

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

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1                   A bill to be entitled  
2           An act relating to adult protection and care; amending s.  
3           322.142, F.S.; authorizing the Department of Children and  
4           Family Services to obtain copies of driver's license files  
5           maintained by the Department of Highway Safety and Motor  
6           Vehicles for the purpose of conducting protective  
7           investigations; amending s. 400.141, F.S.; requiring a  
8           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  
40 Department of Children and Family Services relating to  
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  
46 a service plan form; amending s. 429.07, F.S.; providing  
47 that license requirements for specialty licenses apply to  
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  
61 | prohibition on moving a resident; providing for the  
62 | development of a service plan for all residents; requiring  
63 | a search of the Department of Law Enforcement's sexual  
64 | offender database to be conducted on all residents of an  
65 | assisted living facility; requiring residents to be  
66 | periodically assessed for competency to handle personal  
67 | affairs; amending s. 429.27, F.S.; prohibiting assisted  
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  
78 | local ombudsman council be included in a statewide  
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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88 amending s. 429.65, F.S.; providing a definition of the  
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.;  
98 providing additional criminal offenses for screening  
99 certain health care facility personnel; repealing s.  
100 400.141(13), F.S., relating to a requirement to post  
101 certain information in nursing homes; repealing s.  
102 408.809(3), F.S., relating to the granting of a  
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 appropriation  
110 and authorizing additional positions; providing an  
111 effective date.

112  
113 Be It Enacted by the Legislature of the State of Florida:

114  
115 Section 1. Subsection (4) of section 322.142, Florida  
116 Statutes, is amended to read:

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117 322.142 Color photographic or digital imaged licenses.--

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

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

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

144 (25) Conduct a search of the Department of Law  
145 Enforcement's sexual offender database for each prospective

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146 resident before admission or immediately after admission. A  
147 facility must maintain verification that all residents have been  
148 screened. The information obtained may be used by the facility to  
149 assess the needs of the resident and to provide adequate and  
150 appropriate health care and protective and support services in  
151 accordance with this part. The information obtained may be  
152 disclosed to other residents. The facility does not have to  
153 rescreen a resident who is away from a facility for no more than  
154 45 days.

155  
156 Facilities that have been awarded a Gold Seal under the program  
157 established in s. 400.235 may develop a plan to provide certified  
158 nursing assistant training as prescribed by federal regulations  
159 and state rules and may apply to the agency for approval of their  
160 program.

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

163 400.19 Right of entry and inspection.--

164 (3) The agency shall every 15 months conduct at least one  
165 unannounced inspection to determine compliance by the licensee  
166 with statutes, and related with rules promulgated under the  
167 ~~provisions of those statutes,~~ governing minimum standards of  
168 construction, quality and adequacy of care, and rights of  
169 residents. The survey shall be conducted every 6 months for the  
170 next 2-year period if the facility has been cited for a class I  
171 deficiency, has been cited for two or more class II deficiencies  
172 arising from separate surveys or investigations within a 60-day  
173 period, or has had three or more substantiated complaints within  
174 a 6-month period, each resulting in at least one class I or class

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175 II deficiency. In addition to any other fees or fines in this  
176 part, the agency shall assess a fine for each facility that is  
177 subject to the 6-month survey cycle. The fine for the 2-year  
178 period shall be \$6,000, one-half to be paid at the completion of  
179 each survey. The agency may adjust this fine by the change in the  
180 Consumer Price Index, based on the 12 months immediately  
181 preceding the change ~~increase~~, to cover the cost of the  
182 additional surveys. The agency shall verify through subsequent  
183 inspection that any deficiency identified during inspection is  
184 corrected. However, the agency may verify the correction of a  
185 class III or class IV deficiency unrelated to resident rights or  
186 resident care without reinspecting the facility if adequate  
187 written documentation has been received from the facility, which  
188 provides assurance that the deficiency has been corrected. ~~The~~  
189 ~~giving or causing to be given of advance notice of such~~  
190 ~~unannounced inspections by an employee of the agency to any~~  
191 ~~unauthorized person shall constitute cause for suspension of not~~  
192 ~~fewer than 5 working days according to the provisions of chapter~~  
193 ~~110.~~

194 Section 4. Section 400.215, Florida Statutes, is amended to  
195 read:

196 400.215 Background Personnel screening ~~requirement~~.--

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

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

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

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204 (c) Have access to resident funds or other personal  
205 property.

206 (2) Background screening as provided in chapter 435 is  
207 required for all nursing home facility contracted workers who are  
208 expected to, or whose responsibilities may require them to,  
209 provide personal care or services to residents. The facility  
210 shall maintain verification that such contracted workers have  
211 been screened pursuant to this section. The facility may either  
212 obtain a copy of the qualifying screening results from the entity  
213 or receive an affidavit from the entity which specifies that a  
214 background screen has been performed on all contracted workers  
215 sent to the facility. Contracted workers who do not provide  
216 personal care or services to residents are not required to be  
217 screened pursuant to this section but must sign in at the  
218 reception desk or nurses' station upon entering the facility,  
219 wear an identification badge while on the premises, and sign out  
220 before leaving the facility. The nursing facility shall maintain  
221 a log containing the information collected.

222 (3)(2) Employers, and employees, contractors, and  
223 contracted workers shall comply with the requirements of s.  
224 435.05.

225 (a) Notwithstanding ~~the provisions of~~ s. 435.05(1),  
226 facilities must have in their possession evidence that level 1  
227 screening under s. 435.03 has been completed before allowing an  
228 employee or contracted worker to begin employment in the facility  
229 ~~working with patients~~ as provided in subsection (1). All  
230 information necessary for conducting level 1 ~~background~~ screening  
231 ~~using level 1 standards as specified in s. 435.03~~ shall be  
232 submitted by the nursing facility to the agency. Results of the



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233 background screening shall be provided by the agency to the  
234 requesting nursing facility.

235 (b) Employees and contracted workers qualified under ~~the~~  
236 ~~provisions of~~ paragraph (a) who have not maintained continuous  
237 residency within the state for the 5 years immediately preceding  
238 the date of request for background screening must complete level  
239 2 screening, as provided in s. 435.04 ~~chapter 435~~. Such Employees  
240 may work in a conditional status for up to 180 days pending the  
241 receipt of written findings evidencing the completion of level 2  
242 screening. Contracted workers who are awaiting the completion of  
243 level 2 screening may work only under the direct and visual  
244 supervision of persons who have met the screening requirements of  
245 this section. Level 2 screening is ~~shall not be~~ required for ~~of~~  
246 employees, or prospective employees, or contracted workers who  
247 attest in writing under penalty of perjury that they meet the  
248 residency requirement. To complete ~~Completion of~~ level 2  
249 screening: ~~shall require~~

250 1. The employee or contracted worker shall ~~prospective~~  
251 ~~employee to~~ furnish to the nursing facility a full set of  
252 fingerprints for conducting a federal criminal records check to  
253 ~~enable a criminal background investigation to be conducted.~~

254 2. The nursing facility shall submit the completed  
255 fingerprint card to the agency.

256 3. The agency shall establish a record of the request in  
257 the database provided for in paragraph (c) and forward the  
258 request to the Department of Law Enforcement, which is authorized  
259 to submit the fingerprints to the Federal Bureau of Investigation  
260 for a national criminal history records check.

261 4. The results of the national criminal history records

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262 check shall be returned to the agency, which shall maintain the  
263 results in the database provided for in paragraph (c).

264 5. The agency shall notify the administrator of the  
265 requesting nursing facility or the administrator of any other  
266 requesting facility licensed under chapter 393, chapter 394,  
267 chapter 395, chapter 397, chapter 429, or this chapter,~~as~~  
268 ~~requested by such facility,~~ as to whether ~~or not~~ the employee has  
269 qualified under level 1 or level 2 screening.

270  
271 An employee or contracted worker ~~prospective employee~~ who has  
272 qualified under level 2 screening and has maintained ~~such~~  
273 continuous residency within the state is ~~shall~~ not be required to  
274 complete a subsequent level 2 screening as a condition of  
275 employment at another facility.

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

287 (d) ~~Applicants and~~ Employees, prospective employees, and  
288 contracted workers shall be excluded from employment pursuant to  
289 s. 435.06, and may not be employed or resume employment until  
290 exempted or all appeals have been resolved in favor of the person

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291 screened. However, an employee of a nursing facility, employed  
292 prior to October 1, 1998, who is determined to have a  
293 disqualifying offense may continue employment pending the outcome  
294 of an exemption request if that request is made by October 1,  
295 2009.

296 (4)~~(3)~~ The person being screened ~~applicant~~ is responsible  
297 for paying the fees associated with obtaining the required  
298 screening. Payment for the screening shall be submitted to the  
299 agency. The agency shall establish a schedule of fees to cover  
300 the costs of level 1 and level 2 screening. Facilities may pay  
301 ~~reimburse employees~~ for these costs. The Department of Law  
302 Enforcement shall charge the agency for a level 1 or level 2  
303 screening a rate sufficient to cover the costs of ~~such~~ screening  
304 pursuant to s. 943.053(3). The agency shall, as allowable,  
305 reimburse nursing facilities for the cost of conducting  
306 background screening as required by this section. This  
307 reimbursement is ~~will~~ not be subject to any rate ceilings or  
308 payment targets in the Medicaid Reimbursement plan.

309 (5)~~(4)~~~~(a)~~ As provided in s. 435.07:r

310 (a) The agency may grant an exemption from disqualification  
311 to an employee, ~~or~~ prospective employee, or contracted worker who  
312 is subject to this section and who has not received a  
313 professional license or certification from the Department of  
314 Health.

315 ~~(b) As provided in s. 435.07,~~ The appropriate regulatory  
316 board within the Department of Health, or that department itself  
317 when there is no board, may grant an exemption from  
318 disqualification to an employee, ~~or~~ prospective employee, or  
319 contracted worker who is subject to this section and who has

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320 received a professional license or certification from the  
321 Department of Health or a regulatory board within that  
322 department.

323 ~~(6)~~(5) ~~Any provision of law to the contrary~~  
324 ~~notwithstanding,~~ Persons who have been screened and qualified as  
325 required by this section, ~~and~~ and who have not been unemployed for  
326 more than 180 days ~~thereafter,~~ and who, under penalty of perjury,  
327 attest to not having been convicted of a disqualifying offense  
328 since the completion of such screening ~~are,~~ shall not ~~be~~ required  
329 to be rescreened. An employer may obtain, pursuant to s. 435.10,  
330 written verification of qualifying screening results from the  
331 previous employer, contractor, or other entity that ~~which~~ caused  
332 the ~~such~~ screening to be performed.

333 ~~(7)~~(6) The agency and the Department of Health may ~~shall~~  
334 ~~have authority to adopt rules to administer pursuant to the~~  
335 ~~Administrative Procedure Act to implement~~ this section.

336 ~~(7)~~ ~~All employees shall comply with the requirements of~~  
337 ~~this section by October 1, 1998. No current employee of a nursing~~  
338 ~~facility as of the effective date of this act shall be required~~  
339 ~~to submit to rescreening if the nursing facility has in its~~  
340 ~~possession written evidence that the person has been screened and~~  
341 ~~qualified according to level 1 standards as specified in s.~~  
342 ~~435.03(1). Any current employee who meets the level 1 requirement~~  
343 ~~but does not meet the 5-year residency requirement as specified~~  
344 ~~in this section must provide to the employing nursing facility~~  
345 ~~written attestation under penalty of perjury that the employee~~  
346 ~~has not been convicted of a disqualifying offense in another~~  
347 ~~state or jurisdiction. All applicants hired on or after October~~  
348 ~~1, 1998, shall comply with the requirements of this section.~~

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349 (8) There is no monetary or unemployment liability on the  
350 part of, and a ~~no~~ cause of action for damages does not arise  
351 ~~arising~~ against, an employer that, upon notice of a disqualifying  
352 offense listed under chapter 435 or an act of domestic violence,  
353 terminates the employee against whom the report was issued,  
354 whether or not the employee has filed for an exemption with the  
355 Department of Health or the agency ~~for Health Care~~  
356 ~~Administration.~~

357 Section 5. Subsection (6) is added to section 408.809,  
358 Florida Statutes, to read:

359 408.809 Background screening; prohibited offenses.--

360 (6) The agency shall establish a schedule of fees to cover  
361 the costs of any level 1 or level 2 screening required pursuant  
362 to this part or other authorizing statutes and may adopt rules to  
363 carry out these screenings and for the schedule of fees.

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

366 408.810 Minimum licensure requirements.--In addition to the  
367 licensure requirements specified in this part, authorizing  
368 statutes, and applicable rules, each applicant and licensee must  
369 comply with the requirements of this section in order to obtain  
370 and maintain a license.

371 (5) Each licensee must:

372 (a) On or before the first day services are provided to a  
373 client, ~~a licensee must~~ inform the client and his or her  
374 immediate family or representative, if appropriate, of the right  
375 to report:

376 1. Complaints. The statewide toll-free telephone number for  
377 reporting complaints to the agency must be provided to clients in

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378 a manner that is clearly legible and must include the words: "To  
379 report a complaint regarding the services you receive, please  
380 call toll-free (phone number)."

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

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

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

401 Section 7. Section 408.811, Florida Statutes, is amended to  
402 read:

403 408.811 Right of inspection; copies; inspection reports.--

404 (1) An authorized officer or employee of the agency may  
405 make or cause to be made any inspection or investigation deemed  
406 necessary by the agency to determine the state of compliance with

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407 | this part, authorizing statutes, and applicable rules. The right  
408 | of inspection extends to any business that the agency has reason  
409 | to believe is being operated as a provider without a license, but  
410 | inspection of any business suspected of being operated without  
411 | the appropriate license may not be made without the permission of  
412 | the owner or person in charge unless a warrant is first obtained  
413 | from a circuit court. Any application for a license issued under  
414 | this part, authorizing statutes, or applicable rules constitutes  
415 | permission for an appropriate inspection to verify the  
416 | information submitted on or in connection with the application.

417 |       (a) All inspections shall be unannounced, except as  
418 | specified in s. 408.806. The giving or causing to be given of  
419 | advance notice of the unannounced inspection by an agency  
420 | employee to any unauthorized person shall, in accordance with  
421 | chapter 110, constitute cause for suspension of the employee for  
422 | at least 5 working days.

423 |       (b) Inspections for relicensure shall be conducted  
424 | biennially unless otherwise specified by authorizing statutes or  
425 | applicable rules.

426 |       (c) Deficiencies found during an inspection or  
427 | investigation must be corrected within 30 days unless an  
428 | alternative timeframe is required or approved by the agency.

429 |       (d) The agency may require an applicant or licensee to  
430 | submit a plan of correction for deficiencies. If required, the  
431 | plan of correction must be filed with the agency within 10 days  
432 | unless an alternative timeframe is required.

433 |       (2) Inspections conducted in conjunction with certification  
434 | may be accepted in lieu of a complete licensure inspection.  
435 | However, a licensure inspection may also be conducted to review

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436 any licensure requirements that are not also requirements for  
437 certification.

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

441 (4) (a) Each licensee shall maintain as public information,  
442 available upon request, records of all inspection reports  
443 pertaining to that provider that have been filed by the agency  
444 unless those reports are exempt from or contain information that  
445 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
446 Constitution or is otherwise made confidential by law. Effective  
447 October 1, 2006, copies of such reports shall be retained in the  
448 records of the provider for at least 3 years following the date  
449 the reports are filed and issued, regardless of a change of  
450 ownership.

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

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

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

464 415.103 Central abuse hotline.--



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

469 (a) For reports requiring an immediate onsite protective  
470 investigation, the central abuse hotline must immediately notify  
471 the department's designated protective investigative district  
472 staff responsible for protective investigations to ensure prompt  
473 initiation of an onsite investigation.

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

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

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

491 415.1051 Protective services interventions when capacity to  
492 consent is lacking; nonemergencies; emergencies; orders;  
493 limitations.--

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

501 (e) Continued protective services.--

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

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

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

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

510 d. A petition for guardianship shall ~~should~~ be filed  
511 pursuant to chapter 744.

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

516 3. If the department has a good faith belief that the  
517 vulnerable adult lacks capacity, the petition to determine  
518 incapacity under s. 744.3201 may be filed by the department. Once  
519 the petition is filed, the department may not be appointed  
520 guardian and may not provide legal counsel for the guardian.

521 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If the  
522 department has reasonable cause to believe that a vulnerable

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523 adult is suffering from abuse or neglect that presents a risk of  
524 death or serious physical injury to the vulnerable adult and that  
525 the vulnerable adult lacks the capacity to consent to emergency  
526 protective services, the department may take action under this  
527 subsection. If the vulnerable adult has the capacity to consent  
528 and refuses consent to emergency protective services, emergency  
529 protective services may not be provided.

530 (g) Continued emergency protective services.--

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

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

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

538 c. Emergency protective services are to ~~will~~ be  
539 discontinued; or

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

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

544 3. If the department has a good faith belief that the  
545 vulnerable adult lacks capacity, the petition to determine  
546 incapacity under s. 744.3201 may be filed by the department. Once  
547 the petition is filed, the department may not be appointed  
548 guardian and may not provide legal counsel for the guardian.

549 Section 10. Section 415.112, Florida Statutes, is amended  
550 to read:

551 415.112 Rules ~~for implementation of ss. 415.101-~~

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552 | ~~415.113.--~~The department shall adopt ~~promulgate~~ rules to  
553 | administer this chapter including, but not limited to: ~~for the~~  
554 | ~~implementation of ss. 415.101-415.113.~~

555 |       (1) Background screening of department employees and  
556 | employee applicants which includes a criminal records check and  
557 | drug testing of adult protective investigators and adult  
558 | protective investigator supervisors.

559 |       (2) The reporting of adult abuse, neglect, exploitation, a  
560 | vulnerable adult in need of services, false reporting, and adult  
561 | protective investigations.

562 |       (3) Confidentiality and retention of department records,  
563 | access to records, and record requests.

564 |       (4) Injunctions and other protective orders.

565 |       (5) The provision of emergency and nonemergency protective  
566 | services intervention.

567 |       (6) Agreements with law enforcement and other state  
568 | agencies.

569 |       (7) Legal and casework procedures, including, but not  
570 | limited to, diligent search, petitions, emergency removals,  
571 | capacity to consent, and adult protection teams.

572 |       (8) The legal and casework management of cases involving  
573 | protective supervision, protective orders, judicial reviews,  
574 | administrative reviews, case plans, and documentation  
575 | requirements.

576 |       (9) The coordination of casework with the following  
577 | agencies as appropriate to the individual situation: the Agency  
578 | for Health Care Administration, the Department of Elderly  
579 | Affairs, the Area Agency on Aging, the Nursing Home Diversion or  
580 | Medicaid Waiver Program provider, the Florida Senior Care

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581 Provider, and other relevant agencies or organizations to develop  
582 a plan that improves the prospects for safety of affected  
583 residents and, if necessary, identifies alternative living  
584 arrangements such as facilities licensed under part II of chapter  
585 400 or chapter 429.

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

588 429.02 Definitions.--When used in this part, the term:

589 (21) "Service plan" means a written plan, developed and  
590 agreed upon by the resident and, if applicable, the resident's  
591 representative or designee or the resident's surrogate, guardian,  
592 or attorney in fact, if any, and the administrator or designee  
593 representing the facility, which addresses the unique physical  
594 and psychosocial needs, abilities, and personal preferences of  
595 each resident ~~receiving extended congregate care services~~. The  
596 plan must ~~shall~~ include a brief written description, in easily  
597 understood language, of what services shall be provided, who  
598 shall provide the services, when the services shall be rendered,  
599 and the purposes and benefits of the services. The agency shall  
600 develop a service plan form for use by providers. The agency may  
601 accept the community supported-living plan instead of a service  
602 plan for mental health residents.

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

605 429.07 License required; fee.--

606 (3) In addition to the requirements of s. 408.806, each  
607 license granted by the agency must state the type of care for  
608 which the license is granted. Licenses shall be issued for one or  
609 more of the following categories of care: standard, extended

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610 | congregate care, limited nursing services, or limited mental  
611 | health.

612 |       (b) An extended congregate care license shall be issued to  
613 | facilities providing, directly or through contract, services  
614 | beyond those authorized in paragraph (a), including services  
615 | performed by persons licensed under acts performed pursuant to  
616 | part I of chapter 464 by persons licensed thereunder, and  
617 | supportive services, as defined by rule, to persons who would  
618 | otherwise ~~would~~ be disqualified from continued residence in a  
619 | facility licensed under this part.

620 |       1. To obtain an ~~In order for~~ extended congregate care  
621 | license services to be provided in a facility licensed under this  
622 | ~~part~~, the agency must first determine that all requirements  
623 | established in law and rule are met and must specifically  
624 | designate, on the facility's license, that such services may be  
625 | provided and whether the designation applies to all or part of  
626 | the a facility. Such designation may be made at the time of  
627 | initial licensure or relicensure, or upon request in writing by a  
628 | licensee under this part and part II of chapter 408. Notification  
629 | of approval or denial of the ~~such~~ request shall be made in  
630 | accordance with part II of chapter 408. ~~Existing~~

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

- 637 |       a. A class I or class II violation;
- 638 |       b. Three or more repeat or recurring class III violations

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639 of identical or similar resident care standards as specified in  
640 rule from which a pattern of noncompliance is found by the  
641 agency;

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

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

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

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

654 3.2. A facility that is ~~Facilities that are~~ licensed to  
655 provide extended congregate care services must ~~shall~~ maintain a  
656 written progress report on each person who receives ~~such~~  
657 services, which report describes the type, amount, duration,  
658 scope, and outcome of services that are rendered and the general  
659 status of the resident's health. A registered nurse, or  
660 appropriate designee, representing the agency shall visit the  
661 facility ~~such facilities~~ at least quarterly to monitor residents  
662 who are receiving extended congregate care services and to  
663 determine if the facility is in compliance with this part, part  
664 II of chapter 408, and rules that relate to extended congregate  
665 care. One of these visits may be in conjunction with the regular  
666 survey. The monitoring visits may be provided through contractual  
667 arrangements with appropriate community agencies. A registered

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668 nurse shall serve as part of the team that inspects the ~~such~~  
669 facility. The agency may waive one of the required yearly  
670 monitoring visits for a facility that has been licensed for at  
671 least 24 months to provide extended congregate care services, if,  
672 during the inspection, the registered nurse determines that  
673 extended congregate care services are being provided  
674 appropriately, and if the facility has no class I or class II  
675 violations and no uncorrected class III violations. ~~Before such~~  
676 ~~decision is made,~~ The agency must first ~~shall~~ consult with the  
677 long-term care ombudsman council for the area in which the  
678 facility is located to determine if any complaints have been made  
679 and substantiated about the quality of services or care. The  
680 agency may not waive one of the required yearly monitoring visits  
681 if complaints have been made and substantiated.

682 ~~4.3.~~ Facilities that are licensed to provide extended  
683 congregate care services must ~~shall~~:

684 a. Demonstrate the capability to meet unanticipated  
685 resident service needs.

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

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

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



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697 avoided.

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

703 f. Implement the concept of managed risk.

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

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

709 5.4. Facilities licensed to provide extended congregate  
710 care services are exempt from the criteria for continued  
711 residency ~~as~~ set forth in rules adopted under s. 429.41.  
712 Facilities so licensed must ~~shall~~ adopt their own requirements  
713 within guidelines for continued residency set forth by rule.  
714 However, such facilities may not serve residents who require 24-  
715 hour nursing supervision. Facilities licensed to provide extended  
716 congregate care services must ~~shall~~ provide each resident with a  
717 written copy of facility policies governing admission and  
718 retention.

719 6.5. The primary purpose of extended congregate care  
720 services is to allow residents, as they become more impaired, the  
721 option of remaining in a familiar setting from which they would  
722 otherwise be disqualified for continued residency. A facility  
723 licensed to provide extended congregate care services may also  
724 admit an individual who exceeds the admission criteria for a  
725 facility with a standard license, if the individual is determined

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726 appropriate for admission to the extended congregate care  
727 facility.

728 ~~7.6.~~ Before admission of an individual to a facility  
729 licensed to provide extended congregate care services, the  
730 individual must undergo a medical examination ~~as provided in s.~~  
731 ~~429.26(4)~~ and the facility must develop a preliminary service  
732 plan for the individual as provided in s. 429.26.

733 ~~8.7.~~ When a facility can no longer provide or arrange for  
734 services in accordance with the resident's service plan and needs  
735 and the facility's policy, the facility shall make arrangements  
736 for relocating the person in accordance with s. 429.28(1)(k).

737 ~~9.8.~~ Failure to provide extended congregate care services  
738 may result in denial of extended congregate care license renewal.

739 ~~9.~~ ~~No later than January 1 of each year, the department, in~~  
740 ~~consultation with the agency, shall prepare and submit to the~~  
741 ~~Governor, the President of the Senate, the Speaker of the House~~  
742 ~~of Representatives, and the chairs of appropriate legislative~~  
743 ~~committees, a report on the status of, and recommendations~~  
744 ~~related to, extended congregate care services. The status report~~  
745 ~~must include, but need not be limited to, the following~~  
746 ~~information:~~

747 ~~a.~~ ~~A description of the facilities licensed to provide such~~  
748 ~~services, including total number of beds licensed under this~~  
749 ~~part.~~

750 ~~b.~~ ~~The number and characteristics of residents receiving~~  
751 ~~such services.~~

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

754 ~~d.~~ ~~An analysis of deficiencies cited during licensure~~

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755 | inspections.

756 | ~~e. The number of residents who required extended congregate~~  
757 | ~~care services at admission and the source of admission.~~

758 | ~~f. Recommendations for statutory or regulatory changes.~~

759 | ~~g. The availability of extended congregate care to state~~  
760 | ~~clients residing in facilities licensed under this part and in~~  
761 | ~~need of additional services, and recommendations for~~  
762 | ~~appropriations to subsidize extended congregate care services for~~  
763 | ~~such persons.~~

764 | ~~h. Such other information as the department considers~~  
765 | ~~appropriate.~~

766 | (c) A limited nursing services license shall be issued to a  
767 | facility that provides services beyond those authorized in  
768 | paragraph (a) and as specified in this paragraph.

769 | 1. To obtain a ~~In order for~~ limited nursing services  
770 | license to be provided in a facility licensed under this part,  
771 | the agency must first determine that all requirements established  
772 | in law and rule are met and must specifically designate, on the  
773 | facility's license, that such services may be provided. Such  
774 | designation may be made at the time of initial licensure or  
775 | relicensure, or upon request in writing by a licensee under this  
776 | part and part II of chapter 408. Notification of approval or  
777 | denial of such request shall be made in accordance with part II  
778 | of chapter 408. ~~Existing~~

779 | 2. Facilities applying for, and facilities currently  
780 | licensed ~~qualifying~~ to provide, limited nursing services must  
781 | ~~shall~~ have ~~maintained~~ a standard license and may not have been  
782 | subject to administrative sanctions that affect the health,  
783 | safety, and welfare of residents for the previous 2 years or

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784 since initial licensure if the facility has been licensed for  
785 less than 2 years.

786 ~~3.2.~~ Facilities that are licensed to provide limited  
787 nursing services shall maintain a written progress report on each  
788 person who receives ~~such~~ nursing services, which report describes  
789 the type, amount, duration, scope, and outcome of services that  
790 are rendered and the general status of the resident's health. A  
791 registered nurse representing the agency shall visit such  
792 facilities at least twice a year to monitor residents who are  
793 receiving limited nursing services and to determine if the  
794 facility is in compliance with applicable provisions of this  
795 part, part II of chapter 408, and related rules. The monitoring  
796 visits may be provided through contractual arrangements with  
797 appropriate community agencies. A registered nurse shall also  
798 serve as part of the team that inspects the ~~such~~ facility.

799 ~~4.3.~~ A person who receives limited nursing services ~~under~~  
800 ~~this part~~ must meet the admission criteria established by the  
801 agency for assisted living facilities. If ~~When~~ a resident no  
802 longer meets the admission criteria for a facility licensed under  
803 this part, arrangements for relocating the person shall be made  
804 in accordance with s. 429.28(1)(k), unless the facility is also  
805 licensed to provide extended congregate care services.

806 Section 13. Section 429.174, Florida Statutes, is amended  
807 to read:

808 429.174 Background screening; exemptions.--

809 (1) The owner or administrator of an assisted living  
810 facility must conduct level 1 ~~background~~ screening, as set forth  
811 in chapter 435, on all employees ~~hired on or after October 1,~~  
812 ~~1998,~~ who perform personal services or who have access to

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813 resident living areas ~~as defined in s. 429.02(16)~~. The agency may  
814 exempt an individual from ~~employment~~ disqualification as set  
815 forth in s. 435.07 ~~chapter 435~~. However, such person may not be  
816 employed or resume employment pending the granting of an  
817 exemption or until all appeals have been resolved in favor of the  
818 person screened. A person employed before October 1, 1998, who is  
819 determined to have a disqualifying offense may continue  
820 employment pending the outcome of an exemption request if that  
821 request is made by October 1, 2009. Employees ~~Such persons~~ shall  
822 be considered as having met the screening requirements ~~this~~  
823 ~~requirement~~ if:

824 (a) ~~(1)~~ Proof of compliance with level 1 screening  
825 ~~requirements~~ obtained to meet ~~any~~ professional license  
826 requirements in this state is provided and accompanied, under  
827 penalty of perjury, by a copy of the person's current  
828 professional license and an affidavit of current compliance with  
829 the background screening requirements.

830 (b) ~~(2)~~ The person required to be screened has been  
831 continuously employed in the same type of occupation for which  
832 the person is seeking employment without a breach in service  
833 which exceeds 180 days, and proof of compliance with the level 1  
834 screening requirement which is no more than 2 years old is  
835 provided. Proof of compliance shall be provided directly from one  
836 employer or contractor to another, and not from the person  
837 screened. Upon request, a copy of screening results shall be  
838 provided by the employer retaining documentation of the screening  
839 to the person screened.

840 (c) ~~(3)~~ The person required to be screened is employed by a  
841 corporation or business entity or related corporation or business

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842 entity that owns, operates, or manages more than one facility or  
843 agency licensed under this chapter, and for whom a level 1  
844 screening was conducted by the corporation or business entity as  
845 a condition of initial or continued employment.

846 (2) Level 1 screening as provided in chapter 435 is  
847 required for all contracted workers who are expected to, or whose  
848 responsibilities may require them to, provide personal services  
849 to residents. The facility shall maintain verification that such  
850 contracted workers have been screened pursuant to this section.  
851 The facility may either obtain a copy of the qualifying screening  
852 results from the entity or receive an affidavit from the entity  
853 which specifies that a background screen has been performed on  
854 all contracted workers sent to the facility. A contracted worker  
855 who does not provide personal services to residents is not  
856 required to be screened pursuant to this section but must sign in  
857 at the reception desk upon entering the facility, wear an  
858 identification badge while on the premises, and sign out before  
859 leaving the facility. The facility shall maintain a log  
860 containing the information collected.

861 (3) The person being screened is responsible for paying the  
862 fees associated with obtaining the required screening. Payment  
863 for the screening shall be submitted to the agency. The agency  
864 shall establish a schedule of fees to cover the costs of level 1  
865 and level 2 screening. Facilities may reimburse employees or  
866 contracted workers for these costs. The Department of Law  
867 Enforcement shall charge the agency for a level 1 or level 2  
868 screening a rate sufficient to cover the costs of screening  
869 pursuant to s. 943.053(3).

870 Section 14. Subsection (1) of section 429.255, Florida

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871 Statutes, is amended to read:

872 429.255 Use of personnel; emergency care.--

873 (1) (a) Facility staff, including persons under contract to  
874 the facility, facility employees ~~staff~~, or volunteers, who are  
875 licensed according to part I of chapter 464, or those persons  
876 exempt under s. 464.022(1), and others as defined by rule, may  
877 administer medications to residents, take residents' vital signs,  
878 manage individual weekly pill organizers for residents who self-  
879 administer medication, give prepackaged enemas ordered by a  
880 physician, observe residents, document observations on the  
881 appropriate resident's record, report observations to the  
882 resident's physician, and contract or allow residents or a  
883 resident's representative, designee, surrogate, guardian, or  
884 attorney in fact to contract with a third party, provided  
885 residents meet the criteria for appropriate placement as defined  
886 in s. 429.26. Nursing assistants certified pursuant to part II of  
887 chapter 464 may take residents' vital signs as directed by a  
888 licensed nurse or physician.

889 (b) Facility All staff, including persons under contract to  
890 the facility and facility employees ~~in facilities licensed under~~  
891 ~~this part~~ shall exercise their professional responsibility to  
892 observe residents, to document observations on the appropriate  
893 resident's record, ~~and~~ to report the observations to the  
894 resident's physician, and to provide needed services competently.  
895 Licensed volunteers have the same obligations, but shall report  
896 to a facility employee who shall make the appropriate notation in  
897 the resident's records. However, the owner or administrator of  
898 the facility is ~~shall be~~ responsible for determining that the  
899 resident receiving services is appropriate for residence in the

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900 facility and for the provision of and quality of care and  
901 services provided to the resident.

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

905 Section 15. Present subsections (8) through (12) of section  
906 429.26, Florida Statutes, are renumbered as sections (6) through  
907 (10), respectively, and present subsections (1) through (7) of  
908 that section, are amended to read:

909 429.26 Appropriateness of placements; examinations of  
910 residents.--

911 (1) The owner or administrator of a facility is responsible  
912 for determining the appropriateness of admission of an individual  
913 to the facility and for determining the continued appropriateness  
914 of residence of an individual in the facility. A determination  
915 shall be based upon an assessment of the strengths, needs, and  
916 preferences of the resident, the care and services offered or  
917 arranged for by the facility in accordance with facility policy,  
918 and any limitations in law or rule related to admission criteria  
919 or continued residency for the type of license held by the  
920 facility under this part. Except as provided in s. 429.28(1)(k),  
921 a resident may not be moved from one facility to another without  
922 consultation with and agreement from the resident or, if  
923 applicable, the resident's representative or designee or the  
924 resident's family, guardian, surrogate, or attorney in fact. If  
925 ~~In the case of~~ a resident ~~who~~ has been placed by the department  
926 or the Department of Children and Family Services, the  
927 administrator must notify the appropriate contact person in the  
928 applicable department.



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

933           ~~(3) Persons licensed under part I of chapter 464 who are~~  
934 ~~employed by or under contract with a facility shall, on a routine~~  
935 ~~basis or at least monthly, perform a nursing assessment of the~~  
936 ~~residents for whom they are providing nursing services ordered by~~  
937 ~~a physician, except administration of medication, and shall~~  
938 ~~document such assessment, including any substantial changes in a~~  
939 ~~resident's status which may necessitate relocation to a nursing~~  
940 ~~home, hospital, or specialized health care facility. Such records~~  
941 ~~shall be maintained in the facility for inspection by the agency~~  
942 ~~and shall be forwarded to the resident's case manager, if~~  
943 ~~applicable.~~

944           (2)(4) If possible, each resident shall have been examined  
945 by a licensed physician, a licensed physician assistant, or a  
946 licensed nurse practitioner within 60 days before admission to  
947 the facility. The person conducting an examination under this  
948 subsection may not have financial interest in the facility. The  
949 signed and completed medical examination report shall be  
950 submitted to the owner or administrator of the facility who shall  
951 use the information contained in the report therein to assist in  
952 determining ~~the determination of~~ the appropriateness of the  
953 resident's admission and continued stay in the facility and to  
954 develop a service plan for the resident. The medical examination  
955 report and service plan shall become a permanent part of the  
956 record of the resident at the facility and shall be made  
957 available to the agency during inspection or upon request. An

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958 assessment that has been completed through the Comprehensive  
959 Assessment and Review for Long-Term Care Services (CARES) Program  
960 fulfills the requirements for a medical examination under this  
961 subsection and ~~s. 429.07(3)(b)6.~~

962 (a)~~(5)~~ Except as provided in s. 429.07, if a medical  
963 examination has not been completed within 60 days before the  
964 admission of the resident to the facility, medical personnel ~~a~~  
965 ~~licensed physician, licensed physician assistant, or licensed~~  
966 ~~nurse practitioner~~ shall examine the resident and complete a  
967 medical examination form provided by the agency within 30 days  
968 following the admission to the facility ~~to enable the facility~~  
969 ~~owner or administrator to determine the appropriateness of the~~  
970 ~~admission. The medical examination form shall become a permanent~~  
971 ~~part of the record of the resident at the facility and shall be~~  
972 ~~made available to the agency during inspection by the agency or~~  
973 ~~upon request.~~

974 (b)~~(6)~~ Any resident accepted in a facility and placed by  
975 the department or the Department of Children and Family Services  
976 must be ~~shall have been~~ examined by medical personnel within 30  
977 days before placement in the facility and recorded on a medical  
978 examination form provided by the agency. The examination shall  
979 include an assessment of the appropriateness of placement in a  
980 facility. ~~The findings of this examination shall be recorded on~~  
981 ~~the examination form provided by the agency. The completed form~~  
982 ~~shall accompany the resident and shall be submitted to the~~  
983 ~~facility owner or administrator. For~~ Additionally, in the case of  
984 a mental health resident, the Department of Children and Family  
985 Services must provide documentation that the individual has been  
986 assessed by a psychiatrist, clinical psychologist, clinical

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987 | social worker, or psychiatric nurse, or an individual who is  
988 | supervised by one of these professionals, and determined to be  
989 | appropriate to reside in an assisted living facility. The  
990 | documentation must be in the facility within 30 days after the  
991 | mental health resident has been admitted to the facility. An  
992 | evaluation completed upon discharge from a state mental hospital  
993 | meets the requirements of this subsection related to  
994 | appropriateness for placement as a mental health resident  
995 | providing it was completed within 90 days prior to admission to  
996 | the facility. The applicable department shall provide to the  
997 | facility administrator any information about the resident that  
998 | would help the administrator meet his or her responsibilities  
999 | under this section ~~subsection (1)~~. Further, department personnel  
1000 | shall explain to the facility operator any special needs of the  
1001 | resident and advise the operator whom to call should problems  
1002 | arise. The applicable department shall advise and assist the  
1003 | facility administrator where the special needs of residents who  
1004 | are recipients of optional state supplementation require such  
1005 | assistance.

1006 |       (3) A search of the Department of Law Enforcement's sexual  
1007 | offender database for each prospective resident must be conducted  
1008 | by the facility before admission or immediately after admission.  
1009 | The facility must maintain verification that all residents have  
1010 | been screened. The information obtained may be used by the  
1011 | facility to assess the needs of the resident and the care and  
1012 | services offered or arranged by the facility in accordance with  
1013 | this section. The information obtained may be disclosed to other  
1014 | residents. The facility does not have to rescreen a resident who  
1015 | is away from a facility for not more than 45 days.

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1016        (4) Persons licensed under part I of chapter 464 who are  
1017 employed by or under contract with a facility shall, at least  
1018 monthly, perform a nursing assessment of residents for whom they  
1019 are providing nursing services ordered by a physician, except  
1020 administration of medication, and shall document such assessment,  
1021 including any substantial change in a resident's status which may  
1022 necessitate relocation to a nursing home, hospital, or  
1023 specialized health care facility. The records must be maintained  
1024 in the facility for inspection by the agency and shall be  
1025 forwarded to the resident's case manager, if applicable.

1026        (5)-(7) Residents shall be periodically assessed to  
1027 determine if the resident is competent to handle his or her  
1028 personal and financial affairs and, if not, whether a responsible  
1029 person such as a resident representative or designee, guardian,  
1030 surrogate, or attorney in fact is available to make decisions on  
1031 behalf of the resident. If a resident is having difficulty  
1032 handling his or her personal or financial affairs because of a  
1033 decline in health or cognitive abilities, the owner or  
1034 administrator shall contact the resident's representative or  
1035 designee, guardian, surrogate, or attorney in fact. If a resident  
1036 does not have family or a legal representative to make decisions  
1037 on his or her behalf, the owner or administrator must contact the  
1038 Florida Abuse Hotline. The facility must notify a licensed  
1039 physician when a resident exhibits signs of dementia or cognitive  
1040 impairment or has a change of condition in order to rule out the  
1041 presence of an underlying physiological condition that may be  
1042 contributing to such dementia or impairment. The notification  
1043 must occur within 30 days after the acknowledgment of such signs  
1044 by facility staff. If an underlying condition is determined to

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1045 exist, the facility shall arrange, with the appropriate health  
1046 care provider, the necessary care and services to treat the  
1047 condition.

1048 Section 16. Subsections (3) through (8) of section 429.27,  
1049 Florida Statutes, are renumbered as subsections (6) through (11),  
1050 respectively, and subsections (1) and (2) of that section, are  
1051 amended to read:

1052 429.27 Property and personal affairs of residents.--

1053 (1)~~(a)~~ A resident shall be given the option of using his or  
1054 her own belongings, as space permits; choosing his or her  
1055 roommate; and, whenever possible, unless the resident is  
1056 adjudicated incompetent or incapacitated under state law,  
1057 managing his or her own affairs.

1058 (2)~~(b)~~ The admission of a resident to a facility does ~~and~~  
1059 ~~his or her presence therein shall~~ not confer on the facility or  
1060 its owner, administrator, staff ~~employees~~, or representatives any  
1061 authority to manage, use, or dispose of any property of the  
1062 resident or to make financial or health care decisions on behalf  
1063 of the resident; ~~nor shall such admission or presence confer on~~  
1064 ~~any of such persons any authority or responsibility for the~~  
1065 ~~personal affairs of the resident, except if that which may be~~  
1066 necessary for the safe management of the facility or for the  
1067 safety of the resident.

1068 (3)~~(2)~~ A facility, or an owner, administrator, staff  
1069 ~~employee~~, or representative thereof, may not act as the  
1070 resident's representative or designee, guardian, health care  
1071 surrogate, trustee, or conservator for a ~~any~~ resident ~~of the~~  
1072 ~~assisted living facility~~ or any of the ~~such~~ resident's property  
1073 unless the person is a relative of the resident.

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1074        (4) A facility ~~An~~ owner, administrator, or staff member, or  
1075 representative thereof, may not act as a competent resident's  
1076 payee for social security, veteran's, or railroad benefits  
1077 without the consent of the resident. Any facility ~~whose~~ owner,  
1078 administrator, or staff, or representative thereof who, serves as  
1079 representative payee for a ~~any~~ resident must ~~of the facility~~  
1080 ~~shall~~ file a surety bond with the agency in an amount equal to  
1081 twice the average monthly aggregate income or personal funds due  
1082 to residents, or expendable for his or her ~~their~~ account, which  
1083 are received by a facility.

1084        (5) Any facility ~~whose~~ owner, administrator, or staff, or a  
1085 representative thereof who, is granted power of attorney for a  
1086 ~~any~~ resident must ~~of the facility shall~~ file a surety bond with  
1087 the agency for each resident for whom such power of attorney is  
1088 granted. The surety bond must ~~shall~~ be in an amount equal to  
1089 twice the average monthly income of the resident, plus the value  
1090 of any resident's property under the control of the attorney in  
1091 fact. The bond must ~~shall~~ be executed by the facility as  
1092 principal and a licensed surety company. The bond shall be  
1093 conditioned upon the faithful compliance of the facility with  
1094 this section and shall run to the agency for the benefit of any  
1095 resident who suffers a financial loss as a result of the misuse  
1096 or misappropriation ~~by a facility~~ of funds held pursuant to this  
1097 subsection. Any surety company that cancels or does not renew the  
1098 bond of any licensee shall notify the agency in writing not less  
1099 than 30 days in advance of such action, giving the reason for the  
1100 cancellation or nonrenewal. Any facility owner, administrator, or  
1101 staff, or representative thereof, who is granted power of  
1102 attorney for a ~~any~~ resident ~~of the facility~~ shall, on a monthly

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1103 basis, ~~be required to~~ provide the resident with a written  
1104 statement of any transaction made on behalf of the resident  
1105 pursuant to this subsection, and a copy of such statement ~~given~~  
1106 ~~to the resident~~ shall be retained in each resident's file and  
1107 available for agency inspection.

1108 Section 17. Paragraphs (k) and (l) of subsection (1) and  
1109 subsection (3) of section 429.28, Florida Statutes, are amended  
1110 to read:

1111 429.28 Resident bill of rights.--

1112 (1) No resident of a facility shall be deprived of any  
1113 civil or legal rights, benefits, or privileges guaranteed by law,  
1114 the Constitution of the State of Florida, or the Constitution of  
1115 the United States as a resident of a facility. Every resident of  
1116 a facility shall have the right to:

1117 (k) At least 45 days' written notice of relocation or  
1118 termination of residency from the facility unless, for medical  
1119 reasons, the resident is certified by a physician to require an  
1120 emergency relocation to a facility providing a more skilled level  
1121 of care or the resident engages in a pattern of conduct that is  
1122 harmful or offensive to other residents. The notice must specify  
1123 the reasons for the relocation or termination and a copy of the  
1124 notice must be sent by registered mail to the resident's  
1125 representative or designee, guardian, surrogate, and attorney in  
1126 fact at the same time the notice is mailed to the resident.  
1127 Notice must also be sent by regular mail, facsimile, or e-mail to  
1128 the State Long-Term Care Ombudsman Program within 5 business days  
1129 after being mailed to the resident. The ombudsman program shall  
1130 incorporate the information received in their annual report,  
1131 including the number and reasons for relocation or termination of

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1132 facility residents, type and size of facilities, and other  
1133 relevant information, which shall be submitted to the Governor,  
1134 the President of the Senate, and the Speaker of the House of  
1135 Representatives. ~~In the case of a resident who has been~~  
1136 ~~adjudicated mentally incapacitated, the guardian shall be given~~  
1137 ~~at least 45 days' notice of a nonemergency relocation or~~  
1138 ~~residency termination. Reasons for relocation shall be set forth~~  
1139 ~~in writing.~~ In order for a facility to terminate the residency of  
1140 an individual without notice as provided in this paragraph  
1141 herein, the facility must ~~shall~~ show good cause in a court of  
1142 competent jurisdiction.

1143 (1) Present grievances and recommend changes in policies,  
1144 procedures, and services to the staff of the facility, governing  
1145 officials, or any other person without restraint, interference,  
1146 coercion, discrimination, or reprisal. Each facility shall  
1147 establish a written grievance procedure to facilitate the  
1148 residents' exercise of this right which must include, at a  
1149 minimum, maintaining a written record of each grievance, the  
1150 stated reason for the grievance, actions taken by the facility,  
1151 and reporting of grievances. Each facility shall transmit a copy  
1152 of the written record on a weekly basis to the local ombudsman  
1153 council by regular mail, facsimile, or e-mail. Each facility must  
1154 accept grievances orally and may accept grievances in writing.  
1155 The local ombudsman council shall maintain a record of all  
1156 grievances received from each facility in the local area which  
1157 shall be submitted by the local council to the Office of State  
1158 Long-Term Care Ombudsman pursuant to s. 400.0089. This right also  
1159 includes access to ombudsman volunteers and advocates and the  
1160 right to be a member of, to be active in, and to associate with



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1161 advocacy or special interest groups.

1162 ~~(3)(a) The agency shall conduct a survey to determine~~  
1163 ~~general compliance with facility standards and compliance with~~  
1164 ~~residents' rights as a prerequisite to initial licensure or~~  
1165 ~~licensure renewal.~~

1166 ~~(b)~~ In order to determine whether the facility is  
1167 adequately protecting residents' rights, the agency's biennial  
1168 survey shall include private informal conversations with a sample  
1169 of residents and consultation with the ombudsman council in the  
1170 planning and service area in which the facility is located to  
1171 discuss residents' experiences within the facility.

1172 ~~(c) During any calendar year in which no survey is~~  
1173 ~~conducted, the agency shall conduct at least one monitoring visit~~  
1174 ~~of each facility cited in the previous year for a class I or~~  
1175 ~~class II violation, or more than three uncorrected class III~~  
1176 ~~violations.~~

1177 ~~(d) The agency may conduct periodic followup inspections as~~  
1178 ~~necessary to monitor the compliance of facilities with a history~~  
1179 ~~of any class I, class II, or class III violations that threaten~~  
1180 ~~the health, safety, or security of residents.~~

1181 ~~(e) The agency may conduct complaint investigations as~~  
1182 ~~warranted to investigate any allegations of noncompliance with~~  
1183 ~~requirements required under this part or rules adopted under this~~  
1184 ~~part.~~

1185 Section 18. Subsection (1) of section 429.294, Florida  
1186 Statutes, is amended to read:

1187 429.294 Availability of facility records for investigation  
1188 of resident's rights violations and defenses; penalty.--

1189 (1) Failure to provide complete copies of a resident's

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1190 records, including, but not limited to, all medical records and  
1191 the resident's chart, within the control or possession of the  
1192 facility within 10 days, ~~in accordance with the provisions of s.~~  
1193 ~~400.145,~~ shall constitute evidence of failure of that party to  
1194 comply with good faith discovery requirements and shall waive the  
1195 good faith certificate and presuit notice requirements under this  
1196 part by the requesting party.

1197 Section 19. Section 429.34, Florida Statutes, is amended to  
1198 read:

1199 429.34 Right of entry and inspection.--In addition to the  
1200 requirements of s. 408.811:r

1201 (1) Any duly designated officer or employee of the  
1202 department, the Department of Children and Family Services, the  
1203 Medicaid Fraud Control Unit of the Office of the Attorney  
1204 General, the state or local fire marshal, or a member of the  
1205 state or local long-term care ombudsman council shall have the  
1206 right to enter unannounced upon and into the premises of any  
1207 facility licensed pursuant to this part in order to determine the  
1208 state of compliance with the provisions of this part, part II of  
1209 chapter 408, and applicable rules. Data collected by the state or  
1210 local long-term care ombudsman councils or the state or local  
1211 advocacy councils may be used by the agency in investigations  
1212 involving violations of regulatory standards.

1213 (2) Every 24 months the agency shall conduct at least one  
1214 unannounced inspection to determine compliance with this chapter  
1215 and related rules, including minimum standards of quality and  
1216 adequacy of care and the rights of residents. Two additional  
1217 surveys shall be conducted every 6 months for the next year if  
1218 the facility has been cited for a class I deficiency or two or

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1219 more class II deficiencies arising from separate surveys or  
1220 investigations within a 60-day period. In addition to any fines  
1221 imposed on a facility under s. 429.19, the agency shall assess a  
1222 fine of \$69 per bed for each of the additional two surveys, not  
1223 to exceed \$12,000 each. The agency shall adjust this fine by the  
1224 change in the Consumer Price Index, based on the 12 months  
1225 immediately preceding the change, to cover the cost of the  
1226 additional two surveys. The agency shall verify through  
1227 subsequent inspections that any deficiency identified during an  
1228 inspection is corrected. However, the agency may verify the  
1229 correction of a class III or class IV deficiency unrelated to  
1230 resident rights or resident care without reinspecting the  
1231 facility if adequate written documentation has been received from  
1232 the facility which provides assurance that the deficiency has  
1233 been corrected.

1234       Section 20. Present paragraphs (k) and (l) of subsection  
1235 (1) of section 429.41, Florida Statutes, are redesignated as  
1236 paragraphs (l) and (m), respectively, and a new paragraph (k) is  
1237 added to that subsection, to read:

1238       429.41 Rules establishing standards.--

1239       (1) It is the intent of the Legislature that rules  
1240 published and enforced pursuant to this section shall include  
1241 criteria by which a reasonable and consistent quality of resident  
1242 care and quality of life may be ensured and the results of such  
1243 resident care may be demonstrated. Such rules shall also ensure a  
1244 safe and sanitary environment that is residential and  
1245 noninstitutional in design or nature. It is further intended that  
1246 reasonable efforts be made to accommodate the needs and  
1247 preferences of residents to enhance the quality of life in a

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1248 facility. The agency, in consultation with the department, may  
1249 adopt rules to administer the requirements of part II of chapter  
1250 408. In order to provide safe and sanitary facilities and the  
1251 highest quality of resident care accommodating the needs and  
1252 preferences of residents, the department, in consultation with  
1253 the agency, the Department of Children and Family Services, and  
1254 the Department of Health, shall adopt rules, policies, and  
1255 procedures to administer this part, which must include reasonable  
1256 and fair minimum standards in relation to:

1257 (k) The requirement that all residents have service plans.  
1258 The service plan must be reviewed and updated annually; however,  
1259 for a resident receiving nursing services ordered by a physician,  
1260 except administration of medication, the plan must be reviewed  
1261 and updated quarterly and whenever a resident experiences a  
1262 significant change in condition.

1263 Section 21. Present subsection (14) of section 429.65,  
1264 Florida Statutes, is renumbered as subsection (15), and a new  
1265 subsection (14) is added to that section, to read:

1266 429.65 Definitions.--As used in this part, the term:

1267 (14) "Reside" means the licensee or applicant lives in the  
1268 adult family care home as a primary residence. For purposes of  
1269 this part, any two of the following documents that include the  
1270 adult family care home address and the name of the licensee or  
1271 applicant may be accepted by the agency as proof that the  
1272 licensee or applicant resides in the adult family care home:

1273 (a) Homestead exemption documentation;

1274 (b) Lease or rental agreement accompanied by a  
1275 corresponding utility bill; or

1276 (c) Personal identification issued by a state or federal

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1277 | agency.

1278 |       Section 22. Subsection (4) of section 429.67, Florida  
1279 | Statutes, is amended to read:

1280 |       429.67 Licensure.--

1281 |       (4) Upon receipt of a completed license application or  
1282 | license renewal, and the fee, the agency shall initiate a level 1  
1283 | background screening as provided under chapter 435 on the adult  
1284 | family-care home provider, the designated relief person, all  
1285 | adult household members, ~~and~~ all staff members, and any other  
1286 | person who provides personal services to residents or who have  
1287 | routine access to the adult family-care home.

1288 |       (a) Proof of compliance with level 1 screening standards  
1289 | which has been submitted within the previous 5 years to meet any  
1290 | facility or professional licensure requirements of the agency or  
1291 | the Department of Health satisfies the requirements of this  
1292 | subsection. Such proof must be accompanied, under penalty of  
1293 | perjury, by a copy of the person's current professional license  
1294 | and an affidavit of current compliance with the background  
1295 | screening requirements.

1296 |       (b) The person required to be screened must have been  
1297 | continuously employed in the same type of occupation for which  
1298 | the person is seeking employment without a breach in service that  
1299 | exceeds 180 days, and proof of compliance with the level 1  
1300 | screening requirement which is no more than 2 years old must be  
1301 | provided. Proof of compliance shall be provided directly from one  
1302 | employer or contractor to another, and not from the person  
1303 | screened. Upon request, a copy of screening results shall be  
1304 | provided to the person screened by the employer retaining  
1305 | documentation of the screening.

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1306 Section 23. Subsection (3) is added to section 429.69,  
1307 Florida Statutes, to read:

1308 429.69 Denial, revocation, and suspension of a license.--In  
1309 addition to the requirements of part II of chapter 408, the  
1310 agency may deny, suspend, and revoke a license for any of the  
1311 following reasons:

1312 (3) Failure of the adult family-care home provider who owns  
1313 or rents the home to live in the home.

1314 Section 24. Paragraph (b) of subsection (1) of section  
1315 429.73, Florida Statutes, is amended to read:

1316 429.73 Rules and standards relating to adult family-care  
1317 homes.--

1318 (1) The agency, in consultation with the department, may  
1319 adopt rules to administer the requirements of part II of chapter  
1320 408. The department, in consultation with the Department of  
1321 Health, the Department of Children and Family Services, and the  
1322 agency shall, by rule, establish minimum standards to ensure the  
1323 health, safety, and well-being of each resident in the adult  
1324 family-care home pursuant to this part. The rules must address:

1325 (b) Services that must be provided to all residents of an  
1326 adult family-care home and standards for such services, which  
1327 must include, but need not be limited to:

- 1328 1. Room and board.
- 1329 2. Assistance necessary to perform the activities of daily  
1330 living.
- 1331 3. Assistance necessary to administer medication.
- 1332 4. Supervision of residents.
- 1333 5. Health monitoring, including periodic assessments to  
1334 determine if the resident is competent to handle his or her

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1335 personal and financial affairs and, if not, whether a responsible  
1336 person such as a guardian, surrogate, or attorney in fact is  
1337 available to make decisions on behalf of the resident.

1338 6. Social and leisure activities.

1339 Section 25. Subsections (2) and (3) of section 435.03,  
1340 Florida Statutes, are amended to read:

1341 435.03 Level 1 screening standards.--

1342 (2) Any person for whom employment screening is required by  
1343 statute must not have been convicted of ~~found guilty of,~~  
1344 ~~regardless of adjudication,~~ or entered a plea of guilty or nolo  
1345 ~~contendere or guilty to,~~ regardless of adjudication, to any  
1346 offense prohibited under any of the following ~~provisions of the~~  
1347 ~~Florida~~ statutes or under any similar statute of another  
1348 jurisdiction:

1349 (a) Section 393.135, relating to sexual misconduct with  
1350 certain developmentally disabled clients and reporting of such  
1351 sexual misconduct.

1352 (b) Section 394.4593, relating to sexual misconduct with  
1353 certain mental health patients and reporting of such sexual  
1354 misconduct.

1355 (c) Section 415.111, relating to abuse, neglect, or  
1356 exploitation of a vulnerable adult.

1357 (d) Section 782.04, relating to murder.

1358 (e) Section 782.07, relating to manslaughter, aggravated  
1359 manslaughter of an elderly person or disabled adult, or  
1360 aggravated manslaughter of a child.

1361 (f) Section 782.071, relating to vehicular homicide.

1362 (g) Section 782.09, relating to killing of an unborn quick  
1363 child by injury to the mother.

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1364 (h) Section 784.011, relating to assault, if the victim of  
1365 the offense was a minor.

1366 (i) Section 784.021, relating to aggravated assault.

1367 (j) Section 784.03, relating to battery, if the victim of  
1368 the offense was a minor.

1369 (k) Section 784.045, relating to aggravated battery.

1370 (l) Section 787.01, relating to kidnapping.

1371 (m) Section 787.02, relating to false imprisonment.

1372 (n) Section 794.011, relating to sexual battery.

1373 (o) Former s. 794.041, relating to prohibited acts of  
1374 persons in familial or custodial authority.

1375 (p) Chapter 796, relating to prostitution.

1376 (q) Section 798.02, relating to lewd and lascivious  
1377 behavior.

1378 (r) Chapter 800, relating to lewdness and indecent  
1379 exposure.

1380 (s) Section 806.01, relating to arson.

1381 (t) Chapter 812, relating to theft, robbery, and related  
1382 crimes, if the offense was a felony.

1383 (u) Section 817.563, relating to fraudulent sale of  
1384 controlled substances, only if the offense was a felony.

1385 (v) Section 825.102, relating to abuse, aggravated abuse,  
1386 or neglect of an elderly person or disabled adult.

1387 (w) Section 825.1025, relating to lewd or lascivious  
1388 offenses committed upon or in the presence of an elderly person  
1389 or disabled adult.

1390 (x) Section 825.103, relating to exploitation of an elderly  
1391 person or disabled adult, if the offense was a felony.

1392 (y) Section 826.04, relating to incest.



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- 1393 (z) Section 827.03, relating to child abuse, aggravated  
1394 child abuse, or neglect of a child.
- 1395 (aa) Section 827.04, relating to contributing to the  
1396 delinquency or dependency of a child.
- 1397 (bb) Former s. 827.05, relating to negligent treatment of  
1398 children.
- 1399 (cc) Section 827.071, relating to sexual performance by a  
1400 child.
- 1401 (dd) Chapter 847, relating to obscene literature.
- 1402 (ee) Chapter 893, relating to drug abuse prevention and  
1403 control, only if the offense was a felony or if any other person  
1404 involved in the offense was a minor.
- 1405 (ff) Section 916.1075, relating to sexual misconduct with  
1406 certain forensic clients and reporting of such sexual misconduct.
- 1407 (3) Standards must also ensure that the person:
- 1408 (a) For employees and employers licensed or registered  
1409 pursuant to part II of chapter 408 ~~chapter 400 or chapter 429~~,  
1410 and for employees and employers of developmental disabilities  
1411 institutions as defined in s. 393.063, ~~intermediate care~~  
1412 ~~facilities for the developmentally disabled as defined in s.~~  
1413 ~~400.960~~, and mental health treatment facilities as defined in s.  
1414 394.455, has not been convicted of, or entered a plea of guilty  
1415 or nolo contendere, regardless of adjudication, to offenses  
1416 prohibited under any of the following statutes or under any  
1417 similar statute of another jurisdiction: ~~meets the requirements~~  
1418 ~~of this chapter.~~
- 1419 1. Sections 409.920 and 409.9201, relating to Medicaid  
1420 fraud.
- 1421 2. Chapter 429, relating to assisted care communities.

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1422       3. Chapter 784, relating to assault, battery, and culpable  
1423 negligence, if the offense is a felony.

1424       4. Section 810.02, relating to burglary, if the offense is  
1425 a felony.

1426       5. Section 817.034, relating to communications fraud.

1427       6. Section 817.234, relating to fraudulent insurance  
1428 claims.

1429       7. Section 817.505, relating to patient brokering.

1430       8. Section 817.568, relating to identification theft.

1431       9. Sections 817.60 and 817.61, relating to credit cards, if  
1432 the offense is a felony.

1433       10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and  
1434 831.31 relating to forgery, uttering, and counterfeiting.

1435       (b) Has not committed an act that constitutes domestic  
1436 violence as defined in s. 741.28.

1437       Section 26. Subsections (2) and (4) of section 435.04,  
1438 Florida Statutes, are amended to read:

1439       435.04 Level 2 screening standards.--

1440       (2) The security background investigations under this  
1441 section must ensure that no persons subject to ~~the provisions of~~  
1442 this section have been convicted ~~found guilty of, regardless of~~  
1443 ~~adjudication,~~ or entered a plea of guilty or nolo contendere or  
1444 ~~guilty to,~~ regardless of adjudication, to any offense prohibited  
1445 under any of the following ~~provisions of the Florida statutes or~~  
1446 under any similar statute of another jurisdiction:

1447       (a) Section 393.135, relating to sexual misconduct with  
1448 certain developmentally disabled clients and reporting of such  
1449 sexual misconduct.

1450       (b) Section 394.4593, relating to sexual misconduct with

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- 1451 | certain mental health patients and reporting of such sexual  
1452 | misconduct.
- 1453 |       (c) Section 415.111, relating to adult abuse, neglect, or  
1454 | exploitation of aged persons or disabled adults.
- 1455 |       (d) Section 782.04, relating to murder.
- 1456 |       (e) Section 782.07, relating to manslaughter, aggravated  
1457 | manslaughter of an elderly person or disabled adult, or  
1458 | aggravated manslaughter of a child.
- 1459 |       (f) Section 782.071, relating to vehicular homicide.
- 1460 |       (g) Section 782.09, relating to killing of an unborn quick  
1461 | child by injury to the mother.
- 1462 |       (h) Section 784.011, relating to assault, if the victim of  
1463 | the offense was a minor.
- 1464 |       (i) Section 784.021, relating to aggravated assault.
- 1465 |       (j) Section 784.03, relating to battery, if the victim of  
1466 | the offense was a minor.
- 1467 |       (k) Section 784.045, relating to aggravated battery.
- 1468 |       (l) Section 784.075, relating to battery on a detention or  
1469 | commitment facility staff.
- 1470 |       (m) Section 787.01, relating to kidnapping.
- 1471 |       (n) Section 787.02, relating to false imprisonment.
- 1472 |       (o) Section 787.04(2), relating to taking, enticing, or  
1473 | removing a child beyond the state limits with criminal intent  
1474 | pending custody proceedings.
- 1475 |       (p) Section 787.04(3), relating to carrying a child beyond  
1476 | the state lines with criminal intent to avoid producing a child  
1477 | at a custody hearing or delivering the child to the designated  
1478 | person.
- 1479 |       (q) Section 790.115(1), relating to exhibiting firearms or

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1480 weapons within 1,000 feet of a school.

1481 (r) Section 790.115(2)(b), relating to possessing an

1482 electric weapon or device, destructive device, or other weapon on

1483 school property.

1484 (s) Section 794.011, relating to sexual battery.

1485 (t) Former s. 794.041, relating to prohibited acts of

1486 persons in familial or custodial authority.

1487 (u) Chapter 796, relating to prostitution.

1488 (v) Section 798.02, relating to lewd and lascivious

1489 behavior.

1490 (w) Chapter 800, relating to lewdness and indecent

1491 exposure.

1492 (x) Section 806.01, relating to arson.

1493 (y) Chapter 812, relating to theft, robbery, and related

1494 crimes, if the offense is a felony.

1495 (z) Section 817.563, relating to fraudulent sale of

1496 controlled substances, only if the offense was a felony.

1497 (aa) Section 825.102, relating to abuse, aggravated abuse,

1498 or neglect of an elderly person or disabled adult.

1499 (bb) Section 825.1025, relating to lewd or lascivious

1500 offenses committed upon or in the presence of an elderly person

1501 or disabled adult.

1502 (cc) Section 825.103, relating to exploitation of an

1503 elderly person or disabled adult, if the offense was a felony.

1504 (dd) Section 826.04, relating to incest.

1505 (ee) Section 827.03, relating to child abuse, aggravated

1506 child abuse, or neglect of a child.

1507 (ff) Section 827.04, relating to contributing to the

1508 delinquency or dependency of a child.

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- 1509 (gg) Former s. 827.05, relating to negligent treatment of  
1510 children.
- 1511 (hh) Section 827.071, relating to sexual performance by a  
1512 child.
- 1513 (ii) Section 843.01, relating to resisting arrest with  
1514 violence.
- 1515 (jj) Section 843.025, relating to depriving a law  
1516 enforcement, correctional, or correctional probation officer  
1517 means of protection or communication.
- 1518 (kk) Section 843.12, relating to aiding in an escape.
- 1519 (ll) Section 843.13, relating to aiding in the escape of  
1520 juvenile inmates in correctional institutions.
- 1521 (mm) Chapter 847, relating to obscene literature.
- 1522 (nn) Section 874.05(1), relating to encouraging or  
1523 recruiting another to join a criminal gang.
- 1524 (oo) Chapter 893, relating to drug abuse prevention and  
1525 control, only if the offense was a felony or if any other person  
1526 involved in the offense was a minor.
- 1527 (pp) Section 916.1075, relating to sexual misconduct with  
1528 certain forensic clients and reporting of such sexual misconduct.
- 1529 (qq) Section 944.35(3), relating to inflicting cruel or  
1530 inhuman treatment on an inmate resulting in great bodily harm.
- 1531 (rr) Section 944.46, relating to harboring, concealing, or  
1532 aiding an escaped prisoner.
- 1533 (ss) Section 944.47, relating to introduction of contraband  
1534 into a correctional facility.
- 1535 (tt) Section 985.701, relating to sexual misconduct in  
1536 juvenile justice programs.
- 1537 (uu) Section 985.711, relating to contraband introduced

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1538 into detention facilities.

1539 (4) Standards must also ensure that the person:

1540 (a) For employees or employers licensed or registered  
1541 pursuant to part II of chapter 408, and for employees and  
1542 employers of developmental disabilities institutions as defined  
1543 in s. 393.063, and mental health treatment facilities as defined  
1544 in s. 394.455, has not been convicted of, or entered a plea of  
1545 guilty or nolo contendere, regardless of adjudication, to  
1546 offenses prohibited under any of the following statutes or under  
1547 similar statutes of another jurisdiction: ~~chapter 400 or chapter~~  
1548 ~~429, does not have a confirmed report of abuse, neglect, or~~  
1549 ~~exploitation as defined in s. 415.102(6), which has been~~  
1550 ~~uncontested or upheld under s. 415.103.~~

1551 1. Sections 409.920 and 409.9201, relating to Medicaid  
1552 fraud.

1553 2. Chapter 429, relating to assisted care communities.

1554 3. Chapter 784, relating to assault, battery, and culpable  
1555 negligence, if the offense is a felony.

1556 4. Section 810.02, relating to burglary, if the offense is  
1557 a felony.

1558 5. Section 817.034, relating to communications fraud.

1559 6. Section 817.234, relating to fraudulent insurance  
1560 claims.

1561 7. Section 817.505, relating to patient brokering.

1562 8. Section 817.568, relating to identification theft.

1563 9. Sections 817.60 and 817.61, relating to credit cards, if  
1564 the offense is a felony.

1565 10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and  
1566 831.31 relating to forgery, uttering, and counterfeiting.

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1567 (b) Has not committed an act that constitutes domestic  
1568 violence as defined in s. 741.28 ~~s. 741.30~~.

1569 (c) Does not have a confirmed report of abuse, neglect, or  
1570 exploitation which has been uncontested or upheld under s.  
1571 415.103, if the person is an employee of a developmental  
1572 disabilities institution as defined in s. 393.063.

1573 Section 27. Subsection (13) of section 400.141, subsection  
1574 (3) of section 408.809, subsection (2) of section 429.08, and  
1575 subsection (5) of section 429.41, Florida Statutes, are repealed.

1576 Section 28. Paragraph (h) of subsection (3) of section  
1577 430.80, Florida Statutes, is amended to read:

1578 430.80 Implementation of a teaching nursing home pilot  
1579 project.--

1580 (3) To be designated as a teaching nursing home, a nursing  
1581 home licensee must, at a minimum:

1582 (h) Maintain insurance coverage pursuant to s. 400.141(19)  
1583 ~~s. 400.141(20)~~ or proof of financial responsibility in a minimum  
1584 amount of \$750,000. ~~Such~~ Proof of financial responsibility may  
1585 include:

1586 1. Maintaining an escrow account consisting of cash or  
1587 assets eligible for deposit in accordance with s. 625.52; or

1588 2. Obtaining and maintaining, pursuant to chapter 675, an  
1589 unexpired, irrevocable, nontransferable and nonassignable letter  
1590 of credit issued by a ~~any~~ bank or savings association organized  
1591 and existing under the laws of this state or a ~~any~~ bank or  
1592 savings association organized under the laws of the United States  
1593 that has its principal place of business in this state or has a  
1594 branch office which is authorized to receive deposits in this  
1595 state. The letter of credit shall be used to satisfy the

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1596 obligation of the facility to the claimant upon presentment of a  
1597 final judgment indicating liability and awarding damages to be  
1598 paid by the facility or upon presentment of a settlement  
1599 agreement signed by all parties if the ~~to the agreement when such~~  
1600 final judgment or settlement is a result of a liability claim  
1601 against the facility.

1602 Section 29. Subsection (13) of section 651.118, Florida  
1603 Statutes, is amended to read:

1604 651.118 Agency for Health Care Administration; certificates  
1605 of need; sheltered beds; community beds.--

1606 (13) Residents, ~~as defined in this chapter,~~ are not  
1607 considered new admissions for the purpose of s. 400.141(14)(d) ~~s.~~  
1608 400.141(15)(d).

1609 Section 30. The sum of \$391,768 is appropriated to the  
1610 Agency for Health Care Administration from the Health Care Trust  
1611 Fund for the 2008-2009 fiscal year, and 8.5 full-time equivalent  
1612 positions along with an associated salary rate of 295,840 are  
1613 authorized for the purpose of implementing the provisions of this  
1614 act.

1615 Section 31. This act shall take effect October 1, 2008.