

By the Committee on Health Regulation; and Senator Bennett

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

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30 400.0075, F.S.; conforming provisions to changes made
31 by the act relating to onsite administrative
32 assessments; amending s. 400.19, F.S.; requiring the
33 agency to conduct an inspection to determine
34 compliance by the licensee with federal requirements;
35 amending s. 400.191, F.S.; deleting provisions
36 relating to a requirement that the agency make
37 available to the public, distribute, and post reports
38 and records concerning licensed nursing homes
39 operating in the state; revising requirements for a
40 nursing home facility licensee; amending s. 400.195,
41 F.S.; revising provisions relating to agency reporting
42 requirements; amending s. 400.23, F.S.; revising
43 requirements for notification of deficiencies;
44 revising the criteria for determining each class of
45 deficiency; amending s. 465.017, F.S.; providing that
46 nursing homes that are inspected by the agency are
47 exempt from inspection by the Department of Health and
48 imposition of a fee; amending s. 633.081, F.S.;
49 providing that nursing homes that are inspected by the
50 agency are exempt from inspection by the State Fire
51 Marshal under certain circumstances; providing an
52 effective date.

53
54 Be It Enacted by the Legislature of the State of Florida:

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

58 381.006 Environmental health.—The department shall conduct

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59 an environmental health program as part of fulfilling the
60 state's public health mission. The purpose of this program is to
61 detect and prevent disease caused by natural and manmade factors
62 in the environment. The environmental health program shall
63 include, but not be limited to:

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

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88 health of the residents, staff, or patrons. The department may
89 not adopt rules that conflict with rules adopted by the
90 licensing or certifying agency. The department may enter and
91 inspect at reasonable hours to determine compliance with
92 applicable statutes or rules. However, nursing homes that are
93 licensed under part II of chapter 400 and inspected by the
94 Agency for Health Care Administration pursuant to the state
95 licensing requirements or federal certification requirements are
96 exempt from routine inspection by the department, as required
97 under this part, and are exempt from the fee imposed pursuant to
98 this section. Domestic violence centers that are certified and
99 monitored by the Department of Children and Family Services
100 pursuant to chapter 39 are exempt from inspection by the
101 department, except as provided in administrative rules adopted
102 pursuant to chapter 39 which govern domestic violence centers.

103 In addition to any sanctions that the department may impose for
104 violations of rules adopted under this section, the department
105 shall also report such violations to any agency responsible for
106 licensing or certifying the group care facility. The licensing
107 or certifying agency may also impose any sanction based solely
108 on the findings of the department. The department may adopt
109 rules to carry out the provisions of this section.

110 Section 2. Paragraph (a) of subsection (2) of section
111 381.0072, Florida Statutes, is amended to read:

112 381.0072 Food service protection.—It shall be the duty of
113 the Department of Health to adopt and enforce sanitation rules
114 consistent with law to ensure the protection of the public from
115 food-borne illness. These rules shall provide the standards and
116 requirements for the storage, preparation, serving, or display

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117 of food in food service establishments as defined in this
118 section and which are not permitted or licensed under chapter
119 500 or chapter 509.

120 (2) DUTIES.—

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

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146 administer a comprehensive inspection, monitoring, and sampling
147 program to ensure such standards are maintained; however,
148 nursing homes that are licensed under part II of chapter 400 and
149 inspected by the Agency for Health Care Administration pursuant
150 to the state licensing requirements or federal certification
151 requirements are exempt from routine inspection by the
152 department, as required under this part, and are exempt from the
153 fee imposed pursuant to this section. Domestic violence centers
154 that are certified and monitored by the Department of Children
155 and Family Services pursuant to chapter 39 are not food service
156 establishments and are exempt from inspection by the department.
157 With respect to food service establishments permitted or
158 licensed under chapter 500 or chapter 509, the department shall
159 assist the Division of Hotels and Restaurants of the Department
160 of Business and Professional Regulation and the Department of
161 Agriculture and Consumer Services with rulemaking by providing
162 technical information.

163 Section 3. Paragraph (b) of subsection (6) of section
164 381.0098, Florida Statutes, is amended to read:

165 381.0098 Biomedical waste.—

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

168 (b) Inspections may be conducted for purposes of compliance
169 with this section. Any such inspection shall be commenced and
170 completed with reasonable promptness. However, nursing homes
171 that are licensed under part II of chapter 400 and inspected by
172 the Agency for Health Care Administration as part of the state
173 licensing requirements or federal certification requirements are
174 exempt from routine inspection by the department, as required

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175 under this part, and are exempt from the fee imposed pursuant to
176 this section. If the officer, employee, or representative of the
177 department obtains any samples, prior to leaving the premises he
178 or she shall give the owner, operator, or agent in charge a
179 receipt describing the sample obtained.

180 Section 4. Subsection (1) of section 400.0060, Florida
181 Statutes, is repealed.

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

184 400.0061 Legislative findings and intent; long-term care
185 facilities.-

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

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204 safeguard the health, safety, and welfare of residents. This
205 section does not preclude an ombudsman from entering a facility
206 pursuant to the Older Americans Act of 1965, as amended, in
207 order to provide services to protect the health, safety, welfare
208 and rights of residents while ensuring that residents have
209 regular and timely access to representatives of the ombudsman
210 program.

211 Section 6. Paragraph (a) of subsection (1) of section
212 400.0065, Florida Statutes, is amended to read:

213 400.0065 State Long-Term Care Ombudsman; duties and
214 responsibilities.—

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

217 (a) Identify, investigate, and resolve complaints made by
218 or on behalf of residents of long-term care facilities,
219 regardless of the person who makes the complaint, including an
220 employee of the long-term care facility, relating to actions or
221 omissions by providers or representatives of providers of long-
222 term care services, other public or private agencies, guardians,
223 or representative payees which ~~that~~ may adversely affect the
224 health, safety, welfare, or rights of the residents.

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

227 400.0067 State Long-Term Care Ombudsman Council; duties;
228 membership.—

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

230 (b) Serve as an appellate body in receiving from the local
231 councils complaints not resolved at the local level. Any
232 individual member or members of the state council may enter any

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233 long-term care facility involved in an appeal, ~~pursuant to the~~
234 ~~conditions specified in s. 400.0074(2).~~

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

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

241 400.0069 Local long-term care ombudsman councils; duties;
242 membership.-

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

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

248 (3) In order to carry out the duties specified in
249 subsection (2), a member of a local council is authorized to
250 enter any long-term care facility without notice or first
251 obtaining a warrant, ~~subject to the provisions of s.~~
252 ~~400.0074(2).~~

253 Section 9. Section 400.0071, Florida Statutes, is amended
254 to read:

255 400.0071 State Long-Term Care Ombudsman Program complaint
256 procedures.-The department shall adopt rules implementing state
257 and local complaint procedures. The rules must include
258 procedures for:

259 (1) Receiving complaints against a long-term care facility
260 or an employee of a long-term care facility regardless of the
261 person who makes the complaint.

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262 (2) Conducting investigations of a long-term care facility
263 or an employee of a long-term care facility subsequent to
264 receiving a complaint.

265 ~~(3) Conducting onsite administrative assessments of long-~~
266 ~~term care facilities.~~

267 Section 10. Section 400.0074, Florida Statutes, is
268 repealed.

269 Section 11. Paragraph (a) of subsection (1) of section
270 400.0075, Florida Statutes, is amended to read:

271 400.0075 Complaint notification and resolution procedures.—

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

284 1. Extend the target date if the chair has reason to
285 believe such action would facilitate the resolution of the
286 complaint.

287 2. In accordance with s. 400.0077, publicize the complaint,
288 the recommendations of the council, and the response of the
289 long-term care facility.

290 3. Refer the complaint to the state council.

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

293 400.19 Right of entry and inspection.-

294 (3) The agency shall every 15 months conduct at least one
295 unannounced inspection to determine compliance by the licensee
296 with statutes, with federal requirements, if applicable, and
297 with rules adopted ~~promulgated~~ under the provisions of those
298 statutes and federal requirements, governing minimum standards
299 of construction, quality and adequacy of care, and rights of
300 residents. The survey shall be conducted every 6 months for the
301 next 2-year period if the facility has been cited for a class I
302 deficiency, has been cited for two or more class II deficiencies
303 arising from separate surveys or investigations within a 60-day
304 period, or has had three or more substantiated complaints within
305 a 6-month period, each resulting in at least one class I or
306 class II deficiency. In addition to any other fees or fines in
307 this part, the agency shall assess a fine for each facility that
308 is subject to the 6-month survey cycle. The fine for the 2-year
309 period shall be \$6,000, one-half to be paid at the completion of
310 each survey. The agency may adjust this fine by the change in
311 the Consumer Price Index, based on the 12 months immediately
312 preceding the increase, to cover the cost of the additional
313 surveys. The agency shall verify through subsequent inspection
314 that any deficiency identified during inspection is corrected.
315 However, the agency may verify the correction of a class III or
316 class IV deficiency unrelated to resident rights or resident
317 care without reinspecting the facility if adequate written
318 documentation has been received from the facility, which
319 provides assurance that the deficiency has been corrected. The

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320 giving or causing to be given of advance notice of such
321 unannounced inspections by an employee of the agency to any
322 unauthorized person shall constitute cause for suspension of not
323 fewer than 5 working days according to the provisions of chapter
324 110.

325 Section 13. Section 400.191, Florida Statutes, is amended
326 to read:

327 400.191 Availability, distribution, and posting of reports
328 and records.—

329 (1) The agency shall provide information to the public
330 about all of the licensed nursing home facilities operating in
331 the state. The agency shall, within 60 days after a licensure
332 inspection visit or within 30 days after any interim visit to a
333 facility, send copies of the inspection reports to the local
334 long-term care ombudsman council, the agency's local office, and
335 a public library or the county seat for the county in which the
336 facility is located. The agency may provide electronic access to
337 inspection reports as a substitute for sending copies.

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

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

346 ~~1. A section entitled "Have you considered programs that~~
347 ~~provide alternatives to nursing home care?" which shall be the~~
348 ~~first section of the Nursing Home Guide and which shall~~

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349 ~~prominently display information about available alternatives to~~
350 ~~nursing homes and how to obtain additional information regarding~~
351 ~~these alternatives. The Nursing Home Guide shall explain that~~
352 ~~this state offers alternative programs that permit qualified~~
353 ~~elderly persons to stay in their homes instead of being placed~~
354 ~~in nursing homes and shall encourage interested persons to call~~
355 ~~the Comprehensive Assessment Review and Evaluation for Long-Term~~
356 ~~Care Services (CARES) Program to inquire if they qualify. The~~
357 ~~Nursing Home Guide shall list available home and community-based~~
358 ~~programs which shall clearly state the services that are~~
359 ~~provided and indicate whether nursing home services are included~~
360 ~~if needed.~~

361 ~~2. A list by name and address of all nursing home~~
362 ~~facilities in this state, including any prior name by which a~~
363 ~~facility was known during the previous 24-month period.~~

364 ~~3. Whether such nursing home facilities are proprietary or~~
365 ~~nonproprietary.~~

366 ~~4. The current owner of the facility's license and the year~~
367 ~~that that entity became the owner of the license.~~

368 ~~5. The name of the owner or owners of each facility and~~
369 ~~whether the facility is affiliated with a company or other~~
370 ~~organization owning or managing more than one nursing facility~~
371 ~~in this state.~~

372 ~~6. The total number of beds in each facility and the most~~
373 ~~recently available occupancy levels.~~

374 ~~7. The number of private and semiprivate rooms in each~~
375 ~~facility.~~

376 ~~8. The religious affiliation, if any, of each facility.~~

377 ~~9. The languages spoken by the administrator and staff of~~

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378 ~~each facility.~~

379 ~~10. Whether or not each facility accepts Medicare or~~
380 ~~Medicaid recipients or insurance, health maintenance~~
381 ~~organization, Veterans Administration, CHAMPUS program, or~~
382 ~~workers' compensation coverage.~~

383 ~~11. Recreational and other programs available at each~~
384 ~~facility.~~

385 ~~12. Special care units or programs offered at each~~
386 ~~facility.~~

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

390 ~~14. Survey and deficiency information, including all~~
391 ~~federal and state recertification, licensure, revisit, and~~
392 ~~complaint survey information, for each facility for the past 30~~
393 ~~months. For noncertified nursing homes, state survey and~~
394 ~~deficiency information, including licensure, revisit, and~~
395 ~~complaint survey information for the past 30 months shall be~~
396 ~~provided.~~

397 ~~15. A summary of the deficiency data for each facility over~~
398 ~~the past 30 months. The summary may include a score, rating, or~~
399 ~~comparison ranking with respect to other facilities based on the~~
400 ~~number of citations received by the facility on recertification,~~
401 ~~licensure, revisit, and complaint surveys; the severity and~~
402 ~~scope of the citations; and the number of recertification~~
403 ~~surveys the facility has had during the past 30 months. The~~
404 ~~score, rating, or comparison ranking may be presented in either~~
405 ~~numeric or symbolic form for the intended consumer audience.~~

406 ~~(b) The agency shall provide the following information in~~

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407 ~~printed form:~~

408 1. ~~A section entitled "Have you considered programs that~~
409 ~~provide alternatives to nursing home care?" which shall be the~~
410 ~~first section of the Nursing Home Guide and which shall~~
411 ~~prominently display information about available alternatives to~~
412 ~~nursing homes and how to obtain additional information regarding~~
413 ~~these alternatives. The Nursing Home Guide shall explain that~~
414 ~~this state offers alternative programs that permit qualified~~
415 ~~elderly persons to stay in their homes instead of being placed~~
416 ~~in nursing homes and shall encourage interested persons to call~~
417 ~~the Comprehensive Assessment Review and Evaluation for Long-Term~~
418 ~~Care Services (CARES) Program to inquire if they qualify. The~~
419 ~~Nursing Home Guide shall list available home and community-based~~
420 ~~programs which shall clearly state the services that are~~
421 ~~provided and indicate whether nursing home services are included~~
422 ~~if needed.~~

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

425 3. ~~Whether the nursing home facilities are proprietary or~~
426 ~~nonproprietary.~~

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

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

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

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

435 8. ~~The languages spoken by the administrator and staff of~~

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436 ~~each facility.~~

437 ~~9. Whether or not each facility accepts Medicare or~~
438 ~~Medicaid recipients or insurance, health maintenance~~
439 ~~organization, Veterans Administration, CHAMPUS program, or~~
440 ~~workers' compensation coverage.~~

441 ~~10. Recreational programs, special care units, and other~~
442 ~~programs available at each facility.~~

443 ~~11. The Internet address for the site where more detailed~~
444 ~~information can be seen.~~

445 ~~12. A statement advising consumers that each facility will~~
446 ~~have its own policies and procedures related to protecting~~
447 ~~resident property.~~

448 ~~13. A summary of the deficiency data for each facility over~~
449 ~~the past 30 months. The summary may include a score, rating, or~~
450 ~~comparison ranking with respect to other facilities based on the~~
451 ~~number of citations received by the facility on recertification,~~
452 ~~licensure, revisit, and complaint surveys; the severity and~~
453 ~~scope of the citations; the number of citations; and the number~~
454 ~~of recertification surveys the facility has had during the past~~
455 ~~30 months. The score, rating, or comparison ranking may be~~
456 ~~presented in either numeric or symbolic form for the intended~~
457 ~~consumer audience.~~

458 ~~(c) The agency may provide the following additional~~
459 ~~information on an Internet site or in printed form as the~~
460 ~~information becomes available:~~

461 ~~1. The licensure status history of each facility.~~

462 ~~2. The rating history of each facility.~~

463 ~~3. The regulatory history of each facility, which may~~
464 ~~include federal sanctions, state sanctions, federal fines, state~~

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465 ~~finest, and other actions.~~

466 ~~4. Whether the facility currently possesses the Gold Seal~~
467 ~~designation awarded pursuant to s. 400.235.~~

468 ~~5. Internet links to the Internet sites of the facilities~~
469 ~~or their affiliates.~~

470 (2)~~(3)~~ Each nursing home facility licensee shall maintain
471 as public information, available upon request, records of all
472 cost and inspection reports pertaining to that facility that
473 have been filed with, or issued by, any governmental agency.
474 Copies of the reports shall be retained in the records for not
475 less than 5 years following the date the reports are filed or
476 issued.

477 ~~(a) The agency shall publish in the Nursing Home Guide a~~
478 ~~"Nursing Home Guide Watch List" to assist consumers in~~
479 ~~evaluating the quality of nursing home care in Florida. The~~
480 ~~watch list must identify each facility that met the criteria for~~
481 ~~a conditional licensure status and each facility that is~~
482 ~~operating under bankruptcy protection. The watch list must~~
483 ~~include, but is not limited to, the facility's name, address,~~
484 ~~and ownership; the county in which the facility operates; the~~
485 ~~license expiration date; the number of licensed beds; a~~
486 ~~description of the deficiency causing the facility to be placed~~
487 ~~on the list; any corrective action taken; and the cumulative~~
488 ~~number of days and percentage of days the facility had a~~
489 ~~conditional license in the past 30 months. The watch list must~~
490 ~~include a brief description regarding how to choose a nursing~~
491 ~~home, the categories of licensure, the agency's inspection~~
492 ~~process, an explanation of terms used in the watch list, and the~~
493 ~~addresses and phone numbers of the agency's health quality~~

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494 ~~assurance field offices.~~

495 ~~(b) Upon publication of each Nursing Home Guide, the agency~~
496 ~~must post a copy on its website by the 15th calendar day of the~~
497 ~~second month following the end of the calendar quarter. Each~~
498 ~~nursing home licensee must retrieve the most recent version of~~
499 ~~the Nursing Home Guide from the agency's website.~~

500 (3)~~(4)~~ Any records of a nursing home facility determined by
501 the agency to be necessary and essential to establish lawful
502 compliance with any rules or standards must be made available to
503 the agency on the premises of the facility and submitted to the
504 agency. Each facility must submit this information to the agency
505 by electronic transmission when available.

506 (4)~~(5)~~ Every nursing home facility licensee shall:

507 (a) Post, in a sufficient number of prominent positions in
508 the nursing home so as to be accessible to all residents and to
509 the general public,+

510 1.~~1.~~ a concise summary of the last inspection report
511 pertaining to the nursing home and issued by the agency, with
512 references to the page numbers of the full reports, noting any
513 deficiencies found by the agency and the actions taken by the
514 licensee to rectify the deficiencies and indicating in the
515 summaries where the full reports may be inspected in the nursing
516 home.

517 2.~~2.~~ A copy of all of the pages that list the facility in the
518 most recent version of the Nursing Home Guide.

519 (b) Upon request, provide to any person who has completed a
520 written application with an intent to be admitted to, or to any
521 resident of, a nursing home, or to any relative, spouse, or
522 guardian of the person, a copy of the last inspection report

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523 pertaining to the nursing home and issued by the agency,
524 provided the person requesting the report agrees to pay a
525 reasonable charge to cover copying costs.

526 (c) Have readily available a copy of the facility's page
527 from the federal Nursing Home Compare website which includes the
528 facility's Five-Star Quality Ratings.

529 (5)+(6) The agency may adopt rules as necessary to
530 administer this section.

531 Section 14. Paragraph (d) of subsection (1) of section
532 400.195, Florida Statutes, is amended to read:

533 400.195 Agency reporting requirements.—

534 (1) For the period beginning June 30, 2001, and ending June
535 30, 2005, the Agency for Health Care Administration shall
536 provide a report to the Governor, the President of the Senate,
537 and the Speaker of the House of Representatives with respect to
538 nursing homes. The first report shall be submitted no later than
539 December 30, 2002, and subsequent reports shall be submitted
540 every 6 months thereafter. The report shall identify facilities
541 based on their ownership characteristics, size, business
542 structure, for-profit or not-for-profit status, and any other
543 characteristics the agency determines useful in analyzing the
544 varied segments of the nursing home industry and shall report:

545 (d) Information regarding deficiencies cited, including
546 ~~information used to develop the Nursing Home Guide WATCH LIST~~
547 ~~pursuant to s. 400.191, and applicable rules,~~ a summary of data
548 generated on nursing homes by Centers for Medicare and Medicaid
549 Services Nursing Home Quality Information Project, and
550 information collected pursuant to s. 400.147(9), relating to
551 litigation.

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552 Section 15. Subsection (8) of section 400.23, Florida
553 Statutes, is amended to read:

554 400.23 Rules; evaluation and deficiencies; licensure
555 status.—

556 (8) The agency shall adopt rules pursuant to this part and
557 part II of chapter 408 to provide that, when the criteria
558 established under subsection (2) are not met, such deficiencies
559 shall be classified according to the nature and the scope of the
560 deficiency. The scope shall be cited as isolated, patterned, or
561 widespread. An isolated deficiency is a deficiency affecting one
562 or a very limited number of residents, or involving one or a
563 very limited number of staff, or a situation that occurred only
564 occasionally or in a very limited number of locations. A
565 patterned deficiency is a deficiency where more than a very
566 limited number of residents are affected, or more than a very
567 limited number of staff are involved, or the situation has
568 occurred in several locations, or the same resident or residents
569 have been affected by repeated occurrences of the same deficient
570 practice but the effect of the deficient practice is not found
571 to be pervasive throughout the facility. A widespread deficiency
572 is a deficiency in which the problems causing the deficiency are
573 pervasive in the facility or represent systemic failure that has
574 affected or has the potential to affect a large portion of the
575 facility's residents. The agency shall indicate the
576 classification on the face of the notice of deficiencies in
577 accordance with chapter 7, State Operations Manual, published by
578 the Centers for Medicare and Medicaid Services as follows:

579 (a) A class I deficiency is a deficiency that the agency
580 determines presents a situation in which immediate corrective

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581 action is necessary because the facility's noncompliance with
582 one or more requirements of participation has caused, or is
583 likely to cause, immediate jeopardy to the health or safety of
584 ~~serious injury, harm, impairment, or death to~~ a resident
585 receiving care in a facility. The condition or practice
586 constituting a class I violation shall be abated or eliminated
587 immediately, unless a fixed period of time, as determined by the
588 agency, is required for correction. A class I deficiency is
589 subject to a civil penalty of \$10,000 for an isolated deficiency
590 (J), \$12,500 for a patterned deficiency (K), and \$15,000 for a
591 widespread deficiency (L). The fine amount shall be doubled for
592 each deficiency if the facility was previously cited for one or
593 more class I or class II deficiencies during the last licensure
594 inspection or any inspection or complaint investigation since
595 the last licensure inspection. A fine must be levied
596 notwithstanding the correction of the deficiency.

597 (b) A class II deficiency is a deficiency that the agency
598 determines has caused actual harm to a resident or residents but
599 does not rise to the level of immediate jeopardy ~~compromised the~~
600 ~~resident's ability to maintain or reach his or her highest~~
601 ~~practicable physical, mental, and psychosocial well-being, as~~
602 ~~defined by an accurate and comprehensive resident assessment,~~
603 ~~plan of care, and provision of services.~~ A class II deficiency
604 is subject to a civil penalty of \$2,500 for an isolated
605 deficiency (G), \$5,000 for a patterned deficiency (H), and
606 \$7,500 for a widespread deficiency (I). The fine amount shall be
607 doubled for each deficiency if the facility was previously cited
608 for one or more class I or class II deficiencies during the last
609 licensure inspection or any inspection or complaint

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610 investigation since the last licensure inspection. A fine shall
611 be levied notwithstanding the correction of the deficiency.

612 (c) A class III deficiency is a deficiency that the agency
613 determines will not result in actual harm to a resident or
614 residents but does have the potential for ~~no~~ more than minimal
615 harm that does not rise to the level of immediate jeopardy
616 ~~physical, mental, or psychosocial discomfort to the resident or~~
617 ~~has the potential to compromise the resident's ability to~~
618 ~~maintain or reach his or her highest practical physical, mental,~~
619 ~~or psychosocial well-being, as defined by an accurate and~~
620 ~~comprehensive resident assessment, plan of care, and provision~~
621 ~~of services.~~ A class III deficiency is subject to a civil
622 penalty of \$1,000 for an isolated deficiency (D), \$2,000 for a
623 patterned deficiency (E), and \$3,000 for a widespread deficiency
624 (F). The fine amount shall be doubled for each deficiency if the
625 facility was previously cited for one or more class I or class
626 II deficiencies during the last licensure inspection or any
627 inspection or complaint investigation since the last licensure
628 inspection. A citation for a class III deficiency must specify
629 the time within which the deficiency is required to be
630 corrected. If a class III deficiency is corrected within the
631 time specified, a civil penalty may not be imposed.

632 (d) A class IV deficiency is a deficiency that does not
633 result in actual harm but has the potential for minimal harm to
634 a ~~that the agency determines has the potential for causing no~~
635 ~~more than a minor negative impact on the resident~~ (A, B, or C).
636 If the class IV deficiency is isolated, no plan of correction is
637 required.

638 Section 16. Subsection (3) is added to section 465.017,

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639 Florida Statutes, to read:

640 465.017 Authority to inspect; disposal.—

641 (3) Nursing homes that are licensed under part II of
642 chapter 400 and inspected by the Agency for Health Care
643 Administration pursuant to the state licensing requirements and
644 federal certification requirements are exempt from routine
645 inspection by the department, as required under this part, and
646 are exempt from the fee imposed pursuant to this section.

647 Section 17. Section 633.081, Florida Statutes, is amended
648 to read:

649 633.081 Inspection of buildings and equipment; orders;
650 firesafety inspection training requirements; certification;
651 disciplinary action.—The State Fire Marshal and her or his
652 agents shall, at any reasonable hour, when the department has
653 reasonable cause to believe that a violation of this chapter or
654 s. 509.215, or a rule promulgated thereunder, or a minimum
655 firesafety code adopted by a local authority, may exist, inspect
656 any and all buildings and structures which are subject to the
657 requirements of this chapter or s. 509.215 and rules promulgated
658 thereunder. The authority to inspect shall extend to all
659 equipment, vehicles, and chemicals which are located within the
660 premises of any such building or structure. Nursing homes that
661 are licensed under part II of chapter 400 and inspected by the
662 Agency for Health Care Administration pursuant to the state
663 licensing requirements and federal certification requirements
664 are exempt from inspection by the State Fire Marshal, or his or
665 her agents, if, in the opinion of the State Fire Marshal or his
666 representative, the agency's inspection satisfies the inspection
667 requirements of the State Fire Marshal.

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668 (1) Each county, municipality, and special district that
669 has firesafety enforcement responsibilities shall employ or
670 contract with a firesafety inspector. The firesafety inspector
671 must conduct all firesafety inspections that are required by
672 law. The governing body of a county, municipality, or special
673 district that has firesafety enforcement responsibilities may
674 provide a schedule of fees to pay only the costs of inspections
675 conducted pursuant to this subsection and related administrative
676 expenses. Two or more counties, municipalities, or special
677 districts that have firesafety enforcement responsibilities may
678 jointly employ or contract with a firesafety inspector.

679 (2) Every firesafety inspection conducted pursuant to state
680 or local firesafety requirements shall be by a person certified
681 as having met the inspection training requirements set by the
682 State Fire Marshal. Such person shall:

683 (a) Be a high school graduate or the equivalent as
684 determined by the department;

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

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

693 (d) Have good moral character as determined by the
694 department;

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

696 (f) Have satisfactorily completed the firesafety inspector

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697 certification examination as prescribed by the department; and

698 (g)1. Have satisfactorily completed, as determined by the
699 department, a firesafety inspector training program of not less
700 than 200 hours established by the department and administered by
701 agencies and institutions approved by the department for the
702 purpose of providing basic certification training for firesafety
703 inspectors; or

704 2. Have received in another state training which is
705 determined by the department to be at least equivalent to that
706 required by the department for approved firesafety inspector
707 education and training programs in this state.

708 (3) Each special state firesafety inspection which is
709 required by law and is conducted by or on behalf of an agency of
710 the state must be performed by an individual who has met the
711 provision of subsection (2), except that the duration of the
712 training program shall not exceed 120 hours of specific training
713 for the type of property that such special state firesafety
714 inspectors are assigned to inspect.

715 (4) A firefighter certified pursuant to s. 633.35 may
716 conduct firesafety inspections, under the supervision of a
717 certified firesafety inspector, while on duty as a member of a
718 fire department company conducting inservice firesafety
719 inspections without being certified as a firesafety inspector,
720 if such firefighter has satisfactorily completed an inservice
721 fire department company inspector training program of at least
722 24 hours' duration as provided by rule of the department.

723 (5) Every firesafety inspector or special state firesafety
724 inspector certificate is valid for a period of 3 years from the
725 date of issuance. Renewal of certification shall be subject to

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726 the affected person's completing proper application for renewal
727 and meeting all of the requirements for renewal as established
728 under this chapter or by rule promulgated thereunder, which
729 shall include completion of at least 40 hours during the
730 preceding 3-year period of continuing education as required by
731 the rule of the department or, in lieu thereof, successful
732 passage of an examination as established by the department.

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

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

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

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

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

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

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

750 (g) Making or filing a report or record that the
751 certificateholder knows to be false, or knowingly inducing
752 another to file a false report or record, or knowingly failing
753 to file a report or record required by state or local law, or
754 knowingly impeding or obstructing such filing, or knowingly

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755 inducing another person to impede or obstruct such filing.

756 (h) Failing to properly enforce applicable fire codes or
757 permit requirements within this state which the
758 certificateholder knows are applicable by committing willful
759 misconduct, gross negligence, gross misconduct, repeated
760 negligence, or negligence resulting in a significant danger to
761 life or property.

762 (i) Accepting labor, services, or materials at no charge or
763 at a noncompetitive rate from any person who performs work that
764 is under the enforcement authority of the certificateholder and
765 who is not an immediate family member of the certificateholder.
766 For the purpose of this paragraph, the term "immediate family
767 member" means a spouse, child, parent, sibling, grandparent,
768 aunt, uncle, or first cousin of the person or the person's
769 spouse or any person who resides in the primary residence of the
770 certificateholder.

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

773 Section 18. This act shall take effect July 1, 2009.