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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2009	.	
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The Committee on Health Regulation (Bennett) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (2) of section 381.0072, Florida Statutes, is amended to read:

381.0072 Food service protection.—It shall be the duty of the Department of Health to adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness. These rules shall provide the standards and requirements for the storage, preparation, serving, or display



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12 of food in food service establishments as defined in this  
13 section and which are not permitted or licensed under chapter  
14 500 or chapter 509.

15 (2) DUTIES.—

16 (a) The department shall adopt rules, including definitions  
17 of terms which are consistent with law prescribing minimum  
18 sanitation standards and manager certification requirements as  
19 prescribed in s. 509.039, and which shall be enforced in food  
20 service establishments as defined in this section. The  
21 sanitation standards must address the construction, operation,  
22 and maintenance of the establishment; lighting, ventilation,  
23 laundry rooms, lockers, use and storage of toxic materials and  
24 cleaning compounds, and first-aid supplies; plan review; design,  
25 construction, installation, location, maintenance, sanitation,  
26 and storage of food equipment and utensils; employee training,  
27 health, hygiene, and work practices; food supplies, preparation,  
28 storage, transportation, and service, including access to the  
29 areas where food is stored or prepared; and sanitary facilities  
30 and controls, including water supply and sewage disposal;  
31 plumbing and toilet facilities; garbage and refuse collection,  
32 storage, and disposal; and vermin control. Public and private  
33 schools, if the food service is operated by school employees;  
34 hospitals licensed under chapter 395; nursing homes licensed  
35 under part II of chapter 400; child care facilities as defined  
36 in s. 402.301; residential facilities colocated with a nursing  
37 home or hospital, if all food is prepared in a central kitchen  
38 that complies with nursing or hospital regulations; and bars and  
39 lounges, as defined by department rule, are exempt from the  
40 rules developed for manager certification. The department shall



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41 administer a comprehensive inspection, monitoring, and sampling  
42 program to ensure such standards are maintained; however,  
43 nursing homes that are licensed under part II of chapter 400 and  
44 inspected by the Agency for Health Care Administration as part  
45 of the state licensing requirements or federal certification  
46 requirements are exempt from routine inspection by the  
47 department, as required under this part, and are exempt from the  
48 fee imposed pursuant to this section. With respect to food  
49 service establishments permitted or licensed under chapter 500  
50 or chapter 509, the department shall assist the Division of  
51 Hotels and Restaurants of the Department of Business and  
52 Professional Regulation and the Department of Agriculture and  
53 Consumer Services with rulemaking by providing technical  
54 information.

55 Section 2. Paragraph (b) of subsection (6) of section  
56 381.0098, Florida Statutes, is amended to read:

57 381.0098 Biomedical waste.—

58 (6) TRACKING SYSTEM.—The department shall adopt rules for a  
59 system of tracking biomedical waste.

60 (b) Inspections may be conducted for purposes of compliance  
61 with this section. Any such inspection shall be commenced and  
62 completed with reasonable promptness. However, nursing homes  
63 that are licensed under part II of chapter 400 and inspected by  
64 the Agency for Health Care Administration as part of the state  
65 licensing requirements or federal certification requirements are  
66 exempt from routine inspection by the department, as required  
67 under this part, and are exempt from the fee imposed pursuant to  
68 this section. If the officer, employee, or representative of the  
69 department obtains any samples, prior to leaving the premises he



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70 or she shall give the owner, operator, or agent in charge a  
71 receipt describing the sample obtained.

72 Section 3. Subsection (1) of section 400.0060, Florida  
73 Statutes, is repealed.

74 Section 4. Subsection (2) of section 400.0061, Florida  
75 Statutes, is amended to read:

76 400.0061 Legislative findings and intent; long-term care  
77 facilities.—

78 (2) It is the intent of the Legislature, therefore, to  
79 utilize voluntary citizen ombudsman councils under the  
80 leadership of the ombudsman, and through them to operate an  
81 ombudsman program which shall, without interference by any  
82 executive agency, undertake to discover, investigate, and  
83 determine the presence of conditions or individuals which  
84 constitute a threat to the rights, health, safety, or welfare of  
85 the residents of long-term care facilities. To ensure that the  
86 effectiveness and efficiency of such investigations are not  
87 impeded by advance notice or delay, the Legislature intends that  
88 the ombudsman and ombudsman councils and their designated  
89 representatives not be required to obtain warrants in order to  
90 enter into or conduct investigations ~~or onsite administrative~~  
91 ~~assessments~~ of long-term care facilities. It is the further  
92 intent of the Legislature that the environment in long-term care  
93 facilities be conducive to the dignity and independence of  
94 residents and that investigations by ombudsman councils shall  
95 further the enforcement of laws, rules, and regulations that  
96 safeguard the health, safety, and welfare of residents. This  
97 section does not preclude an ombudsman from entering a facility  
98 pursuant to the Older Americans Act of 1965, as amended, in



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99 order to provide services to protect the health, safety, welfare  
100 and rights of residents while ensuring that residents have  
101 regular and timely access to representatives of the ombudsman  
102 program.

103 Section 5. Paragraph (a) of subsection (1) of section  
104 400.0065, Florida Statutes, is amended to read:

105 400.0065 State Long-Term Care Ombudsman; duties and  
106 responsibilities.—

107 (1) The purpose of the Office of State Long-Term Care  
108 Ombudsman shall be to:

109 (a) Identify, investigate, and resolve complaints made by  
110 or on behalf of residents of long-term care facilities,  
111 regardless of the person who makes the complaint, including an  
112 employee of the long-term care facility, relating to actions or  
113 omissions by providers or representatives of providers of long-  
114 term care services, other public or private agencies, guardians,  
115 or representative payees which ~~that~~ may adversely affect the  
116 health, safety, welfare, or rights of the residents.

117 Section 6. Paragraphs (b) and (d) of subsection (2) of  
118 section 400.0067, Florida Statutes, are amended to read:

119 400.0067 State Long-Term Care Ombudsman Council; duties;  
120 membership.—

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

122 (b) Serve as an appellate body in receiving from the local  
123 councils complaints not resolved at the local level. Any  
124 individual member or members of the state council may enter any  
125 long-term care facility involved in an appeal, ~~pursuant to the~~  
126 ~~conditions specified in s. 400.0074(2).~~

127 (d) Assist the ombudsman in eliciting, receiving,



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128 responding to, and resolving complaints made by or on behalf of  
129 residents regardless of the person who makes the complaint,  
130 including an employee of a long-term care facility.

131 Section 7. Paragraph (c) of subsection (2) and subsection  
132 (3) of section 400.0069, Florida Statutes, are amended to read:

133 400.0069 Local long-term care ombudsman councils; duties;  
134 membership.-

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

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

140 (3) In order to carry out the duties specified in  
141 subsection (2), a member of a local council is authorized to  
142 enter any long-term care facility without notice or first  
143 obtaining a warrant, ~~subject to the provisions of s.~~  
144 ~~400.0074(2).~~

145 Section 8. Section 400.0071, Florida Statutes, is amended  
146 to read:

147 400.0071 State Long-Term Care Ombudsman Program complaint  
148 procedures.-The department shall adopt rules implementing state  
149 and local complaint procedures. The rules must include  
150 procedures for:

151 (1) Receiving complaints against a long-term care facility  
152 or an employee of a long-term care facility regardless of the  
153 person who makes the complaint.

154 (2) Conducting investigations of a long-term care facility  
155 or an employee of a long-term care facility subsequent to  
156 receiving a complaint.



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157       ~~(3) Conducting onsite administrative assessments of long-~~  
158 ~~term care facilities.~~

159       Section 9. Section 400.0074, Florida Statutes, is repealed.

160       Section 10. Paragraph (a) of subsection (1) of section  
161 400.0075, Florida Statutes, is amended to read:

162       400.0075 Complaint notification and resolution procedures.-

163       (1) (a) Any complaint or problem verified by an ombudsman  
164 council as a result of an investigation ~~or onsite administrative~~  
165 ~~assessment~~, which complaint or problem is determined to require  
166 remedial action by the local council, shall be identified and  
167 brought to the attention of the long-term care facility  
168 administrator in writing. Upon receipt of such document, the  
169 administrator, with the concurrence of the local council chair,  
170 shall establish target dates for taking appropriate remedial  
171 action. If, by the target date, the remedial action is not  
172 completed or forthcoming, the local council chair may, after  
173 obtaining approval from the ombudsman and a majority of the  
174 members of the local council:

175       1. Extend the target date if the chair has reason to  
176 believe such action would facilitate the resolution of the  
177 complaint.

178       2. In accordance with s. 400.0077, publicize the complaint,  
179 the recommendations of the council, and the response of the  
180 long-term care facility.

181       3. Refer the complaint to the state council.

182       Section 11. Subsection (3) of section 400.19, Florida  
183 Statutes, is amended to read:

184       400.19 Right of entry and inspection.-

185       (3) The agency shall every 15 months conduct at least one



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186 unannounced inspection to determine compliance by the licensee  
187 with statutes, with federal requirements, if applicable, and  
188 with rules adopted ~~promulgated~~ under the provisions of those  
189 statutes and federal requirements, governing minimum standards  
190 of construction, quality and adequacy of care, and rights of  
191 residents. The survey shall be conducted every 6 months for the  
192 next 2-year period if the facility has been cited for a class I  
193 deficiency, has been cited for two or more class II deficiencies  
194 arising from separate surveys or investigations within a 60-day  
195 period, or has had three or more substantiated complaints within  
196 a 6-month period, each resulting in at least one class I or  
197 class II deficiency. In addition to any other fees or fines in  
198 this part, the agency shall assess a fine for each facility that  
199 is subject to the 6-month survey cycle. The fine for the 2-year  
200 period shall be \$6,000, one-half to be paid at the completion of  
201 each survey. The agency may adjust this fine by the change in  
202 the Consumer Price Index, based on the 12 months immediately  
203 preceding the increase, to cover the cost of the additional  
204 surveys. The agency shall verify through subsequent inspection  
205 that any deficiency identified during inspection is corrected.  
206 However, the agency may verify the correction of a class III or  
207 class IV deficiency unrelated to resident rights or resident  
208 care without reinspecting the facility if adequate written  
209 documentation has been received from the facility, which  
210 provides assurance that the deficiency has been corrected. The  
211 giving or causing to be given of advance notice of such  
212 unannounced inspections by an employee of the agency to any  
213 unauthorized person shall constitute cause for suspension of not  
214 fewer than 5 working days according to the provisions of chapter





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215 110.

216 Section 12. Section 400.191, Florida Statutes, is amended  
217 to read:

218 400.191 Availability, distribution, and posting of reports  
219 and records.—

220 (1) The agency shall provide information to the public  
221 about all of the licensed nursing home facilities operating in  
222 the state. The agency shall, within 60 days after a licensure  
223 inspection visit or within 30 days after any interim visit to a  
224 facility, send copies of the inspection reports to the local  
225 long-term care ombudsman council, the agency's local office, and  
226 a public library or the county seat for the county in which the  
227 facility is located. The agency may provide electronic access to  
228 inspection reports as a substitute for sending copies.

229 ~~(2) The agency shall publish the Nursing Home Guide~~  
230 ~~annually in consumer friendly printed form and quarterly in~~  
231 ~~electronic form to assist consumers and their families in~~  
232 ~~comparing and evaluating nursing home facilities.~~

233 ~~(a) The agency shall provide an Internet site which shall~~  
234 ~~include at least the following information either directly or~~  
235 ~~indirectly through a link to another established site or sites~~  
236 ~~of the agency's choosing:~~

237 ~~1. A section entitled "Have you considered programs that~~  
238 ~~provide alternatives to nursing home care?" which shall be the~~  
239 ~~first section of the Nursing Home Guide and which shall~~  
240 ~~prominently display information about available alternatives to~~  
241 ~~nursing homes and how to obtain additional information regarding~~  
242 ~~these alternatives. The Nursing Home Guide shall explain that~~  
243 ~~this state offers alternative programs that permit qualified~~



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244 ~~elderly persons to stay in their homes instead of being placed~~  
245 ~~in nursing homes and shall encourage interested persons to call~~  
246 ~~the Comprehensive Assessment Review and Evaluation for Long-Term~~  
247 ~~Care Services (CARES) Program to inquire if they qualify. The~~  
248 ~~Nursing Home Guide shall list available home and community-based~~  
249 ~~programs which shall clearly state the services that are~~  
250 ~~provided and indicate whether nursing home services are included~~  
251 ~~if needed. 2. A list by name and address of all nursing home~~  
252 ~~facilities in this state, including any prior name by which a~~  
253 ~~facility was known during the previous 24-month period.~~  
254 ~~3. Whether such nursing home facilities are proprietary or~~  
255 ~~nonproprietary.~~  
256 ~~4. The current owner of the facility's license and the year~~  
257 ~~that that entity became the owner of the license.~~  
258 ~~5. The name of the owner or owners of each facility and~~  
259 ~~whether the facility is affiliated with a company or other~~  
260 ~~organization owning or managing more than one nursing facility~~  
261 ~~in this state.~~  
262 ~~6. The total number of beds in each facility and the most~~  
263 ~~recently available occupancy levels.~~  
264 ~~7. The number of private and semiprivate rooms in each~~  
265 ~~facility.~~  
266 ~~8. The religious affiliation, if any, of each facility.~~  
267 ~~9. The languages spoken by the administrator and staff of~~  
268 ~~each facility.~~  
269 ~~10. Whether or not each facility accepts Medicare or~~  
270 ~~Medicaid recipients or insurance, health maintenance~~  
271 ~~organization, Veterans Administration, CHAMPUS program, or~~  
272 ~~workers' compensation coverage.~~



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273 ~~11. Recreational and other programs available at each~~  
274 ~~facility.~~

275 ~~12. Special care units or programs offered at each~~  
276 ~~facility.~~

277 ~~13. Whether the facility is a part of a retirement~~  
278 ~~community that offers other services pursuant to part III of~~  
279 ~~this chapter or part I or part III of chapter 429.~~

280 ~~14. Survey and deficiency information, including all~~  
281 ~~federal and state recertification, licensure, revisit, and~~  
282 ~~complaint survey information, for each facility for the past 30~~  
283 ~~months. For noncertified nursing homes, state survey and~~  
284 ~~deficiency information, including licensure, revisit, and~~  
285 ~~complaint survey information for the past 30 months shall be~~  
286 ~~provided.~~

287 ~~15. A summary of the deficiency data for each facility over~~  
288 ~~the past 30 months. The summary may include a score, rating, or~~  
289 ~~comparison ranking with respect to other facilities based on the~~  
290 ~~number of citations received by the facility on recertification,~~  
291 ~~licensure, revisit, and complaint surveys; the severity and~~  
292 ~~scope of the citations; and the number of recertification~~  
293 ~~surveys the facility has had during the past 30 months. The~~  
294 ~~score, rating, or comparison ranking may be presented in either~~  
295 ~~numeric or symbolic form for the intended consumer audience.~~

296 ~~(b) The agency shall provide the following information in~~  
297 ~~printed form:~~

298 ~~1. A section entitled "Have you considered programs that~~  
299 ~~provide alternatives to nursing home care?" which shall be the~~  
300 ~~first section of the Nursing Home Guide and which shall~~  
301 ~~prominently display information about available alternatives to~~



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302 ~~nursing homes and how to obtain additional information regarding~~  
303 ~~these alternatives. The Nursing Home Guide shall explain that~~  
304 ~~this state offers alternative programs that permit qualified~~  
305 ~~elderly persons to stay in their homes instead of being placed~~  
306 ~~in nursing homes and shall encourage interested persons to call~~  
307 ~~the Comprehensive Assessment Review and Evaluation for Long-Term~~  
308 ~~Care Services (CARES) Program to inquire if they qualify. The~~  
309 ~~Nursing Home Guide shall list available home and community-based~~  
310 ~~programs which shall clearly state the services that are~~  
311 ~~provided and indicate whether nursing home services are included~~  
312 ~~if needed.~~

313 ~~2. A list by name and address of all nursing home~~  
314 ~~facilities in this state.~~

315 ~~3. Whether the nursing home facilities are proprietary or~~  
316 ~~nonproprietary.~~

317 ~~4. The current owner or owners of the facility's license~~  
318 ~~and the year that entity became the owner of the license.~~

319 ~~5. The total number of beds, and of private and semiprivate~~  
320 ~~rooms, in each facility.~~

321 ~~6. The religious affiliation, if any, of each facility.~~

322 ~~7. The name of the owner of each facility and whether the~~  
323 ~~facility is affiliated with a company or other organization~~  
324 ~~owning or managing more than one nursing facility in this state.~~

325 ~~8. The languages spoken by the administrator and staff of~~  
326 ~~each facility.~~

327 ~~9. Whether or not each facility accepts Medicare or~~  
328 ~~Medicaid recipients or insurance, health maintenance~~  
329 ~~organization, Veterans Administration, CHAMPUS program, or~~  
330 ~~workers' compensation coverage.~~



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- 331           ~~10. Recreational programs, special care units, and other~~  
332 ~~programs available at each facility.~~
- 333           ~~11. The Internet address for the site where more detailed~~  
334 ~~information can be seen.~~
- 335           ~~12. A statement advising consumers that each facility will~~  
336 ~~have its own policies and procedures related to protecting~~  
337 ~~resident property.~~
- 338           ~~13. A summary of the deficiency data for each facility over~~  
339 ~~the past 30 months. The summary may include a score, rating, or~~  
340 ~~comparison ranking with respect to other facilities based on the~~  
341 ~~number of citations received by the facility on recertification,~~  
342 ~~licensure, revisit, and complaint surveys; the severity and~~  
343 ~~scope of the citations; the number of citations; and the number~~  
344 ~~of recertification surveys the facility has had during the past~~  
345 ~~30 months. The score, rating, or comparison ranking may be~~  
346 ~~presented in either numeric or symbolic form for the intended~~  
347 ~~consumer audience.~~
- 348           ~~(c) The agency may provide the following additional~~  
349 ~~information on an Internet site or in printed form as the~~  
350 ~~information becomes available:~~
- 351           ~~1. The licensure status history of each facility.~~  
352           ~~2. The rating history of each facility.~~  
353           ~~3. The regulatory history of each facility, which may~~  
354 ~~include federal sanctions, state sanctions, federal fines, state~~  
355 ~~fines, and other actions.~~
- 356           ~~4. Whether the facility currently possesses the Gold Seal~~  
357 ~~designation awarded pursuant to s. 400.235.~~
- 358           ~~5. Internet links to the Internet sites of the facilities~~  
359 ~~or their affiliates.~~



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360            ~~(2)-(3)~~ Each nursing home facility licensee shall maintain  
361 as public information, available upon request, records of all  
362 cost and inspection reports pertaining to that facility that  
363 have been filed with, or issued by, any governmental agency.  
364 Copies of the reports shall be retained in the records for not  
365 less than 5 years following the date the reports are filed or  
366 issued.

367            ~~(a) The agency shall publish in the Nursing Home Guide a~~  
368 ~~"Nursing Home Guide Watch List" to assist consumers in~~  
369 ~~evaluating the quality of nursing home care in Florida. The~~  
370 ~~watch list must identify each facility that met the criteria for~~  
371 ~~a conditional licensure status and each facility that is~~  
372 ~~operating under bankruptcy protection. The watch list must~~  
373 ~~include, but is not limited to, the facility's name, address,~~  
374 ~~and ownership; the county in which the facility operates; the~~  
375 ~~license expiration date; the number of licensed beds; a~~  
376 ~~description of the deficiency causing the facility to be placed~~  
377 ~~on the list; any corrective action taken; and the cumulative~~  
378 ~~number of days and percentage of days the facility had a~~  
379 ~~conditional license in the past 30 months. The watch list must~~  
380 ~~include a brief description regarding how to choose a nursing~~  
381 ~~home, the categories of licensure, the agency's inspection~~  
382 ~~process, an explanation of terms used in the watch list, and the~~  
383 ~~addresses and phone numbers of the agency's health quality~~  
384 ~~assurance field offices.~~

385            ~~(b) Upon publication of each Nursing Home Guide, the agency~~  
386 ~~must post a copy on its website by the 15th calendar day of the~~  
387 ~~second month following the end of the calendar quarter. Each~~  
388 ~~nursing home licensee must retrieve the most recent version of~~



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389 ~~the Nursing Home Guide from the agency's website.~~

390 (3)~~(4)~~ Any records of a nursing home facility determined by  
391 the agency to be necessary and essential to establish lawful  
392 compliance with any rules or standards must be made available to  
393 the agency on the premises of the facility and submitted to the  
394 agency. Each facility must submit this information to the agency  
395 by electronic transmission when available.

396 (4)~~(5)~~ Every nursing home facility licensee shall:

397 (a) Post, in a sufficient number of prominent positions in  
398 the nursing home so as to be accessible to all residents and to  
399 the general public,~~÷~~

400 ~~1.~~ a concise summary of the last inspection report  
401 pertaining to the nursing home and issued by the agency, with  
402 references to the page numbers of the full reports, noting any  
403 deficiencies found by the agency and the actions taken by the  
404 licensee to rectify the deficiencies and indicating in the  
405 summaries where the full reports may be inspected in the nursing  
406 home.

407 ~~2. A copy of all of the pages that list the facility in the~~  
408 ~~most recent version of the Nursing Home Guide.~~

409 (b) Upon request, provide to any person who has completed a  
410 written application with an intent to be admitted to, or to any  
411 resident of, a nursing home, or to any relative, spouse, or  
412 guardian of the person, a copy of the last inspection report  
413 pertaining to the nursing home and issued by the agency,  
414 provided the person requesting the report agrees to pay a  
415 reasonable charge to cover copying costs.

416 (c) Have readily available a copy of the facility's page  
417 from the federal Nursing Home Compare website which includes the



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418 facility's Five-Star Quality Ratings.

419 ~~(5)-(6)~~ The agency may adopt rules as necessary to  
420 administer this section.

421 Section 13. Paragraph (d) of subsection (1) of section  
422 400.195, Florida Statutes, is amended to read:

423 400.195 Agency reporting requirements.—

424 (1) For the period beginning June 30, 2001, and ending June  
425 30, 2005, the Agency for Health Care Administration shall  
426 provide a report to the Governor, the President of the Senate,  
427 and the Speaker of the House of Representatives with respect to  
428 nursing homes. The first report shall be submitted no later than  
429 December 30, 2002, and subsequent reports shall be submitted  
430 every 6 months thereafter. The report shall identify facilities  
431 based on their ownership characteristics, size, business  
432 structure, for-profit or not-for-profit status, and any other  
433 characteristics the agency determines useful in analyzing the  
434 varied segments of the nursing home industry and shall report:

435 (d) Information regarding deficiencies cited, including  
436 ~~information used to develop the Nursing Home Guide WATCH LIST~~  
437 ~~pursuant to s. 400.191, and applicable rules,~~ a summary of data  
438 generated on nursing homes by Centers for Medicare and Medicaid  
439 Services Nursing Home Quality Information Project, and  
440 information collected pursuant to s. 400.147(9), relating to  
441 litigation.

442 Section 14. Subsection (8) of section 400.23, Florida  
443 Statutes, is amended to read:

444 400.23 Rules; evaluation and deficiencies; licensure  
445 status.—

446 (8) The agency shall adopt rules pursuant to this part and





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447 part II of chapter 408 to provide that, when the criteria  
448 established under subsection (2) are not met, such deficiencies  
449 shall be classified according to the nature and the scope of the  
450 deficiency. The scope shall be cited as isolated, patterned, or  
451 widespread. An isolated deficiency is a deficiency affecting one  
452 or a very limited number of residents, or involving one or a  
453 very limited number of staff, or a situation that occurred only  
454 occasionally or in a very limited number of locations. A  
455 patterned deficiency is a deficiency where more than a very  
456 limited number of residents are affected, or more than a very  
457 limited number of staff are involved, or the situation has  
458 occurred in several locations, or the same resident or residents  
459 have been affected by repeated occurrences of the same deficient  
460 practice but the effect of the deficient practice is not found  
461 to be pervasive throughout the facility. A widespread deficiency  
462 is a deficiency in which the problems causing the deficiency are  
463 pervasive in the facility or represent systemic failure that has  
464 affected or has the potential to affect a large portion of the  
465 facility's residents. The agency shall indicate the  
466 classification on the face of the notice of deficiencies in  
467 accordance with chapter 7, State Operations Manual, published by  
468 the Centers for Medicare and Medicaid Services ~~as follows:~~

469 (a) A class I deficiency is a deficiency that the agency  
470 determines presents a situation in which immediate corrective  
471 action is necessary because the facility's noncompliance with  
472 one or more requirements of participation has caused, or is  
473 likely to cause, immediate jeopardy to the health or safety of  
474 ~~serious injury, harm, impairment, or death to a resident~~  
475 receiving care in a facility. The condition or practice



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476 constituting a class I violation shall be abated or eliminated  
477 immediately, unless a fixed period of time, as determined by the  
478 agency, is required for correction. A class I deficiency is  
479 subject to a civil penalty of \$10,000 for an isolated deficiency  
480 (J), \$12,500 for a patterned deficiency (K), and \$15,000 for a  
481 widespread deficiency (L). The fine amount shall be doubled for  
482 each deficiency if the facility was previously cited for one or  
483 more class I or class II deficiencies during the last licensure  
484 inspection or any inspection or complaint investigation since  
485 the last licensure inspection. A fine must be levied  
486 notwithstanding the correction of the deficiency.

487 (b) A class II deficiency is a deficiency that the agency  
488 determines has caused actual harm to a resident or residents but  
489 does not rise to the level of immediate jeopardy ~~compromised the~~  
490 ~~resident's ability to maintain or reach his or her highest~~  
491 ~~practicable physical, mental, and psychosocial well-being, as~~  
492 ~~defined by an accurate and comprehensive resident assessment,~~  
493 ~~plan of care, and provision of services.~~ A class II deficiency  
494 is subject to a civil penalty of \$2,500 for an isolated  
495 deficiency (G), \$5,000 for a patterned deficiency (H), and  
496 \$7,500 for a widespread deficiency (I). The fine amount shall be  
497 doubled for each deficiency if the facility was previously cited  
498 for one or more class I or class II deficiencies during the last  
499 licensure inspection or any inspection or complaint  
500 investigation since the last licensure inspection. A fine shall  
501 be levied notwithstanding the correction of the deficiency.

502 (c) A class III deficiency is a deficiency that the agency  
503 determines will not result in actual harm to a resident or  
504 residents but does have the potential for ~~no~~ more than minimal



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505 harm that does not rise to the level of immediate jeopardy  
506 ~~physical, mental, or psychosocial discomfort to the resident or~~  
507 ~~has the potential to compromise the resident's ability to~~  
508 ~~maintain or reach his or her highest practical physical, mental,~~  
509 ~~or psychosocial well-being, as defined by an accurate and~~  
510 ~~comprehensive resident assessment, plan of care, and provision~~  
511 ~~of services.~~ A class III deficiency is subject to a civil  
512 penalty of \$1,000 for an isolated deficiency (D), \$2,000 for a  
513 patterned deficiency (E), and \$3,000 for a widespread deficiency  
514 (F). The fine amount shall be doubled for each deficiency if the  
515 facility was previously cited for one or more class I or class  
516 II deficiencies during the last licensure inspection or any  
517 inspection or complaint investigation since the last licensure  
518 inspection. A citation for a class III deficiency must specify  
519 the time within which the deficiency is required to be  
520 corrected. If a class III deficiency is corrected within the  
521 time specified, a civil penalty may not be imposed.

522 (d) A class IV deficiency is a deficiency that does not  
523 result in actual harm but has the potential for minimal harm to  
524 a that the agency determines has the potential for causing no  
525 more than a minor negative impact on the resident (A, B, or C).  
526 If the class IV deficiency is isolated, no plan of correction is  
527 required.

528 Section 15. Subsection (3) is added to section 465.017,  
529 Florida Statutes, to read:

530 465.017 Authority to inspect; disposal.—

531 (3) Nursing homes that are licensed under part II of  
532 chapter 400 and inspected by the Agency for Health Care  
533 Administration pursuant to the state licensing requirements and



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534 federal certification requirements are exempt from routine  
535 inspection by the department, as required under this part, and  
536 are exempt from the fee imposed pursuant to this section.

537 Section 16. Section 633.081, Florida Statutes, is amended  
538 to read:

539 633.081 Inspection of buildings and equipment; orders;  
540 firesafety inspection training requirements; certification;  
541 disciplinary action.—The State Fire Marshal and her or his  
542 agents shall, at any reasonable hour, when the department has  
543 reasonable cause to believe that a violation of this chapter or  
544 s. 509.215, or a rule promulgated thereunder, or a minimum  
545 firesafety code adopted by a local authority, may exist, inspect  
546 any and all buildings and structures which are subject to the  
547 requirements of this chapter or s. 509.215 and rules promulgated  
548 thereunder. The authority to inspect shall extend to all  
549 equipment, vehicles, and chemicals which are located within the  
550 premises of any such building or structure. Nursing homes that  
551 are licensed under part II of chapter 400 and inspected by the  
552 Agency for Health Care Administration pursuant to the state  
553 licensing requirements and federal certification requirements  
554 are exempt from inspection by the State Fire Marshal, or his or  
555 her agents, if, in the opinion of the State Fire Marshal or his  
556 representative, the agency's inspection satisfies the inspection  
557 requirements of the State Fire Marshal.

558 (1) Each county, municipality, and special district that  
559 has firesafety enforcement responsibilities shall employ or  
560 contract with a firesafety inspector. The firesafety inspector  
561 must conduct all firesafety inspections that are required by  
562 law. The governing body of a county, municipality, or special



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563 district that has firesafety enforcement responsibilities may  
564 provide a schedule of fees to pay only the costs of inspections  
565 conducted pursuant to this subsection and related administrative  
566 expenses. Two or more counties, municipalities, or special  
567 districts that have firesafety enforcement responsibilities may  
568 jointly employ or contract with a firesafety inspector.

569 (2) Every firesafety inspection conducted pursuant to state  
570 or local firesafety requirements shall be by a person certified  
571 as having met the inspection training requirements set by the  
572 State Fire Marshal. Such person shall:

573 (a) Be a high school graduate or the equivalent as  
574 determined by the department;

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

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

583 (d) Have good moral character as determined by the  
584 department;

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

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

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



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592 purpose of providing basic certification training for firesafety  
593 inspectors; or

594 2. Have received in another state training which is  
595 determined by the department to be at least equivalent to that  
596 required by the department for approved firesafety inspector  
597 education and training programs in this state.

598 (3) Each special state firesafety inspection which is  
599 required by law and is conducted by or on behalf of an agency of  
600 the state must be performed by an individual who has met the  
601 provision of subsection (2), except that the duration of the  
602 training program shall not exceed 120 hours of specific training  
603 for the type of property that such special state firesafety  
604 inspectors are assigned to inspect.

605 (4) A firefighter certified pursuant to s. 633.35 may  
606 conduct firesafety inspections, under the supervision of a  
607 certified firesafety inspector, while on duty as a member of a  
608 fire department company conducting inservice firesafety  
609 inspections without being certified as a firesafety inspector,  
610 if such firefighter has satisfactorily completed an inservice  
611 fire department company inspector training program of at least  
612 24 hours' duration as provided by rule of the department.

613 (5) Every firesafety inspector or special state firesafety  
614 inspector certificate is valid for a period of 3 years from the  
615 date of issuance. Renewal of certification shall be subject to  
616 the affected person's completing proper application for renewal  
617 and meeting all of the requirements for renewal as established  
618 under this chapter or by rule promulgated thereunder, which  
619 shall include completion of at least 40 hours during the  
620 preceding 3-year period of continuing education as required by



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621 the rule of the department or, in lieu thereof, successful  
622 passage of an examination as established by the department.

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

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

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

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

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

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

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

640 (g) Making or filing a report or record that the  
641 certificateholder knows to be false, or knowingly inducing  
642 another to file a false report or record, or knowingly failing  
643 to file a report or record required by state or local law, or  
644 knowingly impeding or obstructing such filing, or knowingly  
645 inducing another person to impede or obstruct such filing.

646 (h) Failing to properly enforce applicable fire codes or  
647 permit requirements within this state which the  
648 certificateholder knows are applicable by committing willful  
649 misconduct, gross negligence, gross misconduct, repeated



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650 negligence, or negligence resulting in a significant danger to  
651 life or property.

652 (i) Accepting labor, services, or materials at no charge or  
653 at a noncompetitive rate from any person who performs work that  
654 is under the enforcement authority of the certificateholder and  
655 who is not an immediate family member of the certificateholder.  
656 For the purpose of this paragraph, the term "immediate family  
657 member" means a spouse, child, parent, sibling, grandparent,  
658 aunt, uncle, or first cousin of the person or the person's  
659 spouse or any person who resides in the primary residence of the  
660 certificateholder.

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

663 Section 17. This act shall take effect July 1, 2009.

664  
665 ===== T I T L E A M E N D M E N T =====

666 And the title is amended as follows:

667 Delete everything before the enacting clause  
668 and insert:

669 A bill to be entitled  
670 An act relating to the inspection of nursing homes;  
671 amending ss. 381.0072, and 381.0098, F.S.; providing  
672 that nursing homes that are inspected by the Agency  
673 for Health Care Administration are exempt from  
674 inspection by the Department of Health; repealing s.  
675 400.0060(1), F.S., relating to the definition of the  
676 term "administrative assessment"; amending s.  
677 400.0061, F.S.; conforming provisions to changes made  
678 by the act relating to onsite administrative





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679 assessments; clarifying the authorization of an  
680 ombudsman to enter a long-term care facility; amending  
681 s. 400.0065, F.S.; clarifying that any person may make  
682 a complaint against a long-term care facility,  
683 including an employee of that facility; amending ss.  
684 400.0067, 400.0069, and 400.0071, F.S.; conforming  
685 provisions to changes made by the act relating to  
686 onsite administrative assessments; clarifying that any  
687 person may make a complaint against a long-term care  
688 facility, including an employee of that facility;  
689 repealing s. 400.0074, F.S., relating to onsite  
690 administrative assessments of nursing homes, assisted  
691 living facilities, and adult family-care homes  
692 conducted by the local ombudsman council; amending s.  
693 400.0075, F.S.; conforming provisions to changes made  
694 by the act relating to onsite administrative  
695 assessments; amending s. 400.19, F.S.; requiring the  
696 agency to conduct an inspection to determine  
697 compliance by the licensee with federal requirements;  
698 amending s. 400.191, F.S.; deleting provisions  
699 relating to a requirement that the agency make  
700 available to the public, distribute, and post reports  
701 and records concerning licensed nursing homes  
702 operating in the state; revising requirements for a  
703 nursing home facility licensee; amending s. 400.195,  
704 F.S.; revising provisions relating to agency reporting  
705 requirements; amending s. 400.23, F.S.; revising  
706 requirements for notification of deficiencies;  
707 revising the criteria for determining each class of



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708 deficiency; amending s. 465.017, F.S.; providing that  
709 nursing homes that are inspected by the agency are  
710 exempt from inspection by the Department of Health and  
711 imposition of a fee; amending s. 633.081, F.S.;  
712 providing that nursing homes that are inspected by the  
713 agency are exempt from inspection by the State Fire  
714 Marshal under certain circumstances; providing an  
715 effective date.