

By Senator Bennett

21-01558-09

20091562__

1 A bill to be entitled
2 An act relating to the inspection of nursing homes;
3 amending ss. 381.006, 381.0072, and 381.0098, F.S.;
4 providing that nursing homes that are inspected by the
5 Agency for Health Care Administration are exempt from
6 inspection by the Department of Health; amending s.
7 400.0061, F.S.; conforming a provision to changes made
8 by the act; amending s. 400.0065, F.S.; clarifying
9 that any person may make a complaint against a long-
10 term care facility, including an employee of that
11 facility; amending ss. 400.0067, 400.0069, and
12 400.0071, F.S.; conforming provisions to changes made
13 by the act; clarifying that any person may make a
14 complaint against a long-term care facility, including
15 an employee of that facility; repealing s. 400.0074,
16 F.S., relating to onsite administrative assessments of
17 nursing homes, assisted living facilities, and adult
18 family-care homes conducted by the local ombudsman
19 council; amending s. 400.121, F.S.; conforming
20 provisions to changes made by the act relating to
21 classifications of deficiencies; amending s. 400.141,
22 F.S.; conforming provisions to changes made by the act
23 relating to classifications of deficiencies and the
24 Gold Seal Program; amending s. 400.19, F.S.;
25 conforming provisions to changes made by the act
26 relating to classifications of deficiencies; repealing
27 s. 400.191, F.S., relating to a requirement that the
28 agency make available to the public, distribute, and
29 post reports and records concerning licensed nursing

21-01558-09

20091562__

30 homes operating in the state; amending s. 400.195,
31 F.S.; revising agency reporting requirements; amending
32 s. 400.23, F.S.; conforming a provision to changes
33 made by the act; deleting the classifications for
34 deficiencies; requiring the agency to indicate the
35 level of seriousness of deficiencies under federal
36 requirements specified by the Centers for Medicare and
37 Medicaid Services; repealing s. 400.235, F.S.,
38 relating to nursing home quality and licensure status
39 and the Gold Seal Program; amending s. 408.035, F.S.;
40 conforming a provision to changes made by the act;
41 repealing s. 409.912(15)(d), F.S., relating to the
42 requirement by the staff of the Comprehensive
43 Assessment and Review for Long-Term Services to
44 conduct an assessment and review of a sample of
45 individuals whose nursing home stay is expected to
46 exceed a certain number of days; amending s. 633.081,
47 F.S.; providing that nursing homes that are inspected
48 by the Agency for Health Care Administration are
49 exempt from inspection by the State Fire Marshal under
50 certain circumstances; providing an effective date.

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. Subsection (16) of section 381.006, Florida
55 Statutes, is amended to read:

56 381.006 Environmental health.—The department shall conduct
57 an environmental health program as part of fulfilling the
58 state's public health mission. The purpose of this program is to

21-01558-09

20091562__

59 detect and prevent disease caused by natural and manmade factors
60 in the environment. The environmental health program shall
61 include, but not be limited to:

62 (16) A group-care-facilities function, where a group care
63 facility means any public or private school, housing, building
64 or buildings, section of a building, or distinct part of a
65 building or other place, whether operated for profit or not,
66 which undertakes, through its ownership or management, to
67 provide one or more personal services, care, protection, and
68 supervision to persons who require such services and who are not
69 related to the owner or administrator. The department may adopt
70 rules necessary to protect the health and safety of residents,
71 staff, and patrons of group care facilities, such as child care
72 facilities, family day care homes, assisted living facilities,
73 adult day care centers, adult family care homes, hospices,
74 residential treatment facilities, crisis stabilization units,
75 pediatric extended care centers, intermediate care facilities
76 for the developmentally disabled, group care homes, and, jointly
77 with the Department of Education, private and public schools.
78 These rules may include definitions of terms; provisions
79 relating to operation and maintenance of facilities, buildings,
80 grounds, equipment, furnishings, and occupant-space
81 requirements; lighting; heating, cooling, and ventilation; food
82 service; water supply and plumbing; sewage; sanitary facilities;
83 insect and rodent control; garbage; safety; personnel health,
84 hygiene, and work practices; and other matters the department
85 finds are appropriate or necessary to protect the safety and
86 health of the residents, staff, or patrons. The department may
87 not adopt rules that conflict with rules adopted by the

21-01558-09

20091562__

88 licensing or certifying agency. The department may enter and
89 inspect at reasonable hours to determine compliance with
90 applicable statutes or rules. However, nursing homes that are
91 licensed under part II of chapter 400 and inspected by the
92 Agency for Health Care Administration as part of state licensing
93 requirements and federal certification requirements are exempt
94 from inspection by the Department of Health. In addition to any
95 sanctions that the department may impose for violations of rules
96 adopted under this section, the department shall also report
97 such violations to any agency responsible for licensing or
98 certifying the group care facility. The licensing or certifying
99 agency may also impose any sanction based solely on the findings
100 of the department.

101
102 The department may adopt rules to carry out the provisions of
103 this section.

104 Section 2. Paragraph (a) of subsection (2) of section
105 381.0072, Florida Statutes, is amended to read:

106 381.0072 Food service protection.—It shall be the duty of
107 the Department of Health to adopt and enforce sanitation rules
108 consistent with law to ensure the protection of the public from
109 food-borne illness. These rules shall provide the standards and
110 requirements for the storage, preparation, serving, or display
111 of food in food service establishments as defined in this
112 section and which are not permitted or licensed under chapter
113 500 or chapter 509.

114 (2) DUTIES.—

115 (a) The department shall adopt rules, including definitions
116 of terms which are consistent with law prescribing minimum

21-01558-09

20091562

117 sanitation standards and manager certification requirements as
118 prescribed in s. 509.039, and which shall be enforced in food
119 service establishments as defined in this section. The
120 sanitation standards must address the construction, operation,
121 and maintenance of the establishment; lighting, ventilation,
122 laundry rooms, lockers, use and storage of toxic materials and
123 cleaning compounds, and first-aid supplies; plan review; design,
124 construction, installation, location, maintenance, sanitation,
125 and storage of food equipment and utensils; employee training,
126 health, hygiene, and work practices; food supplies, preparation,
127 storage, transportation, and service, including access to the
128 areas where food is stored or prepared; and sanitary facilities
129 and controls, including water supply and sewage disposal;
130 plumbing and toilet facilities; garbage and refuse collection,
131 storage, and disposal; and vermin control. Public and private
132 schools, if the food service is operated by school employees;
133 hospitals licensed under chapter 395; nursing homes licensed
134 under part II of chapter 400; child care facilities as defined
135 in s. 402.301; residential facilities colocated with a nursing
136 home or hospital, if all food is prepared in a central kitchen
137 that complies with nursing or hospital regulations; and bars and
138 lounges, as defined by department rule, are exempt from the
139 rules developed for manager certification. The department shall
140 administer a comprehensive inspection, monitoring, and sampling
141 program to ensure such standards are maintained; however,
142 nursing homes that are licensed under part II of chapter 400 and
143 inspected by the Agency for Health Care Administration as part
144 of state licensing requirements and federal certification
145 requirements are exempt from inspection by the department. With

21-01558-09

20091562__

146 respect to food service establishments permitted or licensed
147 under chapter 500 or chapter 509, the department shall assist
148 the Division of Hotels and Restaurants of the Department of
149 Business and Professional Regulation and the Department of
150 Agriculture and Consumer Services with rulemaking by providing
151 technical information.

152 Section 3. Paragraph (b) of subsection (6) of section
153 381.0098, Florida Statutes, is amended to read:

154 381.0098 Biomedical waste.—

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

157 (b) Inspections may be conducted for purposes of compliance
158 with this section. Any such inspection shall be commenced and
159 completed with reasonable promptness. However, nursing homes
160 that are licensed under part II of chapter 400 and inspected by
161 the Agency for Health Care Administration as part of state
162 licensing requirements and federal certification requirements
163 are exempt from inspection by the department. If the officer,
164 employee, or representative of the department obtains any
165 samples, prior to leaving the premises he or she shall give the
166 owner, operator, or agent in charge a receipt describing the
167 sample obtained.

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

170 400.0061 Legislative findings and intent; long-term care
171 facilities.—

172 (2) It is the intent of the Legislature, therefore, to
173 utilize voluntary citizen ombudsman councils under the
174 leadership of the ombudsman, and through them to operate an

21-01558-09

20091562__

175 ombudsman program which shall, without interference by any
176 executive agency, undertake to discover, investigate, and
177 determine the presence of conditions or individuals which
178 constitute a threat to the rights, health, safety, or welfare of
179 the residents of long-term care facilities. To ensure that the
180 effectiveness and efficiency of such investigations are not
181 impeded by advance notice or delay, the Legislature intends that
182 the ombudsman and ombudsman councils and their designated
183 representatives not be required to obtain warrants in order to
184 enter into or conduct investigations ~~or onsite administrative~~
185 ~~assessments~~ of long-term care facilities. It is the further
186 intent of the Legislature that the environment in long-term care
187 facilities be conducive to the dignity and independence of
188 residents and that investigations by ombudsman councils shall
189 further the enforcement of laws, rules, and regulations that
190 safeguard the health, safety, and welfare of residents.

191 Section 5. Paragraph (a) of subsection (1) of section
192 400.0065, Florida Statutes, is amended to read:

193 400.0065 State Long-Term Care Ombudsman; duties and
194 responsibilities.-

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

197 (a) Identify, investigate, and resolve complaints made by
198 or on behalf of residents of long-term care facilities,
199 regardless of the person who makes the complaint, including an
200 employee, relating to actions or omissions by providers or
201 representatives of providers of long-term care services, other
202 public or private agencies, guardians, or representative payees
203 which ~~that~~ may adversely affect the health, safety, welfare, or

21-01558-09

20091562__

204 rights of the residents.

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

207 400.0067 State Long-Term Care Ombudsman Council; duties;
208 membership.-

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

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

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

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

221 400.0069 Local long-term care ombudsman councils; duties;
222 membership.-

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

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

228 (3) In order to carry out the duties specified in
229 subsection (2), a member of a local council is authorized to
230 enter any long-term care facility without notice or first
231 obtaining a warrant, ~~subject to the provisions of s.~~
232 ~~400.0074(2).~~

21-01558-09

20091562__

233 Section 8. Section 400.0071, Florida Statutes, is amended
234 to read:

235 400.0071 State Long-Term Care Ombudsman Program complaint
236 procedures.—The department shall adopt rules implementing state
237 and local complaint procedures. The rules must include
238 procedures for:

239 (1) Receiving complaints against a long-term care facility
240 or an employee of a long-term care facility regardless of the
241 person who makes the complaint.

242 (2) Conducting investigations of a long-term care facility
243 or an employee of a long-term care facility subsequent to
244 receiving a complaint.

245 ~~(3) Conducting onsite administrative assessments of long-~~
246 ~~term care facilities.~~

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

248 Section 10. Subsection (3) of section 400.121, Florida
249 Statutes, is amended to read:

250 400.121 Denial, suspension, revocation of license;
251 administrative fines; procedure; order to increase staffing.—

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

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

259 (b) Is conditionally licensed for 180 or more continuous
260 days. ~~†~~

261 ~~(c) Is cited for two class I deficiencies arising from~~

21-01558-09

20091562__

262 ~~unrelated circumstances during the same survey or investigation;~~
263 ~~or~~

264 ~~(d) Is cited for two class I deficiencies arising from~~
265 ~~separate surveys or investigations within a 30-month period.~~

266

267 The licensee may present factors in mitigation of revocation,
268 and the agency may make a determination not to revoke a license
269 based upon a showing that revocation is inappropriate under the
270 circumstances.

271 Section 11. Section 400.141, Florida Statutes, is amended
272 to read:

273 400.141 Administration and management of nursing home
274 facilities.—Every licensed facility shall comply with all
275 applicable standards and rules of the agency and shall:

276 (1) Be under the administrative direction and charge of a
277 licensed administrator.

278 (2) Appoint a medical director licensed pursuant to chapter
279 458 or chapter 459. The agency may establish by rule more
280 specific criteria for the appointment of a medical director.

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

283 (4) Provide for resident use of a community pharmacy as
284 specified in s. 400.022(1)(q). Any other law to the contrary
285 notwithstanding, a registered pharmacist licensed in Florida,
286 that is under contract with a facility licensed under this
287 chapter or chapter 429, shall repackage a nursing facility
288 resident's bulk prescription medication which has been packaged
289 by another pharmacist licensed in any state in the United States
290 into a unit dose system compatible with the system used by the

21-01558-09

20091562__

291 nursing facility, if the pharmacist is requested to offer such
292 service. In order to be eligible for the repackaging, a resident
293 or the resident's spouse must receive prescription medication
294 benefits provided through a former employer as part of his or
295 her retirement benefits, a qualified pension plan as specified
296 in s. 4972 of the Internal Revenue Code, a federal retirement
297 program as specified under 5 C.F.R. s. 831, or a long-term care
298 policy as defined in s. 627.9404(1). A pharmacist who correctly
299 repackages and relabels the medication and the nursing facility
300 which correctly administers such repackaged medication under the
301 provisions of this subsection shall not be held liable in any
302 civil or administrative action arising from the repackaging. In
303 order to be eligible for the repackaging, a nursing facility
304 resident for whom the medication is to be repackaged shall sign
305 an informed consent form provided by the facility which includes
306 an explanation of the repackaging process and which notifies the
307 resident of the immunities from liability provided herein. A
308 pharmacist who repackages and relabels prescription medications,
309 as authorized under this subsection, may charge a reasonable fee
310 for costs resulting from the implementation of this provision.

311 (5) Provide for the access of the facility residents to
312 dental and other health-related services, recreational services,
313 rehabilitative services, and social work services appropriate to
314 their needs and conditions and not directly furnished by the
315 licensee. When a geriatric outpatient nurse clinic is conducted
316 in accordance with rules adopted by the agency, outpatients
317 attending such clinic shall not be counted as part of the
318 general resident population of the nursing home facility, nor
319 shall the nursing staff of the geriatric outpatient clinic be

21-01558-09

20091562__

320 counted as part of the nursing staff of the facility, until the
321 outpatient clinic load exceeds 15 a day.

322 (6) Be allowed and encouraged by the agency to provide
323 other needed services under certain conditions. If the facility
324 has a standard licensure status, ~~and has had no class I or class~~
325 ~~II deficiencies during the past 2 years or has been awarded a~~
326 ~~Gold Seal under the program established in s. 400.235,~~ it may be
327 encouraged by the agency to provide services, including, but not
328 limited to, respite and adult day services, which enable
329 individuals to move in and out of the facility. A facility is
330 not subject to any additional licensure requirements for
331 providing these services. Respite care may be offered to persons
332 in need of short-term or temporary nursing home services.
333 Respite care must be provided in accordance with this part and
334 rules adopted by the agency. However, the agency shall, by rule,
335 adopt modified requirements for resident assessment, resident
336 care plans, resident contracts, physician orders, and other
337 provisions, as appropriate, for short-term or temporary nursing
338 home services. The agency shall allow for shared programming and
339 staff in a facility which meets minimum standards and offers
340 services pursuant to this subsection, but, if the facility is
341 cited for deficiencies in patient care, may require additional
342 staff and programs appropriate to the needs of service
343 recipients. A person who receives respite care may not be
344 counted as a resident of the facility for purposes of the
345 facility's licensed capacity unless that person receives 24-hour
346 respite care. A person receiving either respite care for 24
347 hours or longer or adult day services must be included when
348 calculating minimum staffing for the facility. Any costs and

21-01558-09

20091562__

349 revenues generated by a nursing home facility from
350 nonresidential programs or services shall be excluded from the
351 calculations of Medicaid per diems for nursing home
352 institutional care reimbursement.

353 (7) If the facility has a standard license ~~or is a Gold~~
354 ~~Seal facility~~, exceeds the minimum required hours of licensed
355 nursing and certified nursing assistant direct care per resident
356 per day, and is part of a continuing care facility licensed
357 under chapter 651 or a retirement community that offers other
358 services pursuant to part III of this chapter or part I or part
359 III of chapter 429 on a single campus, be allowed to share
360 programming and staff. At the time of inspection and in the
361 semiannual report required pursuant to subsection (15), a
362 continuing care facility or retirement community that uses this
363 option must demonstrate through staffing records that minimum
364 staffing requirements for the facility were met. Licensed nurses
365 and certified nursing assistants who work in the nursing home
366 facility may be used to provide services elsewhere on campus if
367 the facility exceeds the minimum number of direct care hours
368 required per resident per day and the total number of residents
369 receiving direct care services from a licensed nurse or a
370 certified nursing assistant does not cause the facility to
371 violate the staffing ratios required under s. 400.23(3)(a).
372 Compliance with the minimum staffing ratios shall be based on
373 total number of residents receiving direct care services,
374 regardless of where they reside on campus. If the facility
375 receives a conditional license, it may not share staff until the
376 conditional license status ends. This subsection does not
377 restrict the agency's authority under federal or state law to

21-01558-09

20091562__

378 require additional staff if a facility is cited for deficiencies
379 in care which are caused by an insufficient number of certified
380 nursing assistants or licensed nurses. The agency may adopt
381 rules for the documentation necessary to determine compliance
382 with this provision.

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

385 (9) If the licensee furnishes food service, provide a
386 wholesome and nourishing diet sufficient to meet generally
387 accepted standards of proper nutrition for its residents and
388 provide such therapeutic diets as may be prescribed by attending
389 physicians. In making rules to implement this subsection, the
390 agency shall be guided by standards recommended by nationally
391 recognized professional groups and associations with knowledge
392 of dietetics.

393 (10) Keep full records of resident admissions and
394 discharges; medical and general health status, including medical
395 records, personal and social history, and identity and address
396 of next of kin or other persons who may have responsibility for
397 the affairs of the residents; and individual resident care plans
398 including, but not limited to, prescribed services, service
399 frequency and duration, and service goals. The records shall be
400 open to inspection by the agency.

401 (11) Keep such fiscal records of its operations and
402 conditions as may be necessary to provide information pursuant
403 to this part.

404 (12) Furnish copies of personnel records for employees
405 affiliated with such facility, to any other facility licensed by
406 this state requesting this information pursuant to this part.

21-01558-09

20091562__

407 Such information contained in the records may include, but is
408 not limited to, disciplinary matters and any reason for
409 termination. Any facility releasing such records pursuant to
410 this part shall be considered to be acting in good faith and may
411 not be held liable for information contained in such records,
412 absent a showing that the facility maliciously falsified such
413 records.

414 (13) Publicly display a poster provided by the agency
415 containing the names, addresses, and telephone numbers for the
416 state's abuse hotline, the State Long-Term Care Ombudsman, the
417 Agency for Health Care Administration consumer hotline, the
418 Advocacy Center for Persons with Disabilities, the Florida
419 Statewide Advocacy Council, and the Medicaid Fraud Control Unit,
420 with a clear description of the assistance to be expected from
421 each.

422 (14) Submit to the agency the information specified in s.
423 400.071(1)(b) for a management company within 30 days after the
424 effective date of the management agreement.

425 (15) Submit semiannually to the agency, or more frequently
426 if requested by the agency, information regarding facility
427 staff-to-resident ratios, staff turnover, and staff stability,
428 including information regarding certified nursing assistants,
429 licensed nurses, the director of nursing, and the facility
430 administrator. For purposes of this reporting:

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

435 (b) Staff turnover must be reported for the most recent 12-

21-01558-09

20091562__

436 month period ending on the last workday of the most recent
437 calendar quarter prior to the date the information is submitted.
438 The turnover rate must be computed quarterly, with the annual
439 rate being the cumulative sum of the quarterly rates. The
440 turnover rate is the total number of terminations or separations
441 experienced during the quarter, excluding any employee
442 terminated during a probationary period of 3 months or less,
443 divided by the total number of staff employed at the end of the
444 period for which the rate is computed, and expressed as a
445 percentage.

446 (c) The formula for determining staff stability is the
447 total number of employees that have been employed for more than
448 12 months, divided by the total number of employees employed at
449 the end of the most recent calendar quarter, and expressed as a
450 percentage.

451 (d) A nursing facility that has failed to comply with state
452 minimum-staffing requirements for 2 consecutive days is
453 prohibited from accepting new admissions until the facility has
454 achieved the minimum-staffing requirements for a period of 6
455 consecutive days. For the purposes of this paragraph, any person
456 who was a resident of the facility and was absent from the
457 facility for the purpose of receiving medical care at a separate
458 location or was on a leave of absence is not considered a new
459 admission. Failure to impose such an admissions moratorium
460 constitutes a class II deficiency.

461 (e) A nursing facility which does not have a conditional
462 license may be cited for failure to comply with the standards in
463 s. 400.23(3)(a)1.a. only if it has failed to meet those
464 standards on 2 consecutive days or if it has failed to meet at

21-01558-09

20091562__

465 least 97 percent of those standards on any one day.

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

468

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

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

475 (17) Notify a licensed physician when a resident exhibits
476 signs of dementia or cognitive impairment or has a change of
477 condition in order to rule out the presence of an underlying
478 physiological condition that may be contributing to such
479 dementia or impairment. The notification must occur within 30
480 days after the acknowledgment of such signs by facility staff.
481 If an underlying condition is determined to exist, the facility
482 shall arrange, with the appropriate health care provider, the
483 necessary care and services to treat the condition.

484 (18) If the facility implements a dining and hospitality
485 attendant program, ensure that the program is developed and
486 implemented under the supervision of the facility director of
487 nursing. A licensed nurse, licensed speech or occupational
488 therapist, or a registered dietitian must conduct training of
489 dining and hospitality attendants. A person employed by a
490 facility as a dining and hospitality attendant must perform
491 tasks under the direct supervision of a licensed nurse.

492 (19) Report to the agency any filing for bankruptcy
493 protection by the facility or its parent corporation,

21-01558-09

20091562__

494 divestiture or spin-off of its assets, or corporate
495 reorganization within 30 days after the completion of such
496 activity.

497 (20) Maintain general and professional liability insurance
498 coverage that is in force at all times. In lieu of general and
499 professional liability insurance coverage, a state-designated
500 teaching nursing home and its affiliated assisted living
501 facilities created under s. 430.80 may demonstrate proof of
502 financial responsibility as provided in s. 430.80(3)(h).

503 (21) Maintain in the medical record for each resident a
504 daily chart of certified nursing assistant services provided to
505 the resident. The certified nursing assistant who is caring for
506 the resident must complete this record by the end of his or her
507 shift. This record must indicate assistance with activities of
508 daily living, assistance with eating, and assistance with
509 drinking, and must record each offering of nutrition and
510 hydration for those residents whose plan of care or assessment
511 indicates a risk for malnutrition or dehydration.

512 (22) Before November 30 of each year, subject to the
513 availability of an adequate supply of the necessary vaccine,
514 provide for immunizations against influenza viruses to all its
515 consenting residents in accordance with the recommendations of
516 the United States Centers for Disease Control and Prevention,
517 subject to exemptions for medical contraindications and
518 religious or personal beliefs. Subject to these exemptions, any
519 consenting person who becomes a resident of the facility after
520 November 30 but before March 31 of the following year must be
521 immunized within 5 working days after becoming a resident.
522 Immunization shall not be provided to any resident who provides

21-01558-09

20091562

523 documentation that he or she has been immunized as required by
524 this subsection. This subsection does not prohibit a resident
525 from receiving the immunization from his or her personal
526 physician if he or she so chooses. A resident who chooses to
527 receive the immunization from his or her personal physician
528 shall provide proof of immunization to the facility. The agency
529 may adopt and enforce any rules necessary to comply with or
530 implement this subsection.

531 (23) Assess all residents for eligibility for pneumococcal
532 polysaccharide vaccination (PPV) and vaccinate residents when
533 indicated within 60 days after the effective date of this act in
534 accordance with the recommendations of the United States Centers
535 for Disease Control and Prevention, subject to exemptions for
536 medical contraindications and religious or personal beliefs.
537 Residents admitted after the effective date of this act shall be
538 assessed within 5 working days of admission and, when indicated,
539 vaccinated within 60 days in accordance with the recommendations
540 of the United States Centers for Disease Control and Prevention,
541 subject to exemptions for medical contraindications and
542 religious or personal beliefs. Immunization shall not be
543 provided to any resident who provides documentation that he or
544 she has been immunized as required by this subsection. This
545 subsection does not prohibit a resident from receiving the
546 immunization from his or her personal physician if he or she so
547 chooses. A resident who chooses to receive the immunization from
548 his or her personal physician shall provide proof of
549 immunization to the facility. The agency may adopt and enforce
550 any rules necessary to comply with or implement this subsection.

551 (24) Annually encourage and promote to its employees the

21-01558-09

20091562__

552 benefits associated with immunizations against influenza viruses
553 in accordance with the recommendations of the United States
554 Centers for Disease Control and Prevention. The agency may adopt
555 and enforce any rules necessary to comply with or implement this
556 subsection.

557

558 ~~Facilities that have been awarded a Gold Seal under the program~~
559 ~~established in s. 400.235 may develop a plan to provide~~
560 ~~certified nursing assistant training as prescribed by federal~~
561 ~~regulations and state rules and may apply to the agency for~~
562 ~~approval of their program.~~

563 Section 12. Subsection (3) of section 400.19, Florida
564 Statutes, is amended to read:

565 400.19 Right of entry and inspection.-

566 (3) The agency shall every 15 months conduct at least one
567 unannounced inspection to determine compliance by the licensee
568 with statutes, with federal requirements, and with rules adopted
569 promulgated under the provisions of those statutes and federal
570 requirements, governing minimum standards of construction,
571 quality and adequacy of care, and rights of residents. ~~The~~
572 ~~survey shall be conducted every 6 months for the next 2-year~~
573 ~~period if the facility has been cited for a class I deficiency,~~
574 ~~has been cited for two or more class II deficiencies arising~~
575 ~~from separate surveys or investigations within a 60-day period,~~
576 ~~or has had three or more substantiated complaints within a 6-~~
577 ~~month period, each resulting in at least one class I or class II~~
578 ~~deficiency.~~ In addition to any other fees or fines in this part,
579 the agency shall assess a fine for each facility that is subject
580 to the 6-month survey cycle. The fine for the 2-year period

21-01558-09

20091562__

581 shall be \$6,000, one-half to be paid at the completion of each
582 survey. The agency may adjust this fine by the change in the
583 Consumer Price Index, based on the 12 months immediately
584 preceding the increase, to cover the cost of the additional
585 surveys. The agency shall verify through subsequent inspection
586 that any deficiency identified during inspection is corrected.
587 ~~However, the agency may verify the correction of a class III or~~
588 ~~class IV deficiency unrelated to resident rights or resident~~
589 ~~care without reinspecting the facility if adequate written~~
590 ~~documentation has been received from the facility, which~~
591 ~~provides assurance that the deficiency has been corrected.~~ The
592 giving or causing to be given of advance notice of such
593 unannounced inspections by an employee of the agency to any
594 unauthorized person shall constitute cause for suspension of not
595 fewer than 5 working days according to the provisions of chapter
596 110.

597 Section 13. Section 400.191, Florida Statutes, is repealed.

598 Section 14. Subsection (1) of section 400.195, Florida
599 Statutes, is amended to read:

600 400.195 Agency reporting requirements.—

601 (1) For the period beginning June 30, 2001, and ending June
602 30, 2005, the Agency for Health Care Administration shall
603 provide a report to the Governor, the President of the Senate,
604 and the Speaker of the House of Representatives with respect to
605 nursing homes. The first report shall be submitted no later than
606 December 30, 2002, and subsequent reports shall be submitted
607 every 6 months thereafter. The report shall identify facilities
608 based on their ownership characteristics, size, business
609 structure, for-profit or not-for-profit status, and any other

21-01558-09

20091562__

610 characteristics the agency determines useful in analyzing the
611 varied segments of the nursing home industry and shall report:

612 (a) The number of notices of intent to litigate received by
613 each facility each month.

614 (b) The number of complaints on behalf of a resident or
615 resident legal representative that were filed with the clerk of
616 the court each month.

617 (c) The month in which the injury which is the basis for
618 the suit occurred or was discovered or, if unavailable, the
619 dates of residency of the resident involved, beginning with the
620 date of initial admission and latest discharge date.

621 (d) Information regarding deficiencies cited, including
622 ~~information used to develop the Nursing Home Guide WATCH LIST~~
623 ~~pursuant to s. 400.191, and applicable rules,~~ a summary of data
624 generated on nursing homes by Centers for Medicare and Medicaid
625 Services Nursing Home Quality Information Project, and
626 information collected pursuant to s. 400.147(9), relating to
627 litigation.

628 Section 15. Subsections (2), (7), and (8) of section
629 400.23, Florida Statutes, are amended to read:

630 400.23 Rules; evaluation and deficiencies; licensure
631 status.—

632 (2) Pursuant to the intention of the Legislature, the
633 agency, in consultation with the Department of Health and the
634 Department of Elderly Affairs, shall adopt and enforce rules to
635 implement this part and part II of chapter 408, which shall
636 include reasonable and fair criteria in relation to:

637 (a) The location of the facility and housing conditions
638 that will ensure the health, safety, and comfort of residents,

21-01558-09

20091562__

639 including an adequate call system. In making such rules, the
640 agency shall be guided by criteria recommended by nationally
641 recognized reputable professional groups and associations with
642 knowledge of such subject matters. The agency shall update or
643 revise such criteria as the need arises. The agency may require
644 alterations to a building if it determines that an existing
645 condition constitutes a distinct hazard to life, health, or
646 safety. In performing any inspections of facilities authorized
647 by this part or part II of chapter 408, the agency may enforce
648 the special-occupancy provisions of the Florida Building Code
649 and the Florida Fire Prevention Code which apply to nursing
650 homes. Residents or their representatives shall be able to
651 request a change in the placement of the bed in their room,
652 provided that at admission they are presented with a room that
653 meets requirements of the Florida Building Code. The location of
654 a bed may be changed if the requested placement does not
655 infringe on the resident's roommate or interfere with the
656 resident's care or safety as determined by the care planning
657 team in accordance with facility policies and procedures. In
658 addition, the bed placement may not be used as a restraint. Each
659 facility shall maintain a log of resident rooms with beds that
660 are not in strict compliance with the Florida Building Code in
661 order for such log to be used by surveyors and nurse monitors
662 during inspections and visits. A resident or resident
663 representative who requests that a bed be moved shall sign a
664 statement indicating that he or she understands the room will
665 not be in compliance with the Florida Building Code, but they
666 would prefer to exercise their right to self-determination. The
667 statement must be retained as part of the resident's care plan.

21-01558-09

20091562__

668 Any facility that offers this option must submit a letter signed
669 by the nursing home administrator of record to the agency
670 notifying it of this practice with a copy of the policies and
671 procedures of the facility. The agency is directed to provide
672 assistance to the Florida Building Commission in updating the
673 construction standards of the code relative to nursing homes.

674 (b) The number and qualifications of all personnel,
675 including management, medical, nursing, and other professional
676 personnel, and nursing assistants, orderlies, and support
677 personnel, having responsibility for any part of the care given
678 residents.

679 (c) All sanitary conditions within the facility and its
680 surroundings, including water supply, sewage disposal, food
681 handling, and general hygiene which will ensure the health and
682 comfort of residents.

683 (d) The equipment essential to the health and welfare of
684 the residents.

685 (e) A uniform accounting system.

686 (f) The care, treatment, and maintenance of residents and
687 measurement of the quality and adequacy thereof, based on rules
688 developed under this chapter and the Omnibus Budget
689 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
690 1987), Title IV (Medicare, Medicaid, and Other Health-Related
691 Programs), Subtitle C (Nursing Home Reform), as amended.

692 (g) The preparation and annual update of a comprehensive
693 emergency management plan. The agency shall adopt rules
694 establishing minimum criteria for the plan after consultation
695 with the Department of Community Affairs. At a minimum, the
696 rules must provide for plan components that address emergency

21-01558-09

20091562__

697 evacuation transportation; adequate sheltering arrangements;
698 postdisaster activities, including emergency power, food, and
699 water; postdisaster transportation; supplies; staffing;
700 emergency equipment; individual identification of residents and
701 transfer of records; and responding to family inquiries. The
702 comprehensive emergency management plan is subject to review and
703 approval by the local emergency management agency. During its
704 review, the local emergency management agency shall ensure that
705 the following agencies, at a minimum, are given the opportunity
706 to review the plan: the Department of Elderly Affairs, the
707 Department of Health, the Agency for Health Care Administration,
708 and the Department of Community Affairs. Also, appropriate
709 volunteer organizations must be given the opportunity to review
710 the plan. The local emergency management agency shall complete
711 its review within 60 days and either approve the plan or advise
712 the facility of necessary revisions.

713 ~~(h) The availability, distribution, and posting of reports~~
714 ~~and records pursuant to s. 400.191 and the Gold Seal Program~~
715 ~~pursuant to s. 400.235.~~

716 (7) The agency shall, at least every 15 months, evaluate
717 all nursing home facilities and make a determination as to the
718 degree of compliance by each licensee with the established rules
719 adopted under this part as a basis for assigning a licensure
720 status to that facility. The agency shall base its evaluation on
721 the most recent inspection report, taking into consideration
722 findings from other official reports, surveys, interviews,
723 investigations, and inspections. In addition to license
724 categories authorized under part II of chapter 408, the agency
725 shall assign a licensure status of standard or conditional to

21-01558-09

20091562__

726 each nursing home.

727 (a) A standard licensure status means that a facility does
728 not have any ~~has no class I or class II~~ deficiencies and has
729 ~~corrected all class III deficiencies within the time established~~
730 ~~by the agency.~~

731 (b) A conditional licensure status means that a facility,
732 ~~due to the presence of one or more class I or class II~~
733 ~~deficiencies, or class III deficiencies not corrected within the~~
734 ~~time established by the agency,~~ is not in substantial compliance
735 at the time of the survey with criteria established under this
736 part or with rules adopted by the agency. If the facility does
737 not have any ~~has no class I, class II, or class III~~ deficiencies
738 at the time of the followup survey, a standard licensure status
739 may be assigned.

740 (c) In evaluating the overall quality of care and services
741 and determining whether the facility will receive a conditional
742 or standard license, the agency shall consider the needs and
743 limitations of residents in the facility and the results of
744 interviews and surveys of a representative sampling of
745 residents, families of residents, ombudsman council members in
746 the planning and service area in which the facility is located,
747 guardians of residents, and staff of the nursing home facility.

748 (d) The current licensure status of each facility must be
749 indicated in bold print on the face of the license. A list of
750 the deficiencies of the facility shall be posted in a prominent
751 place that is in clear and unobstructed public view at or near
752 the place where residents are being admitted to that facility.
753 Licensees receiving a conditional licensure status for a
754 facility shall prepare, within 10 working days after receiving

21-01558-09

20091562__

755 notice of deficiencies, a plan for correction of all
756 deficiencies and shall submit the plan to the agency for
757 approval.

758 (e) The agency shall adopt rules that:

759 1. Establish uniform procedures for the evaluation of
760 facilities.

761 2. Provide criteria in the areas referenced in paragraph
762 (c).

763 3. Address other areas necessary for carrying out the
764 intent of this section.

765 (8) The agency shall adopt rules pursuant to this part and
766 part II of chapter 408 to provide that, when the criteria
767 established under subsection (2) are not met, such deficiencies
768 shall be classified according to the nature and the scope of the
769 deficiency. The scope shall be cited as isolated, patterned, or
770 widespread. An isolated deficiency is a deficiency affecting one
771 or a very limited number of residents, or involving one or a
772 very limited number of staff, or a situation that occurred only
773 occasionally or in a very limited number of locations. A
774 patterned deficiency is a deficiency where more than a very
775 limited number of residents are affected, or more than a very
776 limited number of staff are involved, or the situation has
777 occurred in several locations, or the same resident or residents
778 have been affected by repeated occurrences of the same deficient
779 practice but the effect of the deficient practice is not found
780 to be pervasive throughout the facility. A widespread deficiency
781 is a deficiency in which the problems causing the deficiency are
782 pervasive in the facility or represent systemic failure that has
783 affected or has the potential to affect a large portion of the

21-01558-09

20091562__

784 facility's residents. The agency shall indicate the level of
785 seriousness of the deficiency classification on the face of the
786 notice of deficiencies in accordance with s. 7400E1 of the State
787 Operations Manual published by the Centers for Medicare and
788 Medicaid Services. ~~as follows:~~

789 ~~(a) A class I deficiency is a deficiency that the agency~~
790 ~~determines presents a situation in which immediate corrective~~
791 ~~action is necessary because the facility's noncompliance has~~
792 ~~caused, or is likely to cause, serious injury, harm, impairment,~~
793 ~~or death to a resident receiving care in a facility. The~~
794 ~~condition or practice constituting a class I violation shall be~~
795 ~~abated or eliminated immediately, unless a fixed period of time,~~
796 ~~as determined by the agency, is required for correction. A class~~
797 ~~I deficiency is subject to a civil penalty of \$10,000 for an~~
798 ~~isolated deficiency, \$12,500 for a patterned deficiency, and~~
799 ~~\$15,000 for a widespread deficiency. The fine amount shall be~~
800 ~~doubled for each deficiency if the facility was previously cited~~
801 ~~for one or more class I or class II deficiencies during the last~~
802 ~~licensure inspection or any inspection or complaint~~
803 ~~investigation since the last licensure inspection. A fine must~~
804 ~~be levied notwithstanding the correction of the deficiency.~~

805 ~~(b) A class II deficiency is a deficiency that the agency~~
806 ~~determines has compromised the resident's ability to maintain or~~
807 ~~reach his or her highest practicable physical, mental, and~~
808 ~~psychosocial well-being, as defined by an accurate and~~
809 ~~comprehensive resident assessment, plan of care, and provision~~
810 ~~of services. A class II deficiency is subject to a civil penalty~~
811 ~~of \$2,500 for an isolated deficiency, \$5,000 for a patterned~~
812 ~~deficiency, and \$7,500 for a widespread deficiency. The fine~~

21-01558-09

20091562

813 ~~amount shall be doubled for each deficiency if the facility was~~
814 ~~previously cited for one or more class I or class II~~
815 ~~deficiencies during the last licensure inspection or any~~
816 ~~inspection or complaint investigation since the last licensure~~
817 ~~inspection. A fine shall be levied notwithstanding the~~
818 ~~correction of the deficiency.~~

819 ~~(c) A class III deficiency is a deficiency that the agency~~
820 ~~determines will result in no more than minimal physical, mental,~~
821 ~~or psychosocial discomfort to the resident or has the potential~~
822 ~~to compromise the resident's ability to maintain or reach his or~~
823 ~~her highest practical physical, mental, or psychosocial well-~~
824 ~~being, as defined by an accurate and comprehensive resident~~
825 ~~assessment, plan of care, and provision of services. A class III~~
826 ~~deficiency is subject to a civil penalty of \$1,000 for an~~
827 ~~isolated deficiency, \$2,000 for a patterned deficiency, and~~
828 ~~\$3,000 for a widespread deficiency. The fine amount shall be~~
829 ~~doubled for each deficiency if the facility was previously cited~~
830 ~~for one or more class I or class II deficiencies during the last~~
831 ~~licensure inspection or any inspection or complaint~~
832 ~~investigation since the last licensure inspection. A citation~~
833 ~~for a class III deficiency must specify the time within which~~
834 ~~the deficiency is required to be corrected. If a class III~~
835 ~~deficiency is corrected within the time specified, a civil~~
836 ~~penalty may not be imposed.~~

837 ~~(d) A class IV deficiency is a deficiency that the agency~~
838 ~~determines has the potential for causing no more than a minor~~
839 ~~negative impact on the resident. If the class IV deficiency is~~
840 ~~isolated, no plan of correction is required.~~

841 Section 16. Section 400.235, Florida Statutes, is repealed.

21-01558-09

20091562__

842 Section 17. Subsection (1) of section 408.035, Florida
843 Statutes, is amended to read:

844 408.035 Review criteria.—

845 (1) The agency shall determine the reviewability of
846 applications and shall review applications for certificate-of-
847 need determinations for health care facilities and health
848 services in context with the following criteria, except for
849 general hospitals as defined in s. 395.002:

850 (a) The need for the health care facilities and health
851 services being proposed.

852 (b) The availability, quality of care, accessibility, and
853 extent of utilization of existing health care facilities and
854 health services in the service district of the applicant.

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

857 (d) The availability of resources, including health
858 personnel, management personnel, and funds for capital and
859 operating expenditures, for project accomplishment and
860 operation.

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

863 (f) The immediate and long-term financial feasibility of
864 the proposal.

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

867 (h) The costs and methods of the proposed construction,
868 including the costs and methods of energy provision and the
869 availability of alternative, less costly, or more effective
870 methods of construction.

21-01558-09

20091562

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

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

876 Section 18. Paragraph (d) of subsection (15) of section
877 409.912, Florida Statutes, is repealed.

878 Section 19. Section 633.081, Florida Statutes, is amended
879 to read:

880 633.081 Inspection of buildings and equipment; orders;
881 firesafety inspection training requirements; certification;
882 disciplinary action.—The State Fire Marshal and her or his
883 agents shall, at any reasonable hour, when the department has
884 reasonable cause to believe that a violation of this chapter or
885 s. 509.215, or a rule promulgated thereunder, or a minimum
886 firesafety code adopted by a local authority, may exist, inspect
887 any and all buildings and structures which are subject to the
888 requirements of this chapter or s. 509.215 and rules promulgated
889 thereunder. The authority to inspect shall extend to all
890 equipment, vehicles, and chemicals which are located within the
891 premises of any such building or structure. Nursing home
892 facilities that are licensed under part II of chapter 400 and
893 inspected by the Agency for Health Care Administration as part
894 of state licensing requirements and federal certification
895 requirements are exempt from inspection by the State Fire
896 Marshal and her or his agents if the agency's inspection
897 satisfies inspection requirements of the State Fire Marshal.

898 (1) Each county, municipality, and special district that
899 has firesafety enforcement responsibilities shall employ or

21-01558-09

20091562__

900 contract with a firesafety inspector. The firesafety inspector
901 must conduct all firesafety inspections that are required by
902 law. The governing body of a county, municipality, or special
903 district that has firesafety enforcement responsibilities may
904 provide a schedule of fees to pay only the costs of inspections
905 conducted pursuant to this subsection and related administrative
906 expenses. Two or more counties, municipalities, or special
907 districts that have firesafety enforcement responsibilities may
908 jointly employ or contract with a firesafety inspector.

909 (2) Every firesafety inspection conducted pursuant to state
910 or local firesafety requirements shall be by a person certified
911 as having met the inspection training requirements set by the
912 State Fire Marshal. Such person shall:

913 (a) Be a high school graduate or the equivalent as
914 determined by the department;

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

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

923 (d) Have good moral character as determined by the
924 department;

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

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

928 (g)1. Have satisfactorily completed, as determined by the

21-01558-09

20091562__

929 department, a firesafety inspector training program of not less
930 than 200 hours established by the department and administered by
931 agencies and institutions approved by the department for the
932 purpose of providing basic certification training for firesafety
933 inspectors; or

934 2. Have received in another state training which is
935 determined by the department to be at least equivalent to that
936 required by the department for approved firesafety inspector
937 education and training programs in this state.

938 (3) Each special state firesafety inspection which is
939 required by law and is conducted by or on behalf of an agency of
940 the state must be performed by an individual who has met the
941 provision of subsection (2), except that the duration of the
942 training program shall not exceed 120 hours of specific training
943 for the type of property that such special state firesafety
944 inspectors are assigned to inspect.

945 (4) A firefighter certified pursuant to s. 633.35 may
946 conduct firesafety inspections, under the supervision of a
947 certified firesafety inspector, while on duty as a member of a
948 fire department company conducting inservice firesafety
949 inspections without being certified as a firesafety inspector,
950 if such firefighter has satisfactorily completed an inservice
951 fire department company inspector training program of at least
952 24 hours' duration as provided by rule of the department.

953 (5) Every firesafety inspector or special state firesafety
954 inspector certificate is valid for a period of 3 years from the
955 date of issuance. Renewal of certification shall be subject to
956 the affected person's completing proper application for renewal
957 and meeting all of the requirements for renewal as established

21-01558-09

20091562__

958 under this chapter or by rule promulgated thereunder, which
959 shall include completion of at least 40 hours during the
960 preceding 3-year period of continuing education as required by
961 the rule of the department or, in lieu thereof, successful
962 passage of an examination as established by the department.

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

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

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

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

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

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

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

980 (g) Making or filing a report or record that the
981 certificateholder knows to be false, or knowingly inducing
982 another to file a false report or record, or knowingly failing
983 to file a report or record required by state or local law, or
984 knowingly impeding or obstructing such filing, or knowingly
985 inducing another person to impede or obstruct such filing.

986 (h) Failing to properly enforce applicable fire codes or

21-01558-09

20091562__

987 permit requirements within this state which the
988 certificateholder knows are applicable by committing willful
989 misconduct, gross negligence, gross misconduct, repeated
990 negligence, or negligence resulting in a significant danger to
991 life or property.

992 (i) Accepting labor, services, or materials at no charge or
993 at a noncompetitive rate from any person who performs work that
994 is under the enforcement authority of the certificateholder and
995 who is not an immediate family member of the certificateholder.
996 For the purpose of this paragraph, the term "immediate family
997 member" means a spouse, child, parent, sibling, grandparent,
998 aunt, uncle, or first cousin of the person or the person's
999 spouse or any person who resides in the primary residence of the
1000 certificateholder.

1001 (7) The department shall provide by rule for the
1002 certification of firesafety inspectors.

1003 Section 20. This act shall take effect July 1, 2009.