

1 A bill to be entitled
2 An act relating to the inspection of nursing homes;
3 amending ss. 381.006, 381.0072, 381.0098, and 465.017,
4 F.S.; providing that nursing homes that are inspected by
5 the Agency for Health Care Administration are exempt from
6 inspection by the Department of Health; repealing s.
7 400.0060(1), F.S., to delete the definition of
8 "administrative assessment"; amending ss. 400.0061 and
9 400.0075, F.S.; conforming provisions to changes made by
10 the act relating to onsite administrative assessments;
11 amending s. 400.0065, F.S.; clarifying that any person may
12 make a complaint against a long-term care facility,
13 including an employee of that facility; amending ss.
14 400.0067, 400.0069, and 400.0071, F.S.; conforming
15 provisions to changes made by the act relating to onsite
16 administrative assessments; clarifying that any person may
17 make a complaint against a long-term care facility,
18 including an employee of that facility; repealing s.
19 400.0074, F.S., relating to onsite administrative
20 assessments of nursing homes, assisted living facilities,
21 and adult family-care homes conducted by the local
22 ombudsman council; amending s. 400.121, F.S.; conforming
23 provisions to changes made by the act relating to
24 classifications of deficiencies; amending ss. 400.071 and
25 400.141, F.S.; conforming provisions to changes made by
26 the act relating to classifications of deficiencies and
27 the Gold Seal Program; amending s. 400.19, F.S.;

28 conforming provisions to changes made by the act relating

29 | to classifications of deficiencies; repealing s. 400.191,
30 | F.S., relating to a requirement that the agency make
31 | available to the public, distribute, and post reports and
32 | records concerning licensed nursing homes operating in the
33 | state; amending s. 400.195, F.S.; revising agency
34 | reporting requirements; amending s. 400.23, F.S.;
35 | conforming provisions to changes made by the act relating
36 | to the Gold Seal Program and availability of certain
37 | reports and records; revising the classifications for
38 | deficiencies; revising agency standards for evaluation of
39 | a nursing home facility to determine licensure status;
40 | requiring the agency to indicate the level of seriousness
41 | of deficiencies under certain provisions of the United
42 | States Code; repealing s. 400.235, F.S., relating to
43 | nursing home quality and licensure status and the Gold
44 | Seal Program; amending s. 408.035, F.S.; conforming a
45 | provision to changes made by the act relating to the Gold
46 | Seal Program; repealing s. 408.036(3)(k), F.S., relating
47 | to projects exempt from review for a certificate of need,
48 | to remove an exemption for the addition of nursing home
49 | beds in certain facilities, including Gold Seal Program
50 | facilities; repealing s. 409.912(15)(d), F.S., relating to
51 | the requirement by the staff of the Comprehensive
52 | Assessment and Review for Long-Term Services to conduct an
53 | assessment and review of a sample of individuals whose
54 | nursing home stays are expected to exceed a certain number
55 | of days; amending s. 633.081, F.S.; providing that nursing
56 | homes that are inspected by the agency are exempt from

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57 inspection by the State Fire Marshal under certain
58 circumstances; providing an effective date.

59
60 Be It Enacted by the Legislature of the State of Florida:

61
62 Section 1. Subsection (16) of section 381.006, Florida
63 Statutes, is amended to read:

64 381.006 Environmental health.--The department shall
65 conduct an environmental health program as part of fulfilling
66 the state's public health mission. The purpose of this program
67 is to detect and prevent disease caused by natural and manmade
68 factors in the environment. The environmental health program
69 shall include, but not be limited to:

70 (16) A group-care-facilities function, where a group care
71 facility means any public or private school, housing, building
72 or buildings, section of a building, or distinct part of a
73 building or other place, whether operated for profit or not,
74 which undertakes, through its ownership or management, to
75 provide one or more personal services, care, protection, and
76 supervision to persons who require such services and who are not
77 related to the owner or administrator. The department may adopt
78 rules necessary to protect the health and safety of residents,
79 staff, and patrons of group care facilities, such as child care
80 facilities, family day care homes, assisted living facilities,
81 adult day care centers, adult family care homes, hospices,
82 residential treatment facilities, crisis stabilization units,
83 pediatric extended care centers, intermediate care facilities
84 for the developmentally disabled, group care homes, and, jointly

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85 | with the Department of Education, private and public schools.
86 | These rules may include definitions of terms; provisions
87 | relating to operation and maintenance of facilities, buildings,
88 | grounds, equipment, furnishings, and occupant-space
89 | requirements; lighting; heating, cooling, and ventilation; food
90 | service; water supply and plumbing; sewage; sanitary facilities;
91 | insect and rodent control; garbage; safety; personnel health,
92 | hygiene, and work practices; and other matters the department
93 | finds are appropriate or necessary to protect the safety and
94 | health of the residents, staff, or patrons. The department may
95 | not adopt rules that conflict with rules adopted by the
96 | licensing or certifying agency. The department may enter and
97 | inspect at reasonable hours to determine compliance with
98 | applicable statutes or rules. However, nursing homes that are
99 | licensed under part II of chapter 400 and inspected by the
100 | Agency for Health Care Administration as part of state licensing
101 | requirements and federal certification requirements are exempt
102 | from inspection by the department. In addition to any sanctions
103 | that the department may impose for violations of rules adopted
104 | under this section, the department shall also report such
105 | violations to any agency responsible for licensing or certifying
106 | the group care facility. The licensing or certifying agency may
107 | also impose any sanction based solely on the findings of the
108 | department.

109 |
110 | The department may adopt rules to carry out the provisions of
111 | this section.

112 | Section 2. Paragraph (a) of subsection (2) of section

113 381.0072, Florida Statutes, is amended to read:

114 381.0072 Food service protection.--It shall be the duty of
 115 the Department of Health to adopt and enforce sanitation rules
 116 consistent with law to ensure the protection of the public from
 117 food-borne illness. These rules shall provide the standards and
 118 requirements for the storage, preparation, serving, or display
 119 of food in food service establishments as defined in this
 120 section and which are not permitted or licensed under chapter
 121 500 or chapter 509.

122 (2) DUTIES.--

123 (a) The department shall adopt rules, including
 124 definitions of terms which are consistent with law prescribing
 125 minimum sanitation standards and manager certification
 126 requirements as prescribed in s. 509.039, and which shall be
 127 enforced in food service establishments as defined in this
 128 section. The sanitation standards must address the construction,
 129 operation, and maintenance of the establishment; lighting,
 130 ventilation, laundry rooms, lockers, use and storage of toxic
 131 materials and cleaning compounds, and first-aid supplies; plan
 132 review; design, construction, installation, location,
 133 maintenance, sanitation, and storage of food equipment and
 134 utensils; employee training, health, hygiene, and work
 135 practices; food supplies, preparation, storage, transportation,
 136 and service, including access to the areas where food is stored
 137 or prepared; and sanitary facilities and controls, including
 138 water supply and sewage disposal; plumbing and toilet
 139 facilities; garbage and refuse collection, storage, and
 140 disposal; and vermin control. Public and private schools, if the

141 food service is operated by school employees; hospitals licensed
 142 under chapter 395; nursing homes licensed under part II of
 143 chapter 400; child care facilities as defined in s. 402.301;
 144 residential facilities colocated with a nursing home or
 145 hospital, if all food is prepared in a central kitchen that
 146 complies with nursing or hospital regulations; and bars and
 147 lounges, as defined by department rule, are exempt from the
 148 rules developed for manager certification. The department shall
 149 administer a comprehensive inspection, monitoring, and sampling
 150 program to ensure such standards are maintained; however,
 151 nursing homes that are licensed under part II of chapter 400 and
 152 inspected by the Agency for Health Care Administration as part
 153 of state licensing requirements and federal certification
 154 requirements are exempt from inspection by the department. With
 155 respect to food service establishments permitted or licensed
 156 under chapter 500 or chapter 509, the department shall assist
 157 the Division of Hotels and Restaurants of the Department of
 158 Business and Professional Regulation and the Department of
 159 Agriculture and Consumer Services with rulemaking by providing
 160 technical information.

161 Section 3. Paragraph (b) of subsection (6) of section
 162 381.0098, Florida Statutes, is amended to read:

163 381.0098 Biomedical waste.--

164 (6) TRACKING SYSTEM.--The department shall adopt rules for
 165 a system of tracking biomedical waste.

166 (b) Inspections may be conducted for purposes of
 167 compliance with this section. Any such inspection shall be
 168 commenced and completed with reasonable promptness. However,

169 nursing homes that are licensed under part II of chapter 400 and
 170 inspected by the Agency for Health Care Administration as part
 171 of state licensing requirements and federal certification
 172 requirements are exempt from inspection by the department. If
 173 the officer, employee, or representative of the department
 174 obtains any samples, prior to leaving the premises he or she
 175 shall give the owner, operator, or agent in charge a receipt
 176 describing the sample obtained.

177 Section 4. Subsection (1) of section 400.0060, Florida
 178 Statutes, is repealed.

179 Section 5. Subsection (2) of section 400.0061, Florida
 180 Statutes, is amended to read:

181 400.0061 Legislative findings and intent; long-term care
 182 facilities.--

183 (2) It is the intent of the Legislature, therefore, to
 184 utilize voluntary citizen ombudsman councils under the
 185 leadership of the ombudsman, and through them to operate an
 186 ombudsman program which shall, without interference by any
 187 executive agency, undertake to discover, investigate, and
 188 determine the presence of conditions or individuals which
 189 constitute a threat to the rights, health, safety, or welfare of
 190 the residents of long-term care facilities. To ensure that the
 191 effectiveness and efficiency of such investigations are not
 192 impeded by advance notice or delay, the Legislature intends that
 193 the ombudsman and ombudsman councils and their designated
 194 representatives not be required to obtain warrants in order to
 195 enter into or conduct investigations ~~or onsite administrative~~
 196 ~~assessments~~ of long-term care facilities. It is the further

197 | intent of the Legislature that the environment in long-term care
 198 | facilities be conducive to the dignity and independence of
 199 | residents and that investigations by ombudsman councils shall
 200 | further the enforcement of laws, rules, and regulations that
 201 | safeguard the health, safety, and welfare of residents.

202 | Section 6. Paragraph (a) of subsection (1) of section
 203 | 400.0065, Florida Statutes, is amended to read:

204 | 400.0065 State Long-Term Care Ombudsman; duties and
 205 | responsibilities.--

206 | (1) The purpose of the Office of State Long-Term Care
 207 | Ombudsman shall be to:

208 | (a) Identify, investigate, and resolve complaints made by
 209 | or on behalf of residents of long-term care facilities,
 210 | regardless of the person who makes the complaint, including an
 211 | employee of the long-term care facility, relating to actions or
 212 | omissions by providers or representatives of providers of long-
 213 | term care services, other public or private agencies, guardians,
 214 | or representative payees which ~~that~~ may adversely affect the
 215 | health, safety, welfare, or rights of the residents.

216 | Section 7. Paragraphs (b) and (d) of subsection (2) of
 217 | section 400.0067, Florida Statutes, are amended to read:

218 | 400.0067 State Long-Term Care Ombudsman Council; duties;
 219 | membership.--

220 | (2) The State Long-Term Care Ombudsman Council shall:

221 | (b) Serve as an appellate body in receiving from the local
 222 | councils complaints not resolved at the local level. Any
 223 | individual member or members of the state council may enter any
 224 | long-term care facility involved in an appeal, ~~pursuant to the~~

225 ~~conditions specified in s. 400.0074(2).~~

226 (d) Assist the ombudsman in eliciting, receiving,
 227 responding to, and resolving complaints made by or on behalf of
 228 residents regardless of the person who makes the complaint,
 229 including an employee of a long-term care facility.

230 Section 8. Paragraph (c) of subsection (2) and subsection
 231 (3) of section 400.0069, Florida Statutes, are amended to read:

232 400.0069 Local long-term care ombudsman councils; duties;
 233 membership.--

234 (2) The duties of the local councils are to:

235 (c) Elicit, receive, investigate, respond to, and resolve
 236 complaints made by or on behalf of residents regardless of the
 237 person who makes the complaint, including an employee of a long-
 238 term care facility.

239 (3) In order to carry out the duties specified in
 240 subsection (2), a member of a local council is authorized to
 241 enter any long-term care facility without notice or first
 242 obtaining a warrant, ~~subject to the provisions of s.~~
 243 ~~400.0074(2).~~

244 Section 9. Section 400.0071, Florida Statutes, is amended
 245 to read:

246 400.0071 State Long-Term Care Ombudsman Program complaint
 247 procedures.--The department shall adopt rules implementing state
 248 and local complaint procedures. The rules must include
 249 procedures for:

250 (1) Receiving complaints against a long-term care facility
 251 or an employee of a long-term care facility regardless of the
 252 person who makes the complaint.

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253 (2) Conducting investigations of a long-term care facility
 254 or an employee of a long-term care facility subsequent to
 255 receiving a complaint.

256 ~~(3) Conducting onsite administrative assessments of long-~~
 257 ~~term care facilities.~~

258 Section 10. Section 400.0074, Florida Statutes, is
 259 repealed.

260 Section 11. Paragraph (a) of subsection (1) of section
 261 400.0075, Florida Statutes, is amended to read:

262 400.0075 Complaint notification and resolution
 263 procedures.--

264 (1)(a) Any complaint or problem verified by an ombudsman
 265 council as a result of an investigation ~~or onsite administrative~~
 266 ~~assessment~~, which complaint or problem is determined to require
 267 remedial action by the local council, shall be identified and
 268 brought to the attention of the long-term care facility
 269 administrator in writing. Upon receipt of such document, the
 270 administrator, with the concurrence of the local council chair,
 271 shall establish target dates for taking appropriate remedial
 272 action. If, by the target date, the remedial action is not
 273 completed or forthcoming, the local council chair may, after
 274 obtaining approval from the ombudsman and a majority of the
 275 members of the local council:

276 1. Extend the target date if the chair has reason to
 277 believe such action would facilitate the resolution of the
 278 complaint.

279 2. In accordance with s. 400.0077, publicize the
 280 complaint, the recommendations of the council, and the response

281 of the long-term care facility.

282 3. Refer the complaint to the state council.

283 Section 12. Subsections (3), (4), and (5) of section
284 400.071, Florida Statutes, are amended to read:

285 400.071 Application for license.--

286 ~~(3) It is the intent of the Legislature that, in reviewing~~
287 ~~a certificate of need application to add beds to an existing~~
288 ~~nursing home facility, preference be given to the application of~~
289 ~~a licensee who has been awarded a Gold Seal as provided for in~~
290 ~~s. 400.235, if the applicant otherwise meets the review criteria~~
291 ~~specified in s. 408.035.~~

292 (3)~~(4)~~ The agency may develop an abbreviated survey for
293 licensure renewal applicable to a licensee that has continuously
294 operated as a nursing facility since 1991 or earlier, has
295 operated under the same management for at least the preceding 30
296 months, and has had during the preceding 30 months no immediate
297 jeopardy or actual harm that is not immediate jeopardy class I
298 ~~or class II~~ deficiencies.

299 (4)~~(5)~~ As a condition of licensure, each facility must
300 establish and submit with its application a plan for quality
301 assurance and for conducting risk management.

302 Section 13. Subsection (3) of section 400.121, Florida
303 Statutes, is amended to read:

304 400.121 Denial, suspension, revocation of license;
305 administrative fines; procedure; order to increase staffing.--

306 (3) The agency shall revoke or deny a nursing home license
307 if the licensee or controlling interest operates a facility in
308 this state that:

309 (a) Has had two moratoria issued pursuant to this part or
 310 part II of chapter 408 which are imposed by final order for
 311 substandard quality of care, as defined by 42 C.F.R. part 483,
 312 within any 30-month period;

313 (b) Is conditionally licensed for 180 or more continuous
 314 days;

315 (c) Is cited for two immediate jeopardy ~~class I~~
 316 deficiencies arising from unrelated circumstances during the
 317 same survey or investigation; or

318 (d) Is cited for two immediate jeopardy ~~class I~~
 319 deficiencies arising from separate surveys or investigations
 320 within a 30-month period.

321

322 The licensee may present factors in mitigation of revocation,
 323 and the agency may make a determination not to revoke a license
 324 based upon a showing that revocation is inappropriate under the
 325 circumstances.

326 Section 14. Section 400.141, Florida Statutes, is amended
 327 to read:

328 400.141 Administration and management of nursing home
 329 facilities.--Every licensed facility shall comply with all
 330 applicable standards and rules of the agency and shall:

331 (1) Be under the administrative direction and charge of a
 332 licensed administrator.

333 (2) Appoint a medical director licensed pursuant to
 334 chapter 458 or chapter 459. The agency may establish by rule
 335 more specific criteria for the appointment of a medical
 336 director.

337 (3) Have available the regular, consultative, and
338 emergency services of physicians licensed by the state.

339 (4) Provide for resident use of a community pharmacy as
340 specified in s. 400.022(1)(q). Any other law to the contrary
341 notwithstanding, a registered pharmacist licensed in Florida,
342 that is under contract with a facility licensed under this
343 chapter or chapter 429, shall repackage a nursing facility
344 resident's bulk prescription medication which has been packaged
345 by another pharmacist licensed in any state in the United States
346 into a unit dose system compatible with the system used by the
347 nursing facility, if the pharmacist is requested to offer such
348 service. In order to be eligible for the repackaging, a resident
349 or the resident's spouse must receive prescription medication
350 benefits provided through a former employer as part of his or
351 her retirement benefits, a qualified pension plan as specified
352 in s. 4972 of the Internal Revenue Code, a federal retirement
353 program as specified under 5 C.F.R. s. 831, or a long-term care
354 policy as defined in s. 627.9404(1). A pharmacist who correctly
355 repackages and relabels the medication and the nursing facility
356 which correctly administers such repackaged medication under the
357 provisions of this subsection shall not be held liable in any
358 civil or administrative action arising from the repackaging. In
359 order to be eligible for the repackaging, a nursing facility
360 resident for whom the medication is to be repackaged shall sign
361 an informed consent form provided by the facility which includes
362 an explanation of the repackaging process and which notifies the
363 resident of the immunities from liability provided herein. A
364 pharmacist who repackages and relabels prescription medications,

365 as authorized under this subsection, may charge a reasonable fee
 366 for costs resulting from the implementation of this provision.

367 (5) Provide for the access of the facility residents to
 368 dental and other health-related services, recreational services,
 369 rehabilitative services, and social work services appropriate to
 370 their needs and conditions and not directly furnished by the
 371 licensee. When a geriatric outpatient nurse clinic is conducted
 372 in accordance with rules adopted by the agency, outpatients
 373 attending such clinic shall not be counted as part of the
 374 general resident population of the nursing home facility, nor
 375 shall the nursing staff of the geriatric outpatient clinic be
 376 counted as part of the nursing staff of the facility, until the
 377 outpatient clinic load exceeds 15 a day.

378 (6) Be allowed and encouraged by the agency to provide
 379 other needed services under certain conditions. If the facility
 380 has a standard licensure status, and has had no immediate
 381 jeopardy or actual harm that is not immediate jeopardy class I
 382 or class II deficiencies during the past 2 years ~~or has been~~
 383 ~~awarded a Gold Seal under the program established in s. 400.235,~~
 384 it may be encouraged by the agency to provide services,
 385 including, but not limited to, respite and adult day services,
 386 which enable individuals to move in and out of the facility. A
 387 facility is not subject to any additional licensure requirements
 388 for providing these services. Respite care may be offered to
 389 persons in need of short-term or temporary nursing home
 390 services. Respite care must be provided in accordance with this
 391 part and rules adopted by the agency. However, the agency shall,
 392 by rule, adopt modified requirements for resident assessment,

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393 resident care plans, resident contracts, physician orders, and
394 other provisions, as appropriate, for short-term or temporary
395 nursing home services. The agency shall allow for shared
396 programming and staff in a facility which meets minimum
397 standards and offers services pursuant to this subsection, but,
398 if the facility is cited for deficiencies in patient care, may
399 require additional staff and programs appropriate to the needs
400 of service recipients. A person who receives respite care may
401 not be counted as a resident of the facility for purposes of the
402 facility's licensed capacity unless that person receives 24-hour
403 respite care. A person receiving either respite care for 24
404 hours or longer or adult day services must be included when
405 calculating minimum staffing for the facility. Any costs and
406 revenues generated by a nursing home facility from
407 nonresidential programs or services shall be excluded from the
408 calculations of Medicaid per diems for nursing home
409 institutional care reimbursement.

410 (7) If the facility has a standard license ~~or is a Gold~~
411 ~~Seal facility~~, exceeds the minimum required hours of licensed
412 nursing and certified nursing assistant direct care per resident
413 per day, and is part of a continuing care facility licensed
414 under chapter 651 or a retirement community that offers other
415 services pursuant to part III of this chapter or part I or part
416 III of chapter 429 on a single campus, be allowed to share
417 programming and staff. At the time of inspection and in the
418 semiannual report required pursuant to subsection (15), a
419 continuing care facility or retirement community that uses this
420 option must demonstrate through staffing records that minimum

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421 staffing requirements for the facility were met. Licensed nurses
422 and certified nursing assistants who work in the nursing home
423 facility may be used to provide services elsewhere on campus if
424 the facility exceeds the minimum number of direct care hours
425 required per resident per day and the total number of residents
426 receiving direct care services from a licensed nurse or a
427 certified nursing assistant does not cause the facility to
428 violate the staffing ratios required under s. 400.23(3)(a).
429 Compliance with the minimum staffing ratios shall be based on
430 total number of residents receiving direct care services,
431 regardless of where they reside on campus. If the facility
432 receives a conditional license, it may not share staff until the
433 conditional license status ends. This subsection does not
434 restrict the agency's authority under federal or state law to
435 require additional staff if a facility is cited for deficiencies
436 in care which are caused by an insufficient number of certified
437 nursing assistants or licensed nurses. The agency may adopt
438 rules for the documentation necessary to determine compliance
439 with this provision.

440 (8) Maintain the facility premises and equipment and
441 conduct its operations in a safe and sanitary manner.

442 (9) If the licensee furnishes food service, provide a
443 wholesome and nourishing diet sufficient to meet generally
444 accepted standards of proper nutrition for its residents and
445 provide such therapeutic diets as may be prescribed by attending
446 physicians. In making rules to implement this subsection, the
447 agency shall be guided by standards recommended by nationally
448 recognized professional groups and associations with knowledge

449 of dietetics.

450 (10) Keep full records of resident admissions and
451 discharges; medical and general health status, including medical
452 records, personal and social history, and identity and address
453 of next of kin or other persons who may have responsibility for
454 the affairs of the residents; and individual resident care plans
455 including, but not limited to, prescribed services, service
456 frequency and duration, and service goals. The records shall be
457 open to inspection by the agency.

458 (11) Keep such fiscal records of its operations and
459 conditions as may be necessary to provide information pursuant
460 to this part.

461 (12) Furnish copies of personnel records for employees
462 affiliated with such facility, to any other facility licensed by
463 this state requesting this information pursuant to this part.
464 Such information contained in the records may include, but is
465 not limited to, disciplinary matters and any reason for
466 termination. Any facility releasing such records pursuant to
467 this part shall be considered to be acting in good faith and may
468 not be held liable for information contained in such records,
469 absent a showing that the facility maliciously falsified such
470 records.

471 (13) Publicly display a poster provided by the agency
472 containing the names, addresses, and telephone numbers for the
473 state's abuse hotline, the State Long-Term Care Ombudsman, the
474 Agency for Health Care Administration consumer hotline, the
475 Advocacy Center for Persons with Disabilities, the Florida
476 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,

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477 with a clear description of the assistance to be expected from
478 each.

479 (14) Submit to the agency the information specified in s.
480 400.071(1)(b) for a management company within 30 days after the
481 effective date of the management agreement.

482 (15) Submit semiannually to the agency, or more frequently
483 if requested by the agency, information regarding facility
484 staff-to-resident ratios, staff turnover, and staff stability,
485 including information regarding certified nursing assistants,
486 licensed nurses, the director of nursing, and the facility
487 administrator. For purposes of this reporting:

488 (a) Staff-to-resident ratios must be reported in the
489 categories specified in s. 400.23(3)(a) and applicable rules.
490 The ratio must be reported as an average for the most recent
491 calendar quarter.

492 (b) Staff turnover must be reported for the most recent
493 12-month period ending on the last workday of the most recent
494 calendar quarter prior to the date the information is submitted.
495 The turnover rate must be computed quarterly, with the annual
496 rate being the cumulative sum of the quarterly rates. The
497 turnover rate is the total number of terminations or separations
498 experienced during the quarter, excluding any employee
499 terminated during a probationary period of 3 months or less,
500 divided by the total number of staff employed at the end of the
501 period for which the rate is computed, and expressed as a
502 percentage.

503 (c) The formula for determining staff stability is the
504 total number of employees that have been employed for more than

505 12 months, divided by the total number of employees employed at
 506 the end of the most recent calendar quarter, and expressed as a
 507 percentage.

508 (d) A nursing facility that has failed to comply with
 509 state minimum-staffing requirements for 2 consecutive days is
 510 prohibited from accepting new admissions until the facility has
 511 achieved the minimum-staffing requirements for a period of 6
 512 consecutive days. For the purposes of this paragraph, any person
 513 who was a resident of the facility and was absent from the
 514 facility for the purpose of receiving medical care at a separate
 515 location or was on a leave of absence is not considered a new
 516 admission. Failure to impose such an admissions moratorium
 517 constitutes an actual harm that is not immediate jeopardy a
 518 ~~class II~~ deficiency.

519 (e) A nursing facility which does not have a conditional
 520 license may be cited for failure to comply with the standards in
 521 s. 400.23(3)(a)1.a. only if it has failed to meet those
 522 standards on 2 consecutive days or if it has failed to meet at
 523 least 97 percent of those standards on any one day.

524 (f) A facility which has a conditional license must be in
 525 compliance with the standards in s. 400.23(3)(a) at all times.

526
 527 Nothing in this section shall limit the agency's ability to
 528 impose a deficiency or take other actions if a facility does not
 529 have enough staff to meet the residents' needs.

530 (16) Report monthly the number of vacant beds in the
 531 facility which are available for resident occupancy on the day
 532 the information is reported.

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533 (17) Notify a licensed physician when a resident exhibits
534 signs of dementia or cognitive impairment or has a change of
535 condition in order to rule out the presence of an underlying
536 physiological condition that may be contributing to such
537 dementia or impairment. The notification must occur within 30
538 days after the acknowledgment of such signs by facility staff.
539 If an underlying condition is determined to exist, the facility
540 shall arrange, with the appropriate health care provider, the
541 necessary care and services to treat the condition.

542 (18) If the facility implements a dining and hospitality
543 attendant program, ensure that the program is developed and
544 implemented under the supervision of the facility director of
545 nursing. A licensed nurse, licensed speech or occupational
546 therapist, or a registered dietitian must conduct training of
547 dining and hospitality attendants. A person employed by a
548 facility as a dining and hospitality attendant must perform
549 tasks under the direct supervision of a licensed nurse.

550 (19) Report to the agency any filing for bankruptcy
551 protection by the facility or its parent corporation,
552 divestiture or spin-off of its assets, or corporate
553 reorganization within 30 days after the completion of such
554 activity.

555 (20) Maintain general and professional liability insurance
556 coverage that is in force at all times. In lieu of general and
557 professional liability insurance coverage, a state-designated
558 teaching nursing home and its affiliated assisted living
559 facilities created under s. 430.80 may demonstrate proof of
560 financial responsibility as provided in s. 430.80(3)(h).

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561 (21) Maintain in the medical record for each resident a
562 daily chart of certified nursing assistant services provided to
563 the resident. The certified nursing assistant who is caring for
564 the resident must complete this record by the end of his or her
565 shift. This record must indicate assistance with activities of
566 daily living, assistance with eating, and assistance with
567 drinking, and must record each offering of nutrition and
568 hydration for those residents whose plan of care or assessment
569 indicates a risk for malnutrition or dehydration.

570 (22) Before November 30 of each year, subject to the
571 availability of an adequate supply of the necessary vaccine,
572 provide for immunizations against influenza viruses to all its
573 consenting residents in accordance with the recommendations of
574 the United States Centers for Disease Control and Prevention,
575 subject to exemptions for medical contraindications and
576 religious or personal beliefs. Subject to these exemptions, any
577 consenting person who becomes a resident of the facility after
578 November 30 but before March 31 of the following year must be
579 immunized within 5 working days after becoming a resident.
580 Immunization shall not be provided to any resident who provides
581 documentation that he or she has been immunized as required by
582 this subsection. This subsection does not prohibit a resident
583 from receiving the immunization from his or her personal
584 physician if he or she so chooses. A resident who chooses to
585 receive the immunization from his or her personal physician
586 shall provide proof of immunization to the facility. The agency
587 may adopt and enforce any rules necessary to comply with or
588 implement this subsection.

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589 (23) Assess all residents for eligibility for pneumococcal
590 polysaccharide vaccination (PPV) and vaccinate residents when
591 indicated within 60 days after the effective date of this act in
592 accordance with the recommendations of the United States Centers
593 for Disease Control and Prevention, subject to exemptions for
594 medical contraindications and religious or personal beliefs.
595 Residents admitted after the effective date of this act shall be
596 assessed within 5 working days of admission and, when indicated,
597 vaccinated within 60 days in accordance with the recommendations
598 of the United States Centers for Disease Control and Prevention,
599 subject to exemptions for medical contraindications and
600 religious or personal beliefs. Immunization shall not be
601 provided to any resident who provides documentation that he or
602 she has been immunized as required by this subsection. This
603 subsection does not prohibit a resident from receiving the
604 immunization from his or her personal physician if he or she so
605 chooses. A resident who chooses to receive the immunization from
606 his or her personal physician shall provide proof of
607 immunization to the facility. The agency may adopt and enforce
608 any rules necessary to comply with or implement this subsection.

609 (24) Annually encourage and promote to its employees the
610 benefits associated with immunizations against influenza viruses
611 in accordance with the recommendations of the United States
612 Centers for Disease Control and Prevention. The agency may adopt
613 and enforce any rules necessary to comply with or implement this
614 subsection.

615

616 ~~Facilities that have been awarded a Gold Seal under the program~~

617 ~~established in s. 400.235 may develop a plan to provide~~
 618 ~~certified nursing assistant training as prescribed by federal~~
 619 ~~regulations and state rules and may apply to the agency for~~
 620 ~~approval of their program.~~

621 Section 15. Subsection (3) of section 400.19, Florida
 622 Statutes, is amended to read:

623 400.19 Right of entry and inspection.--

624 (3) The agency shall every 15 months conduct at least one
 625 unannounced inspection to determine compliance by the licensee
 626 with statutes, with federal requirements, and with rules adopted
 627 ~~promulgated~~ under the provisions of those statutes and federal
 628 requirements, governing minimum standards of construction,
 629 quality and adequacy of care, and rights of residents. The
 630 survey shall be conducted every 6 months for the next 2-year
 631 period if the facility has been cited for an immediate jeopardy
 632 ~~a class I~~ deficiency, has been cited for two or more actual harm
 633 that is not immediate jeopardy ~~class II~~ deficiencies arising
 634 from separate surveys or investigations within a 60-day period,
 635 or has had three or more substantiated complaints within a 6-
 636 month period, each resulting in at least one immediate jeopardy
 637 or actual harm that is not immediate jeopardy ~~class I or class~~
 638 ~~II~~ deficiency. In addition to any other fees or fines in this
 639 part, the agency shall assess a fine for each facility that is
 640 subject to the 6-month survey cycle. The fine for the 2-year
 641 period shall be \$6,000, one-half to be paid at the completion of
 642 each survey. The agency may adjust this fine by the change in
 643 the Consumer Price Index, based on the 12 months immediately
 644 preceding the increase, to cover the cost of the additional

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645 surveys. The agency shall verify through subsequent inspection
646 that any deficiency identified during inspection is corrected.
647 However, the agency may verify the correction of a ~~class III or~~
648 ~~class IV~~ deficiency with no actual harm and with or without the
649 potential for minimal harm that is unrelated to resident rights
650 or resident care without reinspecting the facility if adequate
651 written documentation has been received from the facility, which
652 provides assurance that the deficiency has been corrected. The
653 giving or causing to be given of advance notice of such
654 unannounced inspections by an employee of the agency to any
655 unauthorized person shall constitute cause for suspension of not
656 fewer than 5 working days according to the provisions of chapter
657 110.

658 Section 16. Section 400.191, Florida Statutes, is
659 repealed.

660 Section 17. Paragraph (d) of subsection (1) of section
661 400.195, Florida Statutes, is amended to read:

662 400.195 Agency reporting requirements.--

663 (1) For the period beginning June 30, 2001, and ending
664 June 30, 2005, the Agency for Health Care Administration shall
665 provide a report to the Governor, the President of the Senate,
666 and the Speaker of the House of Representatives with respect to
667 nursing homes. The first report shall be submitted no later than
668 December 30, 2002, and subsequent reports shall be submitted
669 every 6 months thereafter. The report shall identify facilities
670 based on their ownership characteristics, size, business
671 structure, for-profit or not-for-profit status, and any other
672 characteristics the agency determines useful in analyzing the

673 varied segments of the nursing home industry and shall report:
 674 (d) Information regarding deficiencies cited, including
 675 ~~information used to develop the Nursing Home Guide WATCH LIST~~
 676 ~~pursuant to s. 400.191, and applicable rules,~~ a summary of data
 677 generated on nursing homes by Centers for Medicare and Medicaid
 678 Services Nursing Home Quality Information Project, and
 679 information collected pursuant to s. 400.147(9), relating to
 680 litigation.

681 Section 18. Subsections (2), (7), and (8) of section
 682 400.23, Florida Statutes, are amended to read:

683 400.23 Rules; evaluation and deficiencies; licensure
 684 status.--

685 (2) Pursuant to the intention of the Legislature, the
 686 agency, in consultation with the Department of Health and the
 687 Department of Elderly Affairs, shall adopt and enforce rules to
 688 implement this part and part II of chapter 408, which shall
 689 include reasonable and fair criteria in relation to:

690 (a) The location of the facility and housing conditions
 691 that will ensure the health, safety, and comfort of residents,
 692 including an adequate call system. In making such rules, the
 693 agency shall be guided by criteria recommended by nationally
 694 recognized reputable professional groups and associations with
 695 knowledge of such subject matters. The agency shall update or
 696 revise such criteria as the need arises. The agency may require
 697 alterations to a building if it determines that an existing
 698 condition constitutes a distinct hazard to life, health, or
 699 safety. In performing any inspections of facilities authorized
 700 by this part or part II of chapter 408, the agency may enforce

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701 the special-occupancy provisions of the Florida Building Code
702 and the Florida Fire Prevention Code which apply to nursing
703 homes. Residents or their representatives shall be able to
704 request a change in the placement of the bed in their room,
705 provided that at admission they are presented with a room that
706 meets requirements of the Florida Building Code. The location of
707 a bed may be changed if the requested placement does not
708 infringe on the resident's roommate or interfere with the
709 resident's care or safety as determined by the care planning
710 team in accordance with facility policies and procedures. In
711 addition, the bed placement may not be used as a restraint. Each
712 facility shall maintain a log of resident rooms with beds that
713 are not in strict compliance with the Florida Building Code in
714 order for such log to be used by surveyors and nurse monitors
715 during inspections and visits. A resident or resident
716 representative who requests that a bed be moved shall sign a
717 statement indicating that he or she understands the room will
718 not be in compliance with the Florida Building Code, but they
719 would prefer to exercise their right to self-determination. The
720 statement must be retained as part of the resident's care plan.
721 Any facility that offers this option must submit a letter signed
722 by the nursing home administrator of record to the agency
723 notifying it of this practice with a copy of the policies and
724 procedures of the facility. The agency is directed to provide
725 assistance to the Florida Building Commission in updating the
726 construction standards of the code relative to nursing homes.

727 (b) The number and qualifications of all personnel,
728 including management, medical, nursing, and other professional

729 personnel, and nursing assistants, orderlies, and support
 730 personnel, having responsibility for any part of the care given
 731 residents.

732 (c) All sanitary conditions within the facility and its
 733 surroundings, including water supply, sewage disposal, food
 734 handling, and general hygiene which will ensure the health and
 735 comfort of residents.

736 (d) The equipment essential to the health and welfare of
 737 the residents.

738 (e) A uniform accounting system.

739 (f) The care, treatment, and maintenance of residents and
 740 measurement of the quality and adequacy thereof, based on rules
 741 developed under this chapter and the Omnibus Budget
 742 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
 743 1987), Title IV (Medicare, Medicaid, and Other Health-Related
 744 Programs), Subtitle C (Nursing Home Reform), as amended.

745 (g) The preparation and annual update of a comprehensive
 746 emergency management plan. The agency shall adopt rules
 747 establishing minimum criteria for the plan after consultation
 748 with the Department of Community Affairs. At a minimum, the
 749 rules must provide for plan components that address emergency
 750 evacuation transportation; adequate sheltering arrangements;
 751 postdisaster activities, including emergency power, food, and
 752 water; postdisaster transportation; supplies; staffing;
 753 emergency equipment; individual identification of residents and
 754 transfer of records; and responding to family inquiries. The
 755 comprehensive emergency management plan is subject to review and
 756 approval by the local emergency management agency. During its

757 review, the local emergency management agency shall ensure that
 758 the following agencies, at a minimum, are given the opportunity
 759 to review the plan: the Department of Elderly Affairs, the
 760 Department of Health, the Agency for Health Care Administration,
 761 and the Department of Community Affairs. Also, appropriate
 762 volunteer organizations must be given the opportunity to review
 763 the plan. The local emergency management agency shall complete
 764 its review within 60 days and either approve the plan or advise
 765 the facility of necessary revisions.

766 ~~(h) The availability, distribution, and posting of reports~~
 767 ~~and records pursuant to s. 400.191 and the Gold Seal Program~~
 768 ~~pursuant to s. 400.235.~~

769 (7) The agency shall, at least every 15 months, evaluate
 770 all nursing home facilities and make a determination as to the
 771 degree of compliance by each licensee with the established rules
 772 adopted under this part as a basis for assigning a licensure
 773 status to that facility. The agency shall base its evaluation on
 774 the most recent inspection report, taking into consideration
 775 findings from other official reports, surveys, interviews,
 776 investigations, and inspections. In addition to license
 777 categories authorized under part II of chapter 408, the agency
 778 shall assign a licensure status of standard or conditional to
 779 each nursing home.

780 (a) A standard licensure status means that a facility does
 781 not have any ~~has no class I or class II~~ deficiencies of
 782 immediate jeopardy or actual harm that is not immediate jeopardy
 783 and has corrected all class III deficiencies with actual harm
 784 with the potential for more than minimal harm that is not

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785 immediate jeopardy within the time established by the agency.

786 (b) A conditional licensure status means that a facility
787 does not meet the criteria specified in paragraph (a), ~~due to~~
788 ~~the presence of one or more class I or class II deficiencies, or~~
789 ~~class III deficiencies not corrected within the time established~~
790 ~~by the agency, is not in substantial compliance at the time of~~
791 ~~the survey with criteria established under this part or with~~
792 ~~rules adopted by the agency. If the facility has no class I,~~
793 ~~class II, or class III deficiencies at the time of the followup~~
794 ~~survey, a standard licensure status may be assigned.~~

795 (c) In evaluating the overall quality of care and services
796 and determining whether the facility will receive a conditional
797 or standard license, the agency shall consider the needs and
798 limitations of residents in the facility and the results of
799 interviews and surveys of a representative sampling of
800 residents, families of residents, ombudsman council members in
801 the planning and service area in which the facility is located,
802 guardians of residents, and staff of the nursing home facility.

803 (d) The current licensure status of each facility must be
804 indicated in bold print on the face of the license. A list of
805 the deficiencies of the facility shall be posted in a prominent
806 place that is in clear and unobstructed public view at or near
807 the place where residents are being admitted to that facility.
808 Licensees receiving a conditional licensure status for a
809 facility shall prepare, within 10 working days after receiving
810 notice of deficiencies, a plan for correction of all
811 deficiencies and shall submit the plan to the agency for
812 approval.

813 (e) The agency shall adopt rules that:
 814 1. Establish uniform procedures for the evaluation of
 815 facilities.
 816 2. Provide criteria in the areas referenced in paragraph
 817 (c).
 818 3. Address other areas necessary for carrying out the
 819 intent of this section.

820 (8) The agency shall adopt rules pursuant to this part and
 821 part II of chapter 408 to provide that, when the criteria
 822 established under subsection (2) are not met, such deficiencies
 823 shall be classified according to the nature and the scope of the
 824 deficiency. The scope shall be cited as isolated, patterned, or
 825 widespread. An isolated deficiency is a deficiency affecting one
 826 or a very limited number of residents, or involving one or a
 827 very limited number of staff, or a situation that occurred only
 828 occasionally or in a very limited number of locations. A
 829 patterned deficiency is a deficiency where more than a very
 830 limited number of residents are affected, or more than a very
 831 limited number of staff are involved, or the situation has
 832 occurred in several locations, or the same resident or residents
 833 have been affected by repeated occurrences of the same deficient
 834 practice but the effect of the deficient practice is not found
 835 to be pervasive throughout the facility. A widespread deficiency
 836 is a deficiency in which the problems causing the deficiency are
 837 pervasive in the facility or represent systemic failure that has
 838 affected or has the potential to affect a large portion of the
 839 facility's residents. The agency shall indicate the level of
 840 seriousness of the deficiency ~~classification~~ on the face of the

841 notice of deficiencies in accordance with 42 U.S.C. chapter 7.
 842 ~~as follows:~~

843 (a) An immediate jeopardy ~~A-class-I~~ deficiency is a
 844 deficiency that the agency determines presents a situation in
 845 which immediate corrective action is necessary because the
 846 facility's noncompliance with one or more requirements of
 847 participation has caused, or is likely to cause, serious injury,
 848 harm, impairment, or death to a resident receiving care in a
 849 facility. The condition or practice constituting the ~~a class-I~~
 850 violation shall be abated or eliminated immediately, unless a
 851 fixed period of time, as determined by the agency, is required
 852 for correction. An immediate jeopardy ~~A-class-I~~ deficiency is
 853 subject to a civil penalty of \$10,000 for an isolated
 854 deficiency, \$12,500 for a patterned deficiency, and \$15,000 for
 855 a widespread deficiency. The fine amount shall be doubled for
 856 each deficiency if the facility was previously cited for one or
 857 more immediate jeopardy or actual harm that is not immediate
 858 jeopardy ~~class-I or class-II~~ deficiencies during the last
 859 licensure inspection or any inspection or complaint
 860 investigation since the last licensure inspection. A fine must
 861 be levied notwithstanding the correction of the deficiency.

862 (b) An actual harm that is not immediate jeopardy ~~A-class~~
 863 ~~II~~ deficiency is a deficiency that the agency determines has
 864 caused actual harm to a resident or residents but does not rise
 865 to the level of immediate jeopardy ~~compromised the resident's~~
 866 ~~ability to maintain or reach his or her highest practicable~~
 867 ~~physical, mental, and psychosocial well-being, as defined by an~~
 868 ~~accurate and comprehensive resident assessment, plan of care,~~

869 ~~and provision of services. Such A class II~~ deficiency is subject
 870 to a civil penalty of \$2,500 for an isolated deficiency, \$5,000
 871 for a patterned deficiency, and \$7,500 for a widespread
 872 deficiency. The fine amount shall be doubled for each deficiency
 873 if the facility was previously cited for one or more immediate
 874 jeopardy or actual harm that is not immediate jeopardy class I
 875 ~~or class II~~ deficiencies during the last licensure inspection or
 876 any inspection or complaint investigation since the last
 877 licensure inspection. A fine shall be levied notwithstanding the
 878 correction of the deficiency.

879 (c) A ~~class III~~ deficiency that results in no actual harm
 880 with the potential for more than minimal harm that is not
 881 immediate jeopardy is a deficiency that the agency determines
 882 will result in no actual harm to a resident or residents but
 883 does have the potential for more than minimal harm but does not
 884 rise to the level of immediate jeopardy physical, mental, or
 885 psychosocial discomfort to the resident or has the potential to
 886 compromise the resident's ability to maintain or reach his or
 887 her highest practical physical, mental, or psychosocial well-
 888 being, as defined by an accurate and comprehensive resident
 889 assessment, plan of care, and provision of services. Such A
 890 ~~class III~~ deficiency is subject to a civil penalty of \$1,000 for
 891 an isolated deficiency, \$2,000 for a patterned deficiency, and
 892 \$3,000 for a widespread deficiency. The fine amount shall be
 893 doubled for each deficiency if the facility was previously cited
 894 for one or more immediate jeopardy or actual harm that is not
 895 immediate jeopardy class I or class II deficiencies during the
 896 last licensure inspection or any inspection or complaint

897 investigation since the last licensure inspection. A citation
 898 for this level of a class III deficiency must specify the time
 899 within which the deficiency is required to be corrected. If the
 900 ~~a class III~~ deficiency is corrected within the time specified, a
 901 civil penalty may not be imposed.

902 (d) A ~~class IV~~ deficiency with no actual harm but with the
 903 potential for minimal harm is a deficiency that the agency
 904 determines has the potential for causing no more than a minor
 905 negative impact on the resident. If the ~~class IV~~ deficiency is
 906 isolated, no plan of correction is required.

907 Section 19. Section 400.235, Florida Statutes, is
 908 repealed.

909 Section 20. Subsection (1) of section 408.035, Florida
 910 Statutes, is amended to read:

911 408.035 Review criteria.--

912 (1) The agency shall determine the reviewability of
 913 applications and shall review applications for certificate-of-
 914 need determinations for health care facilities and health
 915 services in context with the following criteria, except for
 916 general hospitals as defined in s. 395.002:

917 (a) The need for the health care facilities and health
 918 services being proposed.

919 (b) The availability, quality of care, accessibility, and
 920 extent of utilization of existing health care facilities and
 921 health services in the service district of the applicant.

922 (c) The ability of the applicant to provide quality of
 923 care and the applicant's record of providing quality of care.

924 (d) The availability of resources, including health

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925 personnel, management personnel, and funds for capital and
926 operating expenditures, for project accomplishment and
927 operation.

928 (e) The extent to which the proposed services will enhance
929 access to health care for residents of the service district.

930 (f) The immediate and long-term financial feasibility of
931 the proposal.

932 (g) The extent to which the proposal will foster
933 competition that promotes quality and cost-effectiveness.

934 (h) The costs and methods of the proposed construction,
935 including the costs and methods of energy provision and the
936 availability of alternative, less costly, or more effective
937 methods of construction.

938 (i) The applicant's past and proposed provision of health
939 care services to Medicaid patients and the medically indigent.

940 ~~(j) The applicant's designation as a Gold Seal Program~~
941 ~~nursing facility pursuant to s. 400.235, when the applicant is~~
942 ~~requesting additional nursing home beds at that facility.~~

943 Section 21. Paragraph (k) of subsection (3) of section
944 408.036, Florida Statutes, is repealed.

945 Section 22. Paragraph (d) of subsection (15) of section
946 409.912, Florida Statutes, is repealed.

947 Section 23. Subsection (3) is added to section 465.017,
948 Florida Statutes, to read:

949 465.017 Authority to inspect; disposal.--

950 (3) Nursing homes that are licensed under part II of
951 chapter 400 and inspected by the Agency for Health Care
952 Administration as part of state licensing requirements and

953 federal certification requirements are exempt from inspection by
 954 the department.

955 Section 24. Section 633.081, Florida Statutes, is amended
 956 to read:

957 633.081 Inspection of buildings and equipment; orders;
 958 firesafety inspection training requirements; certification;
 959 disciplinary action.--The State Fire Marshal and her or his
 960 agents shall, at any reasonable hour, when the department has
 961 reasonable cause to believe that a violation of this chapter or
 962 s. 509.215, or a rule promulgated thereunder, or a minimum
 963 firesafety code adopted by a local authority, may exist, inspect
 964 any and all buildings and structures which are subject to the
 965 requirements of this chapter or s. 509.215 and rules promulgated
 966 thereunder. The authority to inspect shall extend to all
 967 equipment, vehicles, and chemicals which are located within the
 968 premises of any such building or structure. Nursing homes that
 969 are licensed under part II of chapter 400 and inspected by the
 970 Agency for Health Care Administration as part of state licensing
 971 requirements and federal certification requirements are exempt
 972 from inspection by the State Fire Marshal and her or his agents
 973 if the agency's inspection satisfies inspection requirements of
 974 the State Fire Marshal.

975 (1) Each county, municipality, and special district that
 976 has firesafety enforcement responsibilities shall employ or
 977 contract with a firesafety inspector. The firesafety inspector
 978 must conduct all firesafety inspections that are required by
 979 law. The governing body of a county, municipality, or special
 980 district that has firesafety enforcement responsibilities may

981 provide a schedule of fees to pay only the costs of inspections
 982 conducted pursuant to this subsection and related administrative
 983 expenses. Two or more counties, municipalities, or special
 984 districts that have firesafety enforcement responsibilities may
 985 jointly employ or contract with a firesafety inspector.

986 (2) Every firesafety inspection conducted pursuant to
 987 state or local firesafety requirements shall be by a person
 988 certified as having met the inspection training requirements set
 989 by the State Fire Marshal. Such person shall:

990 (a) Be a high school graduate or the equivalent as
 991 determined by the department;

992 (b) Not have been found guilty of, or having pleaded
 993 guilty or nolo contendere to, a felony or a crime punishable by
 994 imprisonment of 1 year or more under the law of the United
 995 States, or of any state thereof, which involves moral turpitude,
 996 without regard to whether a judgment of conviction has been
 997 entered by the court having jurisdiction of such cases;

998 (c) Have her or his fingerprints on file with the
 999 department or with an agency designated by the department;

1000 (d) Have good moral character as determined by the
 1001 department;

1002 (e) Be at least 18 years of age;

1003 (f) Have satisfactorily completed the firesafety inspector
 1004 certification examination as prescribed by the department; and

1005 (g)1. Have satisfactorily completed, as determined by the
 1006 department, a firesafety inspector training program of not less
 1007 than 200 hours established by the department and administered by
 1008 agencies and institutions approved by the department for the

1009 | purpose of providing basic certification training for firesafety
 1010 | inspectors; or

1011 | 2. Have received in another state training which is
 1012 | determined by the department to be at least equivalent to that
 1013 | required by the department for approved firesafety inspector
 1014 | education and training programs in this state.

1015 | (3) Each special state firesafety inspection which is
 1016 | required by law and is conducted by or on behalf of an agency of
 1017 | the state must be performed by an individual who has met the
 1018 | provision of subsection (2), except that the duration of the
 1019 | training program shall not exceed 120 hours of specific training
 1020 | for the type of property that such special state firesafety
 1021 | inspectors are assigned to inspect.

1022 | (4) A firefighter certified pursuant to s. 633.35 may
 1023 | conduct firesafety inspections, under the supervision of a
 1024 | certified firesafety inspector, while on duty as a member of a
 1025 | fire department company conducting inservice firesafety
 1026 | inspections without being certified as a firesafety inspector,
 1027 | if such firefighter has satisfactorily completed an inservice
 1028 | fire department company inspector training program of at least
 1029 | 24 hours' duration as provided by rule of the department.

1030 | (5) Every firesafety inspector or special state firesafety
 1031 | inspector certificate is valid for a period of 3 years from the
 1032 | date of issuance. Renewal of certification shall be subject to
 1033 | the affected person's completing proper application for renewal
 1034 | and meeting all of the requirements for renewal as established
 1035 | under this chapter or by rule promulgated thereunder, which
 1036 | shall include completion of at least 40 hours during the

1037 preceding 3-year period of continuing education as required by
 1038 the rule of the department or, in lieu thereof, successful
 1039 passage of an examination as established by the department.

1040 (6) The State Fire Marshal may deny, refuse to renew,
 1041 suspend, or revoke the certificate of a firesafety inspector or
 1042 special state firesafety inspector if it finds that any of the
 1043 following grounds exist:

1044 (a) Any cause for which issuance of a certificate could
 1045 have been refused had it then existed and been known to the
 1046 State Fire Marshal.

1047 (b) Violation of this chapter or any rule or order of the
 1048 State Fire Marshal.

1049 (c) Falsification of records relating to the certificate.

1050 (d) Having been found guilty of or having pleaded guilty
 1051 or nolo contendere to a felony, whether or not a judgment of
 1052 conviction has been entered.

1053 (e) Failure to meet any of the renewal requirements.

1054 (f) Having been convicted of a crime in any jurisdiction
 1055 which directly relates to the practice of fire code inspection,
 1056 plan review, or administration.

1057 (g) Making or filing a report or record that the
 1058 certificateholder knows to be false, or knowingly inducing
 1059 another to file a false report or record, or knowingly failing
 1060 to file a report or record required by state or local law, or
 1061 knowingly impeding or obstructing such filing, or knowingly
 1062 inducing another person to impede or obstruct such filing.

1063 (h) Failing to properly enforce applicable fire codes or
 1064 permit requirements within this state which the

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1065 certificateholder knows are applicable by committing willful
1066 misconduct, gross negligence, gross misconduct, repeated
1067 negligence, or negligence resulting in a significant danger to
1068 life or property.

1069 (i) Accepting labor, services, or materials at no charge
1070 or at a noncompetitive rate from any person who performs work
1071 that is under the enforcement authority of the certificateholder
1072 and who is not an immediate family member of the
1073 certificateholder. For the purpose of this paragraph, the term
1074 "immediate family member" means a spouse, child, parent,
1075 sibling, grandparent, aunt, uncle, or first cousin of the person
1076 or the person's spouse or any person who resides in the primary
1077 residence of the certificateholder.

1078 (7) The department shall provide by rule for the
1079 certification of firesafety inspectors.

1080 Section 25. This act shall take effect July 1, 2009.