter 435. However, such person may not be 798 employed or resume employment pending the granting of an 799 exemption or until all appeals have been resolved in favor of the 800 person screened. A person employed before October 1, 1998, who is 801 determined to have a disqualifying offense may continue 802 employment pending the outcome of an exemption request if that request is made by October 1, 2009. Employees Such persons shall 803 804 be considered as having met the screening requirements this 805 requirement if:

806 <u>(a) (1)</u> Proof of compliance with level 1 screening 807 requirements obtained to meet any professional license 808 requirements in this state is provided and accompanied, under 809 penalty of perjury, by a copy of the person's current 810 professional license and an affidavit of current compliance with 811 the background screening requirements.

812

(b) (2) The person required to be screened has been

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813 continuously employed in the same type of occupation for which 814 the person is seeking employment without a breach in service 815 which exceeds 180 days, and proof of compliance with the level 1 816 screening requirement which is no more than 2 years old is 817 provided. Proof of compliance shall be provided directly from one employer or contractor to another, and not from the person 818 819 screened. Upon request, a copy of screening results shall be 820 provided by the employer retaining documentation of the screening 821 to the person screened.

822 (c)(3) The person required to be screened is employed by a 823 corporation or business entity or related corporation or business 824 entity that owns, operates, or manages more than one facility or 825 agency licensed under this chapter, and for whom a level 1 826 screening was conducted by the corporation or business entity as 827 a condition of initial or continued employment.

828 (2) Level 1 screening as provided in chapter 435 is 829 required for all contracted workers who are expected to, or whose 830 responsibilities may require them to, provide personal services 831 to residents. The facility shall maintain verification that such 832 contracted workers have been screened pursuant to this section. A 833 contracted worker who does not provide personal services to 834 residents is not required to be screened pursuant to this section 835 but must sign in at the reception desk upon entering the 836 facility, wear an identification badge while on the premises, and 837 sign out before leaving the facility. The facility shall maintain 838 a log containing the information collected. 839 (3) The person being screened is responsible for paying the

639 (3) The person being screened is responsible for paying the
 840 fees associated with obtaining the required screening. Payment
 841 for the screening shall be submitted to the agency. The agency

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842	shall establish a schedule of fees to cover the costs of level 1
843	and level 2 screening. Facilities may reimburse employees or
844	contracted workers for these costs. The Department of Law
845	Enforcement shall charge the agency for a level 1 or level 2
846	screening a rate sufficient to cover the costs of screening
847	pursuant to s. 943.053(3).
848	Section 14. Subsection (1) of section 429.255, Florida
849	Statutes, is amended to read:
850	429.255 Use of personnel; emergency care
851	(1)(a) <u>Facility staff, including</u> persons under contract to
852	the facility, facility <u>employees</u> staff , or volunteers, who are
853	licensed according to part I of chapter 464, or those persons
854	exempt under s. 464.022(1), and others as defined by rule, may
855	administer medications to residents, take residents' vital signs,
856	manage individual weekly pill organizers for residents who self-
857	administer medication, give prepackaged enemas ordered by a
858	physician, observe residents, document observations on the
859	appropriate resident's record, report observations to the
860	resident's physician, and contract or allow residents or a
861	resident's representative, designee, surrogate, guardian, or
862	attorney in fact to contract with a third party, provided
863	residents meet the criteria for appropriate placement as defined
864	in s. 429.26. Nursing assistants certified pursuant to part II of
865	chapter 464 may take residents' vital signs as directed by a
866	licensed nurse or physician.
0.00	

(b) <u>Facility</u> All staff, including persons under contract to
 the facility and facility employees in facilities licensed under
 this part shall exercise their professional responsibility to
 observe residents, to document observations on the appropriate

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871 resident's record, and to report the observations to the 872 resident's physician, and to provide needed services competently. 873 Volunteers shall have the same obligations but shall report to a 874 facility employee who will make the appropriate notation in the 875 resident's records. However, the owner or administrator of the 876 facility is shall be responsible for determining that the 877 resident receiving services is appropriate for residence in the 878 facility and for the provision of and quality of care and 879 services provided to the resident.

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

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

887 429.26 Appropriateness of placements; examinations of 888 residents.--

889 The owner or administrator of a facility is responsible (1)890 for determining the appropriateness of admission of an individual 891 to the facility and for determining the continued appropriateness 892 of residence of an individual in the facility. A determination 893 shall be based upon an assessment of the strengths, needs, and 894 preferences of the resident, the care and services offered or 895 arranged for by the facility in accordance with facility policy, 896 and any limitations in law or rule related to admission criteria 897 or continued residency for the type of license held by the 898 facility under this part. Except as provided in s. 429.28(1)(k), 899 a resident may not be moved from one facility to another without

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900 consultation with and agreement from the resident or, if 901 applicable, the resident's representative or designee or the 902 resident's family, guardian, surrogate, or attorney in fact. If 903 In the case of a resident who has been placed by the department 904 or the Department of Children and Family Services, the 905 administrator must notify the appropriate contact person in the 906 applicable department.

907 (2) A physician, physician assistant, or nurse practitioner 908 who is employed by an assisted living facility to provide an 909 initial examination for admission purposes may not have financial 910 interest in the facility.

(3) Persons licensed under part I of chapter 464 who are 911 912 employed by or under contract with a facility shall, on a routine 913 basis or at least monthly, perform a nursing assessment of the 914 residents for whom they are providing nursing services ordered by 915 a physician, except administration of medication, and shall 916 document such assessment, including any substantial changes in a 917 resident's status which may necessitate relocation to a nursing 918 home, hospital, or specialized health care facility. Such records 919 shall be maintained in the facility for inspection by the agency 920 and shall be forwarded to the resident's case manager, if 921 applicable.

922 (2)(4) If possible, each resident shall have been examined 923 by a licensed physician, a licensed physician assistant, or a 924 licensed nurse practitioner within 60 days before admission to 925 the facility. The person conducting an examination under this 926 <u>subsection may not have financial interest in the facility.</u> The 927 signed and completed medical examination report shall be 928 submitted to the owner or administrator of the facility who shall

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929 use the information contained in the report therein to assist in 930 determining the determination of the appropriateness of the 931 resident's admission and continued stay in the facility and to 932 develop a service plan for the resident. The medical examination 933 report and service plan shall become a permanent part of the 934 record of the resident at the facility and shall be made 935 available to the agency during inspection or upon request. An 936 assessment that has been completed through the Comprehensive 937 Assessment and Review for Long-Term Care Services (CARES) Program 938 fulfills the requirements for a medical examination under this 939 subsection and s. 429.07(3)(b)6.

940 (a) (5) Except as provided in s. 429.07, if a medical 941 examination has not been completed within 60 days before the admission of the resident to the facility, medical personnel a 942 943 licensed physician, licensed physician assistant, or licensed 944 nurse practitioner shall examine the resident and complete a 945 medical examination form provided by the agency within 30 days 946 following the admission to the facility to enable the facility 947 owner or administrator to determine the appropriateness of the 948 admission. The medical examination form shall become a permanent 949 part of the record of the resident at the facility and shall be 950 made available to the agency during inspection by the agency or 951 upon request.

952 <u>(b)</u> (6) Any resident accepted in a facility and placed by 953 the department or the Department of Children and Family Services 954 <u>must be shall have been</u> examined by medical personnel within 30 955 days before placement in the facility <u>and recorded on a medical</u> 956 <u>examination form provided by the agency</u>. The examination shall 957 include an assessment of the appropriateness of placement in a

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958 facility. The findings of this examination shall be recorded on the examination form provided by the agency. The completed form 959 960 shall accompany the resident and shall be submitted to the 961 facility owner or administrator. For Additionally, in the case of 962 a mental health resident, the Department of Children and Family 963 Services must provide documentation that the individual has been 964 assessed by a psychiatrist, clinical psychologist, clinical 965 social worker, or psychiatric nurse, or an individual who is 966 supervised by one of these professionals, and determined to be 967 appropriate to reside in an assisted living facility. The 968 documentation must be in the facility within 30 days after the 969 mental health resident has been admitted to the facility. An 970 evaluation completed upon discharge from a state mental hospital 971 meets the requirements of this subsection related to 972 appropriateness for placement as a mental health resident 973 providing it was completed within 90 days prior to admission to 974 the facility. The applicable department shall provide to the 975 facility administrator any information about the resident that 976 would help the administrator meet his or her responsibilities 977 under this section subsection (1). Further, department personnel 978 shall explain to the facility operator any special needs of the 979 resident and advise the operator whom to call should problems 980 arise. The applicable department shall advise and assist the 981 facility administrator where the special needs of residents who 982 are recipients of optional state supplementation require such 983 assistance.

984 (3) A search of the Department of Law Enforcement's sexual
 985 offender database for each prospective resident must be conducted
 986 by the facility before admission or immediately after admission.

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987 The facility must maintain verification that each resident has 988 been screened within the previous year. The information obtained 989 may be used by the facility to assess the needs of the resident 990 and the care and services offered or arranged by the facility in accordance with this section. The information obtained may be 991 992 disclosed to other residents. The facility does not have to 993 rescreen a resident who is away from a facility for more than 45 994 days. 995 (4) Persons licensed under part I of chapter 464 who are 996 employed by or under contract with a facility shall at least

monthly, perform a nursing assessment of residents for whom they 997 998 are providing nursing services ordered by a physician, except 999 administration of medication, and shall document such assessment, 1000 including any substantial change in a resident's status which may 1001 necessitate relocation to a nursing home, hospital, or 1002 specialized health care facility. The records must be maintained 1003 in the facility for inspection by the agency and shall be 1004 forwarded to the resident's case manager, if applicable.

1005 (5) (7) Residents shall be periodically assessed to 1006 determine if the resident is competent to handle his or her 1007 personal and financial affairs, and, if not, whether a 1008 responsible person such as a resident representative or designee, guardian, surrogate, or attorney in fact is available to make 1009 1010 decisions on behalf of the resident. If a resident is having 1011 difficulty handling his or her personal or financial affairs, because of a decline in health or cognitive abilities, the owner 1012 1013 or administrator shall contact the resident's representative or 1014 designee, quardian, surrogate or attorney-in-fact. If a resident does not have family or a legal representative to make decisions 1015

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1016 on his or her behalf, the owner or administrator must contact the 1017 Florida Abuse Hotline. The facility must notify a licensed 1018 physician when a resident exhibits signs of dementia or cognitive impairment or has a change of condition in order to rule out the 1019 1020 presence of an underlying physiological condition that may be 1021 contributing to such dementia or impairment. The notification 1022 must occur within 30 days after the acknowledgment of such signs 1023 by facility staff. If an underlying condition is determined to 1024 exist, the facility shall arrange, with the appropriate health 1025 care provider, the necessary care and services to treat the 1026 condition.

1027 Section 16. Subsections (3) through (8) of section 429.27, 1028 Florida Statutes, are renumbered as subsections (6) through (11), 1029 respectively, and subsections (1) and (2) of that section, are 1030 amended to read:

429.27 Property and personal affairs of residents.--

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

1037 (2) (b) The admission of a resident to a facility does and 1038 his or her presence therein shall not confer on the facility or 1039 its owner, administrator, staff employees, or representatives any 1040 authority to manage, use, or dispose of any property of the 1041 resident or to make financial or health care decisions on behalf 1042 of the resident; nor shall such admission or presence confer on 1043 any of such persons any authority or responsibility for the personal affairs of the resident, except if that which may be 1044

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1045 necessary for the safe management of the facility or for the 1046 safety of the resident.

1047 <u>(3) (2)</u> A facility, or an owner, administrator, <u>staff</u> 1048 employee, or representative thereof, may not act as the 1049 <u>resident's representative or designee</u>, guardian, <u>health care</u> 1050 <u>surrogate</u>, trustee, or conservator for <u>a</u> any resident of the 1051 assisted living facility or any of <u>the</u> such resident's property 1052 unless the person is a relative of the resident.

1053 (4) A facility An owner, administrator, or staff member, or 1054 representative thereof, may not act as a competent resident's payee for social security, veteran's, or railroad benefits 1055 without the consent of the resident. Any facility whose owner, 1056 1057 administrator, or staff, or representative thereof who τ serves as 1058 representative payee for a any resident must of the facility 1059 shall file a surety bond with the agency in an amount equal to 1060 twice the average monthly aggregate income or personal funds due to residents, or expendable for his or her their account, which 1061 are received by a facility. 1062

Any facility whose owner, administrator, or staff, or a 1063 (5) 1064 representative thereof who τ is granted power of attorney for a any resident must of the facility shall file a surety bond with 1065 1066 the agency for each resident for whom such power of attorney is 1067 granted. The surety bond must shall be in an amount equal to 1068 twice the average monthly income of the resident, plus the value 1069 of any resident's property under the control of the attorney in 1070 fact. The bond must shall be executed by the facility as 1071 principal and a licensed surety company. The bond shall be 1072 conditioned upon the faithful compliance of the facility with 1073 this section and shall run to the agency for the benefit of any

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resident who suffers a financial loss as a result of the misuse 1074 1075 or misappropriation by a facility of funds held pursuant to this 1076 subsection. Any surety company that cancels or does not renew the 1077 bond of any licensee shall notify the agency in writing not less 1078 than 30 days in advance of such action, giving the reason for the 1079 cancellation or nonrenewal. Any facility owner, administrator, or 1080 staff, or representative thereof, who is granted power of 1081 attorney for a any resident of the facility shall, on a monthly 1082 basis, be required to provide the resident with a written 1083 statement of any transaction made on behalf of the resident pursuant to this subsection, and a copy of such statement given 1084 1085 to the resident shall be retained in each resident's file and 1086 available for agency inspection.

1087 Section 17. Paragraphs (k) and (l) of subsection (1) and 1088 subsection (3) of section 429.28, Florida Statutes, are amended 1089 to read:

1090

429.28 Resident bill of rights.--

1091 (1) No resident of a facility shall be deprived of any 1092 civil or legal rights, benefits, or privileges guaranteed by law, the Constitution of the State of Florida, or the Constitution of 1093 1094 the United States as a resident of a facility. Every resident of 1095 a facility shall have the right to:

1096 (k) At least 45 days' written notice of relocation or 1097 termination of residency from the facility unless, for medical 1098 reasons, the resident is certified by a physician to require an 1099 emergency relocation to a facility providing a more skilled level 1100 of care or the resident engages in a pattern of conduct that is harmful or offensive to other residents. The notice must specify 1101 the reasons for the relocation or termination and a copy of the 1102

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1103 notice must be sent by registered mail to the resident's 1104 representative or designee, guardian, surrogate, or attorney in 1105 fact at the same time the notice is mailed to the resident. Notice must also be sent by regular mail, facsimile, or e-mail to 1106 1107 the State Long-Term Care Ombudsman Program within 5 business days 1108 after being mailed to the resident. The ombudsman program shall 1109 incorporate the information received in their annual report, 1110 including the number and reasons for relocation or termination of 1111 facility residents, type and size of facilities, and other relevant information, which shall be submitted to the Governor, 1112 the President of the Senate, and the Speaker of the House of 1113 1114 Representatives. In the case of a resident who has been adjudicated mentally incapacitated, the guardian shall be given 1115 at least 45 days' notice of a nonemergency relocation or 1116 1117 residency termination. Reasons for relocation shall be set forth 1118 in writing. In order for a facility to terminate the residency of 1119 an individual without notice as provided in this paragraph 1120 herein, the facility must shall show good cause in a court of competent jurisdiction. 1121

1122 (1) Present grievances and recommend changes in policies, 1123 procedures, and services to the staff of the facility, governing 1124 officials, or any other person without restraint, interference, 1125 coercion, discrimination, or reprisal. Each facility shall 1126 establish a written grievance procedure to facilitate the 1127 residents' exercise of this right which must include, at a 1128 minimum, maintaining a written record of each grievance, the stated reason for the grievance, actions taken by the facility, 1129 1130 and reporting of grievances. Each facility shall transmit a copy of the written record on a weekly basis to the local ombudsman 1131

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1132 council by regular mail, facsimile, or e-mail. Each facility must 1133 accept grievances orally and may accept grievances in writing. 1134 The local ombudsman council shall maintain a record of all grievances received from each facility in the local area which 1135 1136 shall be submitted by the local council to the Office of State 1137 Long-Term Care Ombudsman pursuant to s. 400.0089. This right also includes access to ombudsman volunteers and advocates and the 1138 right to be a member of, to be active in, and to associate with 1139 1140 advocacy or special interest groups.

1141 (3) (a) The agency shall conduct a survey to determine 1142 general compliance with facility standards and compliance with 1143 residents' rights as a prerequisite to initial licensure or 1144 licensure renewal.

1145 (b) In order to determine whether the facility is 1146 adequately protecting residents' rights, the <u>agency's</u> biennial 1147 survey shall include private informal conversations with a sample 1148 of residents and consultation with the ombudsman council in the 1149 planning and service area in which the facility is located to 1150 discuss residents' experiences within the facility.

1151 (c) During any calendar year in which no survey is 1152 conducted, the agency shall conduct at least one monitoring visit 1153 of each facility cited in the previous year for a class I or 1154 class II violation, or more than three uncorrected class III 1155 violations.

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

1160

(e) The agency may conduct complaint investigations as

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1161 warranted to investigate any allegations of noncompliance with 1162 requirements required under this part or rules adopted under this 1163 part.

1164 Section 18. Subsection (1) of section 429.294, Florida 1165 Statutes, is amended to read:

1166429.294Availability of facility records for investigation1167of resident's rights violations and defenses; penalty.--

1168 (1) Failure to provide complete copies of a resident's 1169 records, including, but not limited to, all medical records and 1170 the resident's chart, within the control or possession of the 1171 facility within 10 days, in accordance with the provisions of s. 1172 400.145, shall constitute evidence of failure of that party to 1173 comply with good faith discovery requirements and shall waive the 1174 good faith certificate and presuit notice requirements under this 1175 part by the requesting party.

1176 Section 19. Section 429.34, Florida Statutes, is amended to 1177 read:

1178 429.34 Right of entry and inspection.--In addition to the 1179 requirements of s. 408.811:7

(1) Any duly designated officer or employee of the 1180 1181 department, the Department of Children and Family Services, the 1182 Medicaid Fraud Control Unit of the Office of the Attorney 1183 General, the state or local fire marshal, or a member of the 1184 state or local long-term care ombudsman council shall have the 1185 right to enter unannounced upon and into the premises of any 1186 facility licensed pursuant to this part in order to determine the 1187 state of compliance with the provisions of this part, part II of 1188 chapter 408, and applicable rules. Data collected by the state or 1189 local long-term care ombudsman councils or the state or local

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1190 advocacy councils may be used by the agency in investigations
1191 involving violations of regulatory standards.

1192 (2) Every 24 months the agency shall conduct at least one 1193 unannounced inspection to determine compliance with this chapter 1194 and related rules, including minimum standards of quality and 1195 adequacy of care and the rights of residents. Two additional 1196 surveys shall be conducted every 6 months for the next year if 1197 the facility has been cited for a class I deficiency or two or 1198 more class II deficiencies arising from separate surveys or 1199 investigations within a 60-day period. In addition to any fines imposed on a facility under s. 429.19, the agency shall assess a 1200 1201 fine of \$160 per bed for each of the additional two surveys. The 1202 agency shall adjust this fine by the change in the Consumer Price 1203 Index, based on the 12 months immediately preceding the change, 1204 to cover the cost of the additional two surveys. The agency shall 1205 verify through subsequent inspections that any deficiency 1206 identified during an inspection is corrected. However, the agency 1207 may verify the correction of a class III or class IV deficiency 1208 unrelated to resident rights or resident care without 1209 reinspecting the facility if adequate written documentation has 1210 been received from the facility which provides assurance that the 1211 deficiency has been corrected.

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

1216

429.41 Rules establishing standards.--

1217 (1) It is the intent of the Legislature that rules 1218 published and enforced pursuant to this section shall include

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1219 criteria by which a reasonable and consistent quality of resident 1220 care and quality of life may be ensured and the results of such 1221 resident care may be demonstrated. Such rules shall also ensure a 1222 safe and sanitary environment that is residential and 1223 noninstitutional in design or nature. It is further intended that reasonable efforts be made to accommodate the needs and 1224 1225 preferences of residents to enhance the quality of life in a 1226 facility. The agency, in consultation with the department, may 1227 adopt rules to administer the requirements of part II of chapter 1228 408. In order to provide safe and sanitary facilities and the 1229 highest quality of resident care accommodating the needs and 1230 preferences of residents, the department, in consultation with 1231 the agency, the Department of Children and Family Services, and 1232 the Department of Health, shall adopt rules, policies, and 1233 procedures to administer this part, which must include reasonable 1234 and fair minimum standards in relation to: 1235 The requirement that all residents have service plans. (k) 1236 The service plan must be reviewed and updated annually; however,

1236 <u>The service plan must be reviewed and updated annually; however,</u> 1237 <u>for a resident receiving nursing services ordered by a physician,</u> 1238 <u>except administration of medication, the plan must be reviewed</u> 1239 <u>and updated quarterly and whenever a resident experiences a</u> 1240 <u>significant change in condition.</u>

1241 Section 21. Present subsection (14) of section 429.65, 1242 Florida Statutes, is renumbered as subsection (15), and a new 1243 subsection (14) is added to that section, to read:

1244429.65 Definitions.--As used in this part, the term:1245(14) "Reside" means the licensee or applicant lives in the1246adult family care home as a primary residence. For purposes of1247this part, any two of the following documents that include the

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1248 adult family care home address and the name of the licensee or 1249 applicant may be accepted by the agency as proof that the 1250 licensee or applicant resides in the adult family care home: 1251 (a) Homestead exemption documentation; 1252 Lease or rental agreement accompanied by a (b) corresponding utility bill; or 1253 1254 (C) Personal identification issued by a state or federal 1255 agency. 1256 Section 22. Subsection (4) of section 429.67, Florida 1257 Statutes, is amended to read: 429.67 Licensure.--1258 1259 Upon receipt of a completed license application or (4) 1260 license renewal, and the fee, the agency shall initiate a level 1 1261 background screening as provided under chapter 435 on the adult family-care home provider, the designated relief person, all 1262 1263 adult household members, and all staff members, and any other 1264 person who provides personal services to residents or who have 1265 routine access to the adult family-care home. 1266

Proof of compliance with level 1 screening standards (a) 1267 which has been submitted within the previous 5 years to meet any 1268 facility or professional licensure requirements of the agency or 1269 the Department of Health satisfies the requirements of this 1270 subsection. Such proof must be accompanied, under penalty of 1271 perjury, by a copy of the person's current professional license 1272 and an affidavit of current compliance with the background 1273 screening requirements.

(b) The person required to be screened must have been continuously employed in the same type of occupation for which the person is seeking employment without a breach in service that

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1277	exceeds 180 days, and proof of compliance with the level 1	
1278	screening requirement which is no more than 2 years old must be	
1279	provided. Proof of compliance shall be provided directly from one	
1280	employer or contractor to another, and not from the person	
1281	screened. Upon request, a copy of screening results shall be	
1282	provided to the person screened by the employer retaining	
1283	documentation of the screening.	
1284	Section 23. Subsection (3) is added to section 429.69,	
1285	Florida Statutes, to read:	
1286	429.69 Denial, revocation, and suspension of a licenseIn	
1287	addition to the requirements of part II of chapter 408, the	
1288	agency may deny, suspend, and revoke a license for any of the	
1289	following reasons:	
1290	(3) Failure of the adult family-care home provider who owns	
1291	or rents the home to live in the home.	
1292	Section 24. Paragraph (b) of subsection (1) of section	
1293	429.73, Florida Statutes, is amended to read:	
1294	429.73 Rules and standards relating to adult family-care	
1295	homes	
1296	(1) The agency, in consultation with the department, may	
1297	adopt rules to administer the requirements of part II of chapter	
1298	408. The department, in consultation with the Department of	
1299	Health, the Department of Children and Family Services, and the	
1300	agency shall, by rule, establish minimum standards to ensure the	
1301	health, safety, and well-being of each resident in the adult	
1302	family-care home pursuant to this part. The rules must address:	
1303	(b) Services that must be provided to all residents of an	
1304	adult family-care home and standards for such services, which	
1305	must include, but need not be limited to:	

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1306	1. Room and board.		
1307	2. Assistance necessary to perform the activities of daily		
1308	living.		
1309	3. Assistance necessary to administer medication.		
1310	4. Supervision of residents.		
1311	5. Health monitoring, including periodic assessments to		
1312	determine if the resident is competent to handle his or her		
1313	personal and financial affairs, and, if not, whether a		
1314	responsible person such as a guardian, surrogate, or attorney in		
1315	fact is available to make decisions on behalf of the resident.		
1316	6. Social and leisure activities.		
1317	Section 25. Subsections (2) and (3) of section 435.03,		
1318	Florida Statutes, are amended to read:		
1319	435.03 Level 1 screening standards		
1320	(2) Any person for whom employment screening is required by		
1321	statute must not have been <u>convicted of</u> found guilty of,		
1322	regardless of adjudication , or entered a plea of <u>guilty or</u> nolo		
1323	contendere or guilty to , <u>regardless of adjudication, to</u> any		
1324	offense prohibited under any of the following provisions of the		
1325	Florida statutes or under any similar statute of another		
1326	jurisdiction:		
1327	(a) Section 393.135, relating to sexual misconduct with		
1328	certain developmentally disabled clients and reporting of such		
1329	sexual misconduct.		
1330	(b) Section 394.4593, relating to sexual misconduct with		
1331	certain mental health patients and reporting of such sexual		
1332	misconduct.		
1333	(c) Section 415.111, relating to abuse, neglect, or		
1334	exploitation of a vulnerable adult.		
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1335	(d) Section 782.04, relating to murder.
1336	(e) Section 782.07, relating to manslaughter, aggravated
1337	manslaughter of an elderly person or disabled adult, or
1338	aggravated manslaughter of a child.
1339	(f) Section 782.071, relating to vehicular homicide.
1340	(g) Section 782.09, relating to killing of an unborn quick
1341	child by injury to the mother.
1342	(h) Section 784.011, relating to assault, if the victim of
1343	the offense was a minor.
1344	(i) Section 784.021, relating to aggravated assault.
1345	(j) Section 784.03, relating to battery, if the victim of
1346	the offense was a minor.
1347	(k) Section 784.045, relating to aggravated battery.
1348	(1) Section 787.01, relating to kidnapping.
1349	(m) Section 787.02, relating to false imprisonment.
1350	(n) Section 794.011, relating to sexual battery.
1351	(o) Former s. 794.041, relating to prohibited acts of
1352	persons in familial or custodial authority.
1353	(p) Chapter 796, relating to prostitution.
1354	(q) Section 798.02, relating to lewd and lascivious
1355	behavior.
1356	(r) Chapter 800, relating to lewdness and indecent
1357	exposure.
1358	(s) Section 806.01, relating to arson.
1359	(t) Chapter 812, relating to theft, robbery, and related
1360	crimes, if the offense was a felony.
1361	(u) Section 817.563, relating to fraudulent sale of
1362	controlled substances, only if the offense was a felony.
1363	(v) Section 825.102, relating to abuse, aggravated abuse,
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1364	or neglect of an elderly person or disabled adult.		
1365	(w) Section 825.1025, relating to lewd or lascivious		
1366	offenses committed upon or in the presence of an elderly person		
1367	or disabled adult.		
1368	(x) Section 825.103, relating to exploitation of an elderly		
1369	person or disabled adult, if the offense was a felony.		
1370	(y) Section 826.04, relating to incest.		
1371	(z) Section 827.03, relating to child abuse, aggravated		
1372	child abuse, or neglect of a child.		
1373	(aa) Section 827.04, relating to contributing to the		
1374	delinquency or dependency of a child.		
1375	(bb) Former s. 827.05, relating to negligent treatment of		
1376	children.		
1377	(cc) Section 827.071, relating to sexual performance by a		
1378	child.		
1379	(dd) Chapter 847, relating to obscene literature.		
1380	(ee) Chapter 893, relating to drug abuse prevention and		
1381	control, only if the offense was a felony or if any other person		
1382	involved in the offense was a minor.		
1383	(ff) Section 916.1075, relating to sexual misconduct with		
1384	certain forensic clients and reporting of such sexual misconduct.		
1385	(3) Standards must also ensure that the person:		
1386	(a) For employees and employers licensed or registered		
1387	pursuant to <u>part II of chapter 408</u> chapter 400 or chapter 429 ,		
1388	and for employees and employers of developmental disabilities		
1389	institutions as defined in s. 393.063, intermediate care		
1390	facilities for the developmentally disabled as defined in s.		
1391	400.960, and mental health treatment facilities as defined in s.		
1392	394.455, has not been convicted of, or entered a plea of guilty		

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1393	or nolo contendere, regardless of adjudication, to offenses		
1394	prohibited under any of the following statutes or under any		
1395	similar statute of another jurisdiction: meets the requirements		
1396	of this chapter.		
1397	1. Sections 409.920 and 409.9201, relating to Medicaid		
1398	fraud.		
1399	2. Chapter 429, relating to assisted care communities.		
1400	3. Chapter 784, relating to assault, battery, and culpable		
1401	negligence, if the offense is a felony.		
1402	4. Section 810.02, relating to burglary, if the offense is		
1403	<u>a felony.</u>		
1404	5. Section 817.034, relating to communications fraud.		
1405	6. Section 817.234, relating to fraudulent insurance		
1406	claims.		
1407	7. Section 817.505, relating to patient brokering.		
1408	8. Section 817.568, relating to identification theft.		
1409	9. Sections 817.60 and 817.61, relating to credit cards, if		
1410	the offense is a felony.		
1411	10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and		
1412	831.31 relating to forgery, uttering, and counterfeiting.		
1413	(b) Has not committed an act that constitutes domestic		
1414	violence as defined in s. 741.28.		
1415	Section 26. Subsections (2) and (4) of section 435.04,		
1416	Florida Statutes, are amended to read:		
1417	435.04 Level 2 screening standards		
1418	(2) The security background investigations under this		
1419	section must ensure that no persons subject to the provisions of		
1420	this section have been <u>convicted</u> found guilty of, regardless of		
1421	adjudication, or entered a plea of <u>guilty or</u> nolo contendere or		

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1422	guilty to , <u>regardless of adjudication, to</u> any offense prohibited			
1423	under any of the following provisions of the Florida statutes or			
1424	under any similar statute of another jurisdiction:			
1425	(a) Section 393.135, relating to sexual misconduct with			
1426	certain developmentally disabled clients and reporting of such			
1427	sexual misconduct.			
1428	(b) Section 394.4593, relating to sexual misconduct with			
1429	certain mental health patients and reporting of such sexual			
1430	misconduct.			
1431	(c) Section 415.111, relating to adult abuse, neglect, or			
1432	exploitation of aged persons or disabled adults.			
1433	(d) Section 782.04, relating to murder.			
1434	(e) Section 782.07, relating to manslaughter, aggravated			
1435	manslaughter of an elderly person or disabled adult, or			
1436	aggravated manslaughter of a child.			
1437	(f) Section 782.071, relating to vehicular homicide.			
1438	(g) Section 782.09, relating to killing of an unborn quick			
1439	child by injury to the mother.			
1440	(h) Section 784.011, relating to assault, if the victim of			
1441	the offense was a minor.			
1442	(i) Section 784.021, relating to aggravated assault.			
1443	(j) Section 784.03, relating to battery, if the victim of			
1444	the offense was a minor.			
1445	(k) Section 784.045, relating to aggravated battery.			
1446	(1) Section 784.075, relating to battery on a detention or			
1447	commitment facility staff.			
1448	(m) Section 787.01, relating to kidnapping.			
1449	(n) Section 787.02, relating to false imprisonment.			
1450	(o) Section 787.04(2), relating to taking, enticing, or			
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1451
      removing a child beyond the state limits with criminal intent
1452
      pending custody proceedings.
1453
                Section 787.04(3), relating to carrying a child beyond
            (q)
1454
      the state lines with criminal intent to avoid producing a child
1455
      at a custody hearing or delivering the child to the designated
1456
      person.
1457
                Section 790.115(1), relating to exhibiting firearms or
            (a)
1458
      weapons within 1,000 feet of a school.
1459
                Section 790.115(2)(b), relating to possessing an
            (r)
1460
      electric weapon or device, destructive device, or other weapon on
1461
      school property.
1462
            (s)
                Section 794.011, relating to sexual battery.
1463
                Former s. 794.041, relating to prohibited acts of
            (t)
1464
      persons in familial or custodial authority.
1465
            (u) Chapter 796, relating to prostitution.
1466
                Section 798.02, relating to lewd and lascivious
            (V)
      behavior.
1467
1468
                Chapter 800, relating to lewdness and indecent
            (w)
1469
      exposure.
1470
                Section 806.01, relating to arson.
            (X)
1471
            (V)
                Chapter 812, relating to theft, robbery, and related
1472
      crimes, if the offense is a felony.
1473
                Section 817.563, relating to fraudulent sale of
            (z)
1474
      controlled substances, only if the offense was a felony.
1475
                 Section 825.102, relating to abuse, aggravated abuse,
            (aa)
1476
      or neglect of an elderly person or disabled adult.
1477
            (bb)
                 Section 825.1025, relating to lewd or lascivious
1478
      offenses committed upon or in the presence of an elderly person
1479
      or disabled adult.
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588-05373A-08 20082216c2 1480 (CC)Section 825.103, relating to exploitation of an 1481 elderly person or disabled adult, if the offense was a felony. 1482 Section 826.04, relating to incest. (dd) 1483 Section 827.03, relating to child abuse, aggravated (ee) 1484 child abuse, or neglect of a child. 1485 (ff) Section 827.04, relating to contributing to the 1486 delinquency or dependency of a child. 1487 (qq) Former s. 827.05, relating to negligent treatment of 1488 children. 1489 (hh) Section 827.071, relating to sexual performance by a child. 1490 1491 (ii) Section 843.01, relating to resisting arrest with 1492 violence. Section 843.025, relating to depriving a law 1493 (jj) 1494 enforcement, correctional, or correctional probation officer 1495 means of protection or communication. 1496 Section 843.12, relating to aiding in an escape. (kk) 1497 Section 843.13, relating to aiding in the escape of (11)1498 juvenile inmates in correctional institutions. 1499 Chapter 847, relating to obscene literature. (mm) 1500 (nn) Section 874.05(1), relating to encouraging or 1501 recruiting another to join a criminal gang. 1502 Chapter 893, relating to drug abuse prevention and (00)1503 control, only if the offense was a felony or if any other person 1504 involved in the offense was a minor. Section 916.1075, relating to sexual misconduct with 1505 (pp) 1506 certain forensic clients and reporting of such sexual misconduct. 1507 Section 944.35(3), relating to inflicting cruel or (qq) 1508 inhuman treatment on an inmate resulting in great bodily harm.

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1509	(rr) Section 944.46, relating to harboring, concealing, or		
1510	aiding an escaped prisoner.		
1511	(ss) Section 944.47, relating to introduction of contraband		
1512	into a correctional facility.		
1513	(tt) Section 985.701, relating to sexual misconduct in		
1514	juvenile justice programs.		
1515	(uu) Section 985.711, relating to contraband introduced		
1516	into detention facilities.		
1517	(4) Standards must also ensure that the person:		
1518	(a) For employees or employers licensed or registered		
1519	pursuant to part II of chapter 408, and for employees and		
1520	employers of developmental disabilities institutions as defined		
1521	in s. 393.063, and mental health treatment facilities as defined		
1522	in s. 394.455, has not been convicted of, or entered a plea of		
1523	guilty or nolo contendere, regardless of adjudication, to		
1524	offenses prohibited under any of the following statutes or under		
1525	similar statutes of another jurisdiction: chapter 400 or chapter		
1526	429, does not have a confirmed report of abuse, neglect, or		
1527	exploitation as defined in s. 415.102(6), which has been		
1528	uncontested or upheld under s. 415.103.		
1529	1. Sections 409.920 and 409.9201, relating to Medicaid		
1530	fraud.		
1531	2. Chapter 429, relating to assisted care communities.		
1532	3. Chapter 784, relating to assault, battery, and culpable		
1533	negligence, if the offense is a felony.		
1534	4. Section 810.02, relating to burglary, if the offense is		
1535	<u>a felony.</u>		
1536	5. Section 817.034, relating to communications fraud.		
1537	6. Section 817.234, relating to fraudulent insurance		

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1538	claims.		
1539	7. Section 817.505, relating to patient brokering.		
1540	8. Section 817.568, relating to identification theft.		
1541	9. Sections 817.60 and 817.61, relating to credit cards, if		
1542	the offense is a felony.		
1543	10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and		
1544	831.31 relating to forgery, uttering, and counterfeiting.		
1545	(b) Has not committed an act that constitutes domestic		
1546	violence as defined in <u>s. 741.28</u> s. 741.30 .		
1547	Section 27. Subsection (13) of section 400.141, subsection		
1548	(3) of section 408.809, subsection (2) of section 429.08, and		
1549	subsection (5) of section 429.41, Florida Statutes, are repealed.		
1550	Section 28. Paragraph (h) of subsection (3) of section		
1551	430.80, Florida Statutes, is amended to read:		
1552	430.80 Implementation of a teaching nursing home pilot		
1553	project		
1554	(3) To be designated as a teaching nursing home, a nursing		
1555	home licensee must, at a minimum:		
1556	(h) Maintain insurance coverage pursuant to <u>s. 400.141(19)</u>		
1557	s. 400.141(20) or proof of financial responsibility in a minimum		
1558	amount of \$750,000. Such Proof of financial responsibility may		
1559	include:		
1560	1. Maintaining an escrow account consisting of cash or		
1561	assets eligible for deposit in accordance with s. 625.52; or		
1562	2. Obtaining and maintaining, pursuant to chapter 675, an		
1563	unexpired, irrevocable, nontransferable and nonassignable letter		
1564	of credit issued by <u>a</u> any bank or savings association organized		
1565	and existing under the laws of this state or \underline{a} any bank or		
1566	savings association organized under the laws of the United States		

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1567 that has its principal place of business in this state or has a 1568 branch office which is authorized to receive deposits in this 1569 state. The letter of credit shall be used to satisfy the 1570 obligation of the facility to the claimant upon presentment of a 1571 final judgment indicating liability and awarding damages to be 1572 paid by the facility or upon presentment of a settlement 1573 agreement signed by all parties if the to the agreement when such 1574 final judgment or settlement is a result of a liability claim 1575 against the facility.

1576 Section 29. Subsection (13) of section 651.118, Florida 1577 Statutes, is amended to read:

1578 651.118 Agency for Health Care Administration; certificates 1579 of need; sheltered beds; community beds.--

1580 (13) Residents, as defined in this chapter, are not 1581 considered new admissions for the purpose of <u>s. 400.141(14)(d)</u> s. 1582 400.141(15)(d).

1583

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