

By Senator Storms

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1 A bill to be entitled
2 An act relating to adult protection and care; amending
3 s. 322.142, F.S.; authorizing the Department of
4 Highway Safety and Motor Vehicles to make a
5 reproduction of a digital record of a licensee for the
6 purposes of ch. 415, F.S., relating to adult
7 protective investigations; amending s. 400.141, F.S.;
8 requiring a search of the Department of Law
9 Enforcement's sexual offender data base to be
10 conducted on prospective or newly admitted nursing
11 home residents; allowing a licensed facility to use
12 certain information to assess the needs of its
13 resident and to provide health care and protective and
14 support services; allowing a licensed facility to
15 disclose certain information to its residents;
16 requiring certain contract workers to sign in and out
17 of a facility and for the facility to maintain a log
18 of the information; amending s. 408.808, F.S.;
19 deleting a cross-reference; amending s. 408.810, F.S.;
20 requiring health care facilities regulated by the
21 Agency for Health Care Administration to post certain
22 information in the facility; amending s. 415.103,
23 F.S.; requiring certain reports to the central abuse
24 hotline relating to vulnerable adults to be
25 immediately transferred to the appropriate law
26 enforcement agency; amending s. 415.1051, F.S.;
27 authorizing the Department of Children and Family
28 Services to file the petition to determine incapacity
29 in adult protection proceedings; prohibiting the

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30 department from serving as the guardian or providing
31 legal counsel to the guardian under specified
32 circumstances; amending s. 415.112, F.S.; specifying
33 rules to be adopted by the Department of Children and
34 Family Services relating to adult protective services
35 under ch. 415, F.S.; amending s. 429.02, F.S.;
36 revising the definition of "service plan" to remove
37 the limitation that plans apply only to residents in
38 assisted living facilities who receive extended
39 congregate care services; amending s. 429.07, F.S.;
40 providing that requirements for specialty licenses
41 apply to current licensees as well as applicants for
42 an extended congregate care and limited nursing
43 license; conforming a cross-reference; deleting the
44 requirement that the Department of Elderly Affairs
45 submit a yearly report on extended congregate care
46 services; amending s. 429.174, F.S.; requiring certain
47 contract workers to sign in and out of a facility and
48 for the facility to maintain a log of the information;
49 amending s. 429.255, F.S.; requiring professional
50 volunteers to report their observations about
51 residents to a facility employee, who is required to
52 make appropriate notation in the residents' records;
53 providing that the owner or administrator of an
54 assisted living facility is responsible for the
55 services provided in the facility; amending s. 429.26,
56 F.S.; clarifying a prohibition on moving a resident;
57 providing for the development of a service plan for
58 all residents; requiring a search of the Department of

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59 Law Enforcement's sexual offender data base to be
60 conducted on prospective or newly admitted nursing
61 home residents; requiring residents in nursing care to
62 be assessed monthly for change of status; requiring
63 residents to be assessed periodically for competency
64 to handle personal and financial affairs; amending s.
65 429.27, F.S.; prohibiting assisted living facility
66 personnel from making certain decisions for a resident
67 or act as the resident's representative or surrogate;
68 amending s. 429.28, F.S.; requiring that notice of a
69 resident's relocation or termination of residency be
70 in writing and a copy sent to specified persons,
71 including the State Long-Term Care Ombudsman Program;
72 requiring the program to include the information in
73 their annual report; requiring facilities to have a
74 written grievance procedure that includes certain
75 information; requiring that grievances reported to the
76 local ombudsman council be included in a statewide
77 reporting system; amending s. 429.294, F.S.; deleting
78 a cross-reference; amending s. 429.41, F.S.; requiring
79 all residents of assisted living facilities to have a
80 service plan; amending s. 429.65, F.S.; defining the
81 term "reside"; amending s. 429.69, F.S.; providing
82 that the failure of an adult family-care home provider
83 to live in the home is grounds for the denial,
84 revocation, or suspension of a license; amending s.
85 429.73, F.S.; requiring adult family-care home
86 residents to be periodically assessed for competency
87 to handle personal and financial affairs; repealing s.

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88 400.141(13), F.S., relating to a requirement to post
89 certain information in nursing homes; repealing s.
90 408.809(3), F.S., relating to the issuance of a
91 provisional license while awaiting federal background
92 screening results; repealing s. 429.08(2), F.S.,
93 deleting a provision relating to local workgroups of
94 field offices of the Agency for Health Care
95 Administration; repealing s. 429.41(5), F.S., relating
96 to agency inspections; amending ss. 430.80 and
97 651.118, F.S.; conforming cross-references; providing
98 an effective date.

99

100 Be It Enacted by the Legislature of the State of Florida:

101

102 Section 1. Subsection (4) of section 322.142, Florida
103 Statutes, is amended to read:

104 322.142 Color photographic or digital imaged licenses.—

105 (4) The department may maintain a film negative or print
106 file. The department shall maintain a record of the digital
107 image and signature of the licensees, together with other data
108 required by the department for identification and retrieval.
109 Reproductions from the file or digital record are exempt from
110 ~~the provisions of~~ s. 119.07(1) and shall be made and issued only
111 for ~~departmental~~ administrative purposes; for the issuance of
112 duplicate licenses; in response to law enforcement agency
113 requests; to the Department of State pursuant to an interagency
114 agreement to facilitate determinations of eligibility of voter
115 registration applicants and registered voters in accordance with
116 ss. 98.045 and 98.075; to the Department of Revenue pursuant to

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117 an interagency agreement for use in establishing paternity and
118 establishing, modifying, or enforcing support obligations in
119 Title IV-D cases; to the Department of Children and Family
120 Services pursuant to an interagency agreement to conduct
121 protective investigations under part III of chapter 39 and
122 chapter 415; or to the Department of Financial Services pursuant
123 to an interagency agreement to facilitate the location of owners
124 of unclaimed property, the validation of unclaimed property
125 claims, and the identification of fraudulent or false claims.

126 Section 2. Subsections (25) and (26) are added to section
127 400.141, Florida Statutes, to read:

128 400.141 Administration and management of nursing home
129 facilities.—Every licensed facility shall comply with all
130 applicable standards and rules of the agency and shall:

131 (25) Conduct a search of the Department of Law
132 Enforcement's sexual offender database for each prospective
133 resident before admission or immediately after admission. A
134 facility must maintain verification that all residents have been
135 screened. The information obtained may be used by the facility
136 to assess the needs of the resident and to provide adequate and
137 appropriate health care and protective and support services in
138 accordance with this part. The information may be disclosed to
139 other residents. The facility does not have to rescreen a
140 resident who is away from a facility for less than 45 days.

141 (26) Require that each contract worker who does not provide
142 personal services sign in upon entering the facility, wear
143 visitor identification while on the premises, and sign out
144 before leaving the facility. Each facility shall maintain a log
145 containing the information collected, which must be retained by

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146 the facility for at least 6 months.

147

148 Facilities that have been awarded a Gold Seal under the program
149 established in s. 400.235 may develop a plan to provide
150 certified nursing assistant training as prescribed by federal
151 regulations and state rules and may apply to the agency for
152 approval of their program.

153 Section 3. Subsection (2) of section 408.808, Florida
154 Statutes, is amended to read:

155 408.808 License categories.—

156 (2) PROVISIONAL LICENSE. ~~A provisional license may be~~
157 ~~issued to an applicant pursuant to s. 408.809(3).~~ An applicant
158 against whom a proceeding denying or revoking a license is
159 pending at the time of license renewal may be issued a
160 provisional license effective until final action not subject to
161 further appeal.

162 Section 4. Subsection (5) of section 408.810, Florida
163 Statutes, is amended to read:

164 408.810 Minimum licensure requirements.—In addition to the
165 licensure requirements specified in this part, authorizing
166 statutes, and applicable rules, each applicant and licensee must
167 comply with the requirements of this section in order to obtain
168 and maintain a license.

169 (5) Each licensee must:

170 (a) On or before the first day services are provided to a
171 client, ~~a licensee must~~ inform the client and his or her
172 immediate family or representative, if appropriate, of the right
173 to report:

174 1. Complaints. The statewide toll-free telephone number for

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175 reporting complaints to the agency must be provided to clients
176 in a manner that is clearly legible and must include the words:
177 "To report a complaint regarding the services you receive,
178 please call toll-free (phone number)."

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

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

188 (c) Publicly display a poster approved by the agency
189 containing the names, addresses, and telephone numbers for the
190 state's central abuse hotline, the State Long-Term Care
191 Ombudsman, the agency's consumer hotline, the Advocacy Center
192 for Persons with Disabilities, the Florida Statewide Advocacy
193 Council, the Medicaid Fraud Control Unit, and the website for
194 the Statewide Public Guardianship Office, along with a clear
195 description of the assistance to be expected from each. The
196 agency may charge a fee for the cost of production and
197 distribution of the poster. However, providers may download the
198 poster, at no charge, from the agency's website.

199 Section 5. Subsection (2) of section 415.103, Florida
200 Statutes, is amended to read:

201 415.103 Central abuse hotline.—

202 (2) Upon receiving an oral or written report of known or
203 suspected abuse, neglect, or exploitation of a vulnerable adult,

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204 the central abuse hotline shall ~~must~~ determine if the report
205 requires an immediate onsite protective investigation.

206 (a) For reports requiring an immediate onsite protective
207 investigation, the central abuse hotline must immediately notify
208 the department's designated protective investigative district
209 staff responsible for protective investigations to ensure prompt
210 initiation of an onsite investigation.

211 (b) For reports not requiring an immediate onsite
212 protective investigation, the central abuse hotline must notify
213 the department's designated protective investigative district
214 staff responsible for protective investigations in sufficient
215 time to allow for an investigation to be commenced within 24
216 hours. At the time of notification ~~of district staff with~~
217 ~~respect to the report~~, the central abuse hotline must also
218 provide any ~~known information on any~~ previous reports ~~report~~
219 concerning the ~~a~~ subject of the present report or any pertinent
220 information relative to the present report or any noted earlier
221 reports.

222 (c) If the report is of known or suspected abuse of a
223 vulnerable adult by someone other than a relative, caregiver, or
224 household member, the call shall be immediately transferred to
225 the appropriate law enforcement agency.

226 Section 6. Paragraph (e) of subsection (1) and paragraph
227 (g) of subsection (2) of section 415.1051, Florida Statutes, is
228 amended to read:

229 415.1051 Protective services interventions when capacity to
230 consent is lacking; nonemergencies; emergencies; orders;
231 limitations.-

232 (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.-If the

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233 department has reasonable cause to believe that a vulnerable
234 adult or a vulnerable adult in need of services is being abused,
235 neglected, or exploited and is in need of protective services
236 but lacks the capacity to consent to protective services, the
237 department shall petition the court for an order authorizing the
238 provision of protective services.

239 (e) *Continued protective services.*—

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

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

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

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

248 d. A petition for guardianship shall ~~should~~ be filed
249 pursuant to chapter 744.

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

254 3. If the department has a good faith belief that the
255 vulnerable adult lacks capacity, the petition to determine
256 incapacity under s. 744.3201 may be filed by the department.
257 Once the petition is filed, the department may not be appointed
258 guardian and may not provide legal counsel for the guardian.

259 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.—If the
260 department has reasonable cause to believe that a vulnerable
261 adult is suffering from abuse or neglect that presents a risk of

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262 death or serious physical injury to the vulnerable adult and
263 that the vulnerable adult lacks the capacity to consent to
264 emergency protective services, the department may take action
265 under this subsection. If the vulnerable adult has the capacity
266 to consent and refuses consent to emergency protective services,
267 emergency protective services may not be provided.

268 (g) *Continued emergency protective services.*—

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

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

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

276 c. Emergency protective services are to ~~will~~ be
277 discontinued; or

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

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

282 3. If the department has a good faith belief that the
283 vulnerable adult lacks capacity, the petition to determine
284 incapacity under s. 744.3201 may be filed by the department.
285 Once the petition is filed, the department may not be appointed
286 guardian and may not provide legal counsel for the guardian.

287 Section 7. Section 415.112, Florida Statutes, is amended to
288 read:

289 415.112 Rules ~~for implementation of ss. 415.101-415.113.~~—
290 The department shall adopt ~~promulgate~~ rules to administer this

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291 chapter, including, but not limited to: for the implementation
292 of ss. 415.101-415.113.

293 (1) Background screening of department employees and
294 employee applicants which includes a criminal records check and
295 drug testing of adult protective investigators and adult
296 protective investigator supervisors.

297 (2) The reporting of adult abuse, neglect, exploitation, a
298 vulnerable adult in need of services, false reporting, and adult
299 protective investigations.

300 (3) Confidentiality and retention of department records,
301 access to records, and record requests.

302 (4) Injunctions and other protective orders.

303 (5) The provision of emergency and nonemergency protective
304 services intervention.

305 (6) Agreements with law enforcement agencies and other
306 state agencies.

307 (7) Legal and casework procedures, including, but not
308 limited to, diligent search, petitions, emergency removals,
309 capacity to consent, and adult protection teams.

310 (8) The legal and casework management of cases involving
311 protective supervision, protective orders, judicial reviews,
312 administrative reviews, case plans, and documentation
313 requirements.

314 (9) The coordination of casework, as appropriate, with the
315 Agency for Health Care Administration, the Department of Elderly
316 Affairs, the area agency on aging, the nursing home diversion or
317 Medicaid waiver program provider, the Florida Senior Care
318 provider, and other relevant agencies or organizations to
319 develop a plan that improves the prospects for safety of

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320 affected residents and, if necessary, identifies alternative
321 living arrangements such as facilities licensed under part II of
322 chapter 400 or chapter 429.

323 Section 8. Subsection (21) of section 429.02, Florida
324 Statutes, is amended to read:

325 429.02 Definitions.—When used in this part, the term:

326 (21) "Service plan" means a written plan, developed and
327 agreed upon by the resident and, if applicable, the resident's
328 representative or designee or the resident's surrogate,
329 guardian, or attorney in fact, if any, and the administrator or
330 designee representing the facility, which addresses the unique
331 physical and psychosocial needs, abilities, and personal
332 preferences of each resident ~~receiving extended congregate care~~
333 ~~services~~. The plan must ~~shall~~ include a brief written
334 description, in easily understood language, of what services
335 shall be provided, who shall provide the services, when the
336 services shall be rendered, and the purposes and benefits of the
337 services.

338 Section 9. Paragraphs (b) and (c) of subsection (3) of
339 section 429.07, Florida Statutes, are amended to read:

340 429.07 License required; fee.—

341 (3) In addition to the requirements of s. 408.806, each
342 license granted by the agency must state the type of care for
343 which the license is granted. Licenses shall be issued for one
344 or more of the following categories of care: standard, extended
345 congregate care, limited nursing services, or limited mental
346 health.

347 (b) An extended congregate care license shall be issued to
348 facilities providing, directly or through contract, services

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349 beyond those authorized in paragraph (a), including services
350 performed by persons licensed under ~~acts performed pursuant to~~
351 ~~part I of chapter 464 by persons licensed thereunder,~~ and
352 supportive services, as defined by rule, to persons who would
353 otherwise ~~would~~ be disqualified from continued residence in a
354 facility licensed under this part.

355 1. To obtain an ~~In order for~~ extended congregate care
356 license services to be provided in a facility licensed under
357 ~~this part,~~ the agency must first determine that all requirements
358 established in law and rule are met and must specifically
359 designate, on the facility's license, that such services may be
360 provided and whether the designation applies to all or part of
361 the ~~a~~ facility. Such designation may be made at the time of
362 initial licensure or relicensure, or upon request in writing by
363 a licensee under this part and part II of chapter 408.

364 Notification of approval or denial of the ~~such~~ request shall be
365 made in accordance with part II of chapter 408. ~~Existing~~

366 2. Facilities applying for, and facilities currently
367 licensed ~~qualifying~~ to provide, extended congregate care
368 services must have ~~maintained~~ a standard license and may not
369 have been subject to administrative sanctions during the
370 previous 2 years, or since initial licensure if the facility has
371 been licensed for less than 2 years, for any of the following
372 reasons:

373 a. A class I or class II violation;

374 b. Three or more repeat or recurring class III violations
375 of identical or similar resident care standards as specified in
376 rule from which a pattern of noncompliance is found by the
377 agency;

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378 c. Three or more class III violations that were not
379 corrected in accordance with the corrective action plan approved
380 by the agency;

381 d. Violation of resident care standards that results in
382 requiring the facility ~~resulting in a requirement~~ to employ the
383 services of a consultant pharmacist or consultant dietitian;

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

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

390 3.2. A facility that is ~~Facilities that are~~ licensed to
391 provide extended congregate care services must ~~shall~~ maintain a
392 written progress report on each person who receives such
393 services, which report describes the type, amount, duration,
394 scope, and outcome of services that are rendered and the general
395 status of the resident's health. A registered nurse, or
396 appropriate designee, representing the agency shall visit the
397 facility ~~such facilities~~ at least quarterly to monitor residents
398 who are receiving extended congregate care services and to
399 determine if the facility is in compliance with this part, part
400 II of chapter 408, and rules that relate to extended congregate
401 care. One of these visits may be in conjunction with the regular
402 survey. The monitoring visits may be provided through
403 contractual arrangements with appropriate community agencies. A
404 registered nurse shall serve as part of the team that inspects
405 the ~~such~~ facility. The agency may waive one of the required
406 yearly monitoring visits for a facility that has been licensed

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407 for at least 24 months to provide extended congregate care
408 services, if, during the inspection, the registered nurse
409 determines that extended congregate care services are being
410 provided appropriately, and if the facility has no class I or
411 class II violations and no uncorrected class III violations.
412 ~~Before such decision is made,~~ The agency must first ~~shall~~
413 consult with the long-term care ombudsman council for the area
414 in which the facility is located to determine if any complaints
415 have been made and substantiated about the quality of services
416 or care. The agency may not waive one of the required yearly
417 monitoring visits if complaints have been made and
418 substantiated.

419 ~~4.3.~~ Facilities that are licensed to provide extended
420 congregate care services must ~~shall~~:

421 a. Demonstrate the capability to meet unanticipated
422 resident service needs.

423 b. Offer a physical environment that promotes a homelike
424 setting, provides for resident privacy, promotes resident
425 independence, and allows sufficient congregate space as defined
426 by rule.

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

431 d. Adopt and follow policies and procedures that maximize
432 resident independence, dignity, choice, and decisionmaking to
433 permit residents to age in place ~~to the extent possible~~, so that
434 moves due to changes in functional status are minimized or
435 avoided.

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436 e. Allow residents or, if applicable, a resident's
437 representative, designee, surrogate, guardian, or attorney in
438 fact to make a variety of personal choices, participate in
439 developing service plans, and share responsibility in
440 decisionmaking.

441 f. Implement the concept of managed risk.

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

444 h. In addition to the training mandated in s. 429.52,
445 provide specialized training as defined by rule for facility
446 staff.

447 5.4. Facilities licensed to provide extended congregate
448 care services are exempt from the criteria for continued
449 residency ~~as~~ set forth in rules adopted under s. 429.41.
450 Facilities so licensed must ~~shall~~ adopt their own requirements
451 within guidelines for continued residency set forth by rule.
452 However, such facilities may not serve residents who require 24-
453 hour nursing supervision. Facilities licensed to provide
454 extended congregate care services must ~~shall~~ provide each
455 resident with a written copy of facility policies governing
456 admission and retention.

457 6.5. The primary purpose of extended congregate care
458 services is to allow residents, as they become more impaired,
459 the option of remaining in a familiar setting from which they
460 would otherwise be disqualified for continued residency. A
461 facility licensed to provide extended congregate care services
462 may also admit an individual who exceeds the admission criteria
463 for a facility with a standard license, if the individual is
464 determined appropriate for admission to the extended congregate

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465 care facility.

466 ~~7.6.~~ Before admission of an individual to a facility
467 licensed to provide extended congregate care services, the
468 individual must undergo a medical examination ~~as provided in s.~~
469 ~~429.26(4)~~ and the facility must develop a preliminary service
470 plan for the individual as provided in s. 429.26.

471 ~~8.7.~~ When a facility can no longer provide or arrange for
472 services in accordance with the resident's service plan and
473 needs and the facility's policy, the facility shall make
474 arrangements for relocating the person in accordance with s.
475 429.28(1)(k).

476 ~~9.8.~~ Failure to provide extended congregate care services
477 may result in denial of extended congregate care license
478 renewal.

479 ~~9.~~ ~~No later than January 1 of each year, the department, in~~
480 ~~consultation with the agency, shall prepare and submit to the~~
481 ~~Governor, the President of the Senate, the Speaker of the House~~
482 ~~of Representatives, and the chairs of appropriate legislative~~
483 ~~committees, a report on the status of, and recommendations~~
484 ~~related to, extended congregate care services. The status report~~
485 ~~must include, but need not be limited to, the following~~
486 ~~information:~~

487 ~~a. A description of the facilities licensed to provide such~~
488 ~~services, including total number of beds licensed under this~~
489 ~~part.~~

490 ~~b. The number and characteristics of residents receiving~~
491 ~~such services.~~

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

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494 ~~d. An analysis of deficiencies cited during licensure~~
495 ~~inspections.~~

496 ~~e. The number of residents who required extended congregate~~
497 ~~care services at admission and the source of admission.~~

498 ~~f. Recommendations for statutory or regulatory changes.~~

499 ~~g. The availability of extended congregate care to state~~
500 ~~clients residing in facilities licensed under this part and in~~
501 ~~need of additional services, and recommendations for~~
502 ~~appropriations to subsidize extended congregate care services~~
503 ~~for such persons.~~

504 ~~h. Such other information as the department considers~~
505 ~~appropriate.~~

506 (c) A limited nursing services license shall be issued to a
507 facility that provides services beyond those authorized in
508 paragraph (a) and as specified in this paragraph.

509 1. To obtain a ~~In order for~~ limited nursing services
510 license ~~to be provided in a facility licensed under this part,~~
511 the agency must first determine that all requirements
512 established in law and rule are met and must specifically
513 designate, on the facility's license, that such services may be
514 provided. Such designation may be made at the time of initial
515 licensure or relicensure, or upon request in writing by a
516 licensee under this part and part II of chapter 408.
517 Notification of approval or denial of such request shall be made
518 in accordance with part II of chapter 408. ~~Existing~~

519 2. Facilities applying for, and facilities currently
520 licensed ~~qualifying~~ to provide, limited nursing services must
521 ~~shall~~ have ~~maintained~~ a standard license and may not have been
522 subject to administrative sanctions that affect the health,

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523 safety, and welfare of residents for the previous 2 years or
524 since initial licensure if the facility has been licensed for
525 less than 2 years.

526 ~~3.2.~~ Facilities that are licensed to provide limited
527 nursing services shall maintain a written progress report on
528 each person who receives ~~such~~ nursing services, which report
529 describes the type, amount, duration, scope, and outcome of
530 services that are rendered and the general status of the
531 resident's health. A registered nurse representing the agency
532 shall visit such facilities at least twice a year to monitor
533 residents who are receiving limited nursing services and to
534 determine if the facility is in compliance with applicable
535 provisions of this part, part II of chapter 408, and related
536 rules. The monitoring visits may be provided through contractual
537 arrangements with appropriate community agencies. A registered
538 nurse shall also serve as part of the team that inspects the
539 ~~such~~ facility.

540 ~~4.3.~~ A person who receives limited nursing services ~~under~~
541 ~~this part~~ must meet the admission criteria established by the
542 agency for assisted living facilities. If ~~When~~ a resident no
543 longer meets the admission criteria for a facility licensed
544 under this part, arrangements for relocating the person shall be
545 made in accordance with s. 429.28(1)(k), unless the facility is
546 also licensed to provide extended congregate care services.

547 Section 10. Section 429.174, Florida Statutes, is amended
548 to read:

549 429.174 Background screening; exemptions.—

550 (1) The owner or administrator of an assisted living
551 facility must conduct level 1 background screening, as set forth

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552 in chapter 435, on all employees hired on or after October 1,
553 1998, who perform personal services as defined in s. 429.02(16).
554 The agency may exempt an individual from employment
555 disqualification as set forth in chapter 435. Such persons shall
556 be considered as having met this requirement if:

557 (a)~~(1)~~ Proof of compliance with level 1 screening
558 ~~requirements~~ obtained to meet ~~any~~ professional license
559 requirements in this state is provided and accompanied, under
560 penalty of perjury, by a copy of the person's current
561 professional license and an affidavit of current compliance with
562 the background screening requirements.

563 (b)~~(2)~~ The person required to be screened has been
564 continuously employed in the same type of occupation for which
565 the person is seeking employment without a breach in service
566 which exceeds 180 days, and proof of compliance with the level 1
567 screening requirement which is no more than 2 years old is
568 provided. Proof of compliance shall be provided directly from
569 one employer or contractor to another, and not from the person
570 screened. Upon request, a copy of screening results shall be
571 provided by the employer retaining documentation of the
572 screening to the person screened.

573 (c)~~(3)~~ The person required to be screened is employed by a
574 corporation or business entity or related corporation or
575 business entity that owns, operates, or manages more than one
576 facility or agency licensed under this chapter, and for whom a
577 level 1 screening was conducted by the corporation or business
578 entity as a condition of initial or continued employment.

579 (2) A facility must require that each contract worker who
580 does not provide personal services sign in upon entering the

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581 facility, wear visitor identification while on the premises, and
582 sign out before leaving the facility. Each facility shall
583 maintain a log containing the information collected, which must
584 be retained by the facility for at least 6 months.

585 Section 11. Subsection (1) of section 429.255, Florida
586 Statutes, is amended to read:

587 429.255 Use of personnel; emergency care.—

588 (1) (a) Facility staff, including persons under contract to
589 the facility, facility employees ~~staff~~, or volunteers, who are
590 licensed according to part I of chapter 464, or those persons
591 exempt under s. 464.022(1), and others as defined by rule, may
592 administer medications to residents, take residents' vital
593 signs, manage individual weekly pill organizers for residents
594 who self-administer medication, give prepackaged enemas ordered
595 by a physician, observe residents, document observations on the
596 appropriate resident's record, report observations to the
597 resident's physician, and contract or allow residents or a
598 resident's representative, designee, surrogate, guardian, or
599 attorney in fact to contract with a third party, provided
600 residents meet the criteria for appropriate placement as defined
601 in s. 429.26. Nursing assistants certified pursuant to part II
602 of chapter 464 may take residents' vital signs as directed by a
603 licensed nurse or physician.

604 (b) Facility ~~All~~ staff, including persons under contract to
605 the facility, and facility employees ~~in facilities licensed~~
606 ~~under this part~~ shall exercise their professional responsibility
607 to observe residents, to document observations on the
608 appropriate resident's record, ~~and~~ to report the observations to
609 the resident's physician, and to provide needed services

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610 competently. Licensed volunteers have the same responsibility,
611 but shall report to a facility employee who shall make the
612 appropriate notation in the resident's records. However, The
613 owner or administrator of the facility is ~~shall be~~ responsible
614 for determining that the resident receiving services is
615 appropriate for residence in the facility and for the provision
616 of and quality of care and services provided to the resident.

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

621 Section 12. Present subsections (8) through (12) of section
622 429.26, Florida Statutes, are renumbered as sections (6) through
623 (10), respectively, and present subsections (1) through (7) of
624 that section, are amended to read:

625 429.26 Appropriateness of placements; examinations of
626 residents.—

627 (1) The owner or administrator of a facility is responsible
628 for determining the appropriateness of admission of an
629 individual to the facility and for determining the continued
630 appropriateness of residence of an individual in the facility. A
631 determination shall be based upon an assessment of the
632 strengths, needs, and preferences of the resident, the care and
633 services offered or arranged for by the facility in accordance
634 with facility policy, and any limitations in law or rule related
635 to admission criteria or continued residency for the type of
636 license held by the facility under this part. Except as provided
637 in s. 429.28(1)(k), a resident may not be moved from one
638 facility to another without consultation with and agreement from

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639 the resident or, if applicable, the resident's representative or
640 designee or the resident's family, guardian, surrogate, or
641 attorney in fact. If ~~In the case of~~ a resident who has been
642 placed by the department or the Department of Children and
643 Family Services, the administrator must notify the appropriate
644 contact person in the applicable department.

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

649 ~~(3) Persons licensed under part I of chapter 464 who are~~
650 ~~employed by or under contract with a facility shall, on a~~
651 ~~routine basis or at least monthly, perform a nursing assessment~~
652 ~~of the residents for whom they are providing nursing services~~
653 ~~ordered by a physician, except administration of medication, and~~
654 ~~shall document such assessment, including any substantial~~
655 ~~changes in a resident's status which may necessitate relocation~~
656 ~~to a nursing home, hospital, or specialized health care~~
657 ~~facility. Such records shall be maintained in the facility for~~
658 ~~inspection by the agency and shall be forwarded to the~~
659 ~~resident's case manager, if applicable.~~

660 ~~(2)-(4)~~ If possible, each resident shall have been examined
661 by a licensed physician, a licensed physician assistant, or a
662 licensed nurse practitioner within 60 days before admission to
663 the facility. The person conducting an examination under this
664 subsection may not have financial interest in the facility. The
665 signed and completed medical examination report shall be
666 submitted to the owner or administrator of the facility who
667 shall use the information contained in the report therein to

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668 assist in determining ~~the determination of~~ the appropriateness
669 of the resident's admission and continued stay in the facility
670 and to develop a service plan for the resident. The medical
671 examination report and service plan ~~shall~~ become a permanent
672 part of the record of the resident at the facility and shall be
673 made available to the agency during inspection or upon request.
674 An assessment that has been completed through the Comprehensive
675 Assessment and Review for Long-Term Care Services (CARES)
676 Program fulfills the requirements for a medical examination
677 under this subsection ~~and s. 429.07(3)(b)6.~~

678 (a) ~~(5)~~ Except as provided in s. 429.07, if a medical
679 examination has not been completed within 60 days before the
680 admission of the resident to the facility, medical personnel ~~a~~
681 ~~licensed physician, licensed physician assistant, or licensed~~
682 ~~nurse practitioner~~ shall examine the resident and complete a
683 medical examination form provided by the agency within 30 days
684 following the admission to the facility ~~to enable the facility~~
685 ~~owner or administrator to determine the appropriateness of the~~
686 ~~admission. The medical examination form shall become a permanent~~
687 ~~part of the record of the resident at the facility and shall be~~
688 ~~made available to the agency during inspection by the agency or~~
689 ~~upon request.~~

690 (b) ~~(6)~~ Any resident accepted in a facility and placed by
691 the department or the Department of Children and Family Services
692 must be ~~shall have been~~ examined by medical personnel within 30
693 days before placement in the facility and recorded on a medical
694 examination form provided by the agency. The examination shall
695 include an assessment of the appropriateness of placement in a
696 facility. ~~The findings of this examination shall be recorded on~~

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697 ~~the examination form provided by the agency. The completed form~~
698 ~~shall accompany the resident and shall be submitted to the~~
699 ~~facility owner or administrator. For~~ Additionally, ~~in the case~~
700 ~~of~~ a mental health resident, the Department of Children and
701 Family Services must provide documentation that the individual
702 has been assessed by a psychiatrist, clinical psychologist,
703 clinical social worker, or psychiatric nurse, or an individual
704 who is supervised by one of these professionals, and determined
705 to be appropriate to reside in an assisted living facility. The
706 documentation must be in the facility within 30 days after the
707 mental health resident has been admitted to the facility. An
708 evaluation completed upon discharge from a state mental hospital
709 meets the requirements of this subsection related to
710 appropriateness for placement as a mental health resident
711 providing it was completed within 90 days prior to admission to
712 the facility. The applicable department shall provide to the
713 facility administrator any information about the resident that
714 would help the administrator meet his or her responsibilities
715 under this section subsection (1). Further, department personnel
716 shall explain to the facility operator any special needs of the
717 resident and advise the operator whom to call should problems
718 arise. The applicable department shall advise and assist the
719 facility administrator where the special needs of residents who
720 are recipients of optional state supplementation require such
721 assistance.

722 (3) A search of the Department of Law Enforcement's sexual
723 offender database of a prospective resident must be conducted by
724 the facility before admission or immediately after admission.
725 The facility must maintain verification that all residents have

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726 been screened. The information obtained may be used by the
727 facility to assess the needs of the resident and the care and
728 services offered or arranged by the facility in accordance with
729 this section, and may be disclosed to other residents. The
730 facility does not have to rescreen a resident who is away from a
731 facility for less than 45 days.

732 (4) Persons licensed under part I of chapter 464 who are
733 employed by or under contract with a facility shall perform a
734 nursing assessment at least monthly of residents for whom they
735 are providing nursing services ordered by a physician, except
736 administration of medication, and shall document such
737 assessment, including any substantial change in a resident's
738 status which may necessitate relocation to a nursing home,
739 hospital, or specialized health care facility. The records must
740 be maintained in the facility for inspection by the agency and
741 shall be forwarded to the resident's case manager, if
742 applicable.

743 (5)~~(7)~~ Residents shall be periodically assessed to
744 determine if the resident is competent to handle his or her
745 personal and financial affairs and, if not, whether a
746 responsible person such as a resident representative or
747 designee, guardian, surrogate, or attorney in fact is available
748 to make decisions on behalf of the resident.

749 (a) If a resident is having difficulty handling his or her
750 personal or financial affairs because of a decline in health or
751 cognitive abilities, the owner or administrator shall contact
752 the resident's representative or designee, guardian, surrogate,
753 or attorney in fact. If the resident does not have family or a
754 legal representative to make decisions on his or her behalf, the

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755 owner or administrator must contact the Florida Abuse Hotline.

756 (b) The facility must notify a licensed physician when a
 757 resident exhibits signs of dementia or cognitive impairment or
 758 has a change of condition in order to rule out the presence of
 759 an underlying physiological condition that may be contributing
 760 to such dementia or impairment. The notification must occur
 761 within 30 days after the acknowledgment of such signs by
 762 facility staff. If an underlying condition is determined to
 763 exist, the facility shall arrange, with the appropriate health
 764 care provider, the necessary care and services to treat the
 765 condition.

766 Section 13. Present subsections (3) through (8) of section
 767 429.27, Florida Statutes, are renumbered as subsections (6)
 768 through (11), respectively, and subsections (1) and (2) of that
 769 section, are amended to read:

770 429.27 Property and personal affairs of residents.—

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

776 ~~(2)(b)~~ The admission of a resident to a facility does and
 777 ~~his or her presence therein shall~~ not confer on the facility or
 778 its owner, administrator, staff member ~~employees~~, or
 779 representatives any authority to manage, use, or dispose of any
 780 property of the resident or to make financial or health care
 781 decisions on behalf of the resident; ~~nor shall such admission or~~
 782 ~~presence confer on any of such persons any authority or~~
 783 ~~responsibility for the personal affairs of the resident, except~~

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784 ~~if that which may be~~ necessary for the safe management of the
785 facility or for the safety of the resident.

786 (3) ~~(2)~~ A facility, ~~or an~~ owner, administrator, staff member
787 ~~employee~~, or representative thereof, may not act as the
788 representative or designee, guardian, health care surrogate,
789 trustee, or conservator for a any resident ~~of the assisted~~
790 ~~living facility~~ or any of the such resident's property unless
791 the person is a relative of the resident.

792 (4) A facility ~~An~~ owner, administrator, or staff member, or
793 representative thereof, may not act as a competent resident's
794 payee for social security, veteran's, or railroad benefits
795 without the consent of the resident. Any facility ~~whose~~ owner,
796 administrator, or staff, or representative thereof ~~who,~~ serves
797 as representative payee for a any resident must ~~of the facility~~
798 ~~shall~~ file a surety bond with the agency in an amount equal to
799 twice the average monthly aggregate income or personal funds due
800 to residents, or expendable for his or her ~~their~~ account, which
801 are received by a facility.

802 (5) Any facility ~~whose~~ owner, administrator, or staff
803 member, or ~~a~~ representative thereof ~~who,~~ is granted power of
804 attorney for a any resident must ~~of the facility shall~~ file a
805 surety bond with the agency for each resident for whom such
806 power of attorney is granted. The surety bond must ~~shall~~ be in
807 an amount equal to twice the average monthly income of the
808 resident, plus the value of any resident's property under the
809 control of the attorney in fact. The bond must ~~shall~~ be executed
810 by the facility as principal and a licensed surety company. The
811 bond shall be conditioned upon the faithful compliance of the
812 facility with this section and shall run to the agency for the

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813 benefit of any resident who suffers a financial loss as a result
814 of the misuse or misappropriation ~~by a facility~~ of funds held
815 pursuant to this subsection. Any surety company that cancels or
816 does not renew the bond of any licensee shall notify the agency
817 in writing not less than 30 days in advance of such action,
818 giving the reason for the cancellation or nonrenewal. Any
819 facility owner, administrator, or staff, or representative
820 thereof, who is granted power of attorney for a any resident ~~of~~
821 ~~the facility~~ shall, on a monthly basis, ~~be required to~~ provide
822 the resident with a written statement of any transaction made on
823 behalf of the resident pursuant to this subsection, and a copy
824 of such statement ~~given to the resident~~ shall be retained in
825 each resident's file and available for agency inspection.

826 Section 14. Paragraphs (k) and (l) of subsection (1) of
827 section 429.28, Florida Statutes, are amended to read:

828 429.28 Resident bill of rights.—

829 (1) No resident of a facility shall be deprived of any
830 civil or legal rights, benefits, or privileges guaranteed by
831 law, the Constitution of the State of Florida, or the
832 Constitution of the United States as a resident of a facility.
833 Every resident of a facility shall have the right to:

834 (k) At least 45 days' written notice of relocation or
835 termination of residency from the facility unless, for medical
836 reasons, the resident is certified by a physician to require an
837 emergency relocation to a facility providing a more skilled
838 level of care or the resident engages in a pattern of conduct
839 that is harmful or offensive to other residents. The notice must
840 specify the reasons for the relocation or termination and a copy
841 of the notice must be sent by registered mail to the resident's

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842 representative or designee, guardian, surrogate, or attorney in
843 fact at the same time the notice is mailed to the resident.
844 Notice must also be sent by regular mail, facsimile, or e-mail
845 to the State Long-Term Care Ombudsman Program within 5 business
846 days after being mailed to the resident. The ombudsman program
847 shall incorporate the information received in its annual report
848 required under s. 400.0065, including the number of relocated
849 residents and reasons for relocation or termination of facility
850 residents, the type and size of facilities, and other relevant
851 information. In the case of a resident who has been adjudicated
852 mentally incapacitated, the guardian shall be given at least 45
853 days' notice of a nonemergency relocation or residency
854 termination. Reasons for relocation shall be set forth in
855 writing. In order for a facility to terminate the residency of
856 an individual without notice as provided in this paragraph
857 herein, the facility must ~~shall~~ show good cause in a court of
858 competent jurisdiction.

859 (1) Present grievances and recommend changes in policies,
860 procedures, and services to the staff of the facility, governing
861 officials, or any other person without restraint, interference,
862 coercion, discrimination, or reprisal. Each facility shall
863 establish a written grievance procedure to facilitate the
864 residents' exercise of this right which must include, at a
865 minimum, maintaining a written record of each grievance, stating
866 the reasons for the grievance and the actions taken by the
867 facility, and the reporting of grievances. Each facility shall
868 transmit a copy of the written record weekly to the local
869 ombudsman council by regular mail, facsimile, or e-mail. Each
870 facility must accept grievances orally and may accept grievances

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871 in writing. The local council shall maintain a record of all
872 grievances received from each facility in the local area which
873 shall be submitted by the local council to the Office of the
874 State Long-Term Care Ombudsman pursuant to s. 400.0089. The
875 residents' ~~This~~ right also includes access to ombudsman
876 volunteers and advocates and the right to be a member of, to be
877 active in, and to associate with advocacy or special interest
878 groups.

879 Section 15. Subsection (1) of section 429.294, Florida
880 Statutes, is amended to read:

881 429.294 Availability of facility records for investigation
882 of resident's rights violations and defenses; penalty.—

883 (1) Failure to provide complete copies of a resident's
884 records, including, but not limited to, all medical records and
885 the resident's chart, within the control or possession of the
886 facility within 10 days, ~~in accordance with the provisions of s.~~
887 ~~400.145,~~ shall constitute evidence of failure of that party to
888 comply with good faith discovery requirements and shall waive
889 the good faith certificate and presuit notice requirements under
890 this part by the requesting party.

891 Section 16. Present paragraphs (k) and (l) of subsection
892 (1) of section 429.41, Florida Statutes, are redesignated as
893 paragraphs (l) and (m), respectively, and a new paragraph (k) is
894 added to that subsection, to read:

895 429.41 Rules establishing standards.—

896 (1) It is the intent of the Legislature that rules
897 published and enforced pursuant to this section shall include
898 criteria by which a reasonable and consistent quality of
899 resident care and quality of life may be ensured and the results

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900 of such resident care may be demonstrated. Such rules shall also
901 ensure a safe and sanitary environment that is residential and
902 noninstitutional in design or nature. It is further intended
903 that reasonable efforts be made to accommodate the needs and
904 preferences of residents to enhance the quality of life in a
905 facility. The agency, in consultation with the department, may
906 adopt rules to administer the requirements of part II of chapter
907 408. In order to provide safe and sanitary facilities and the
908 highest quality of resident care accommodating the needs and
909 preferences of residents, the department, in consultation with
910 the agency, the Department of Children and Family Services, and
911 the Department of Health, shall adopt rules, policies, and
912 procedures to administer this part, which must include
913 reasonable and fair minimum standards in relation to:

914 (k) The requirement that all residents have service plans.
915 The service plan shall be reviewed and updated annually;
916 however, for a resident receiving nursing services ordered by a
917 physician, except administration of medication, the plan shall
918 be reviewed and updated quarterly or whenever a resident
919 experiences a significant change in condition. The agency shall
920 develop a service plan form for use by providers. The agency may
921 accept the community supported-living plan instead of a service
922 plan for mental health residents.

923 Section 17. Present subsection (14) of section 429.65,
924 Florida Statutes, is renumbered as subsection (15), and
925 subsection (14) is added to that section, to read:

926 429.65 Definitions.—As used in this part, the term:

927 (14) "Reside" means the licensee or applicant lives in the
928 adult family-care home as a primary residence. Any two of the

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929 following documents that includes the adult family-care home
930 address and the name of the licensee or applicant may be
931 accepted by the agency as proof that the licensee or applicant
932 resides in the home:

933 (a) Homestead exemption documentation.

934 (b) A lease or rental agreement accompanied by a
935 corresponding utility bill.

936 (c) Personal identification issued by a state or federal
937 agency.

938 Section 18. Subsection (3) is added to section 429.69,
939 Florida Statutes, to read:

940 429.69 Denial, revocation, and suspension of a license.—In
941 addition to the requirements of part II of chapter 408, the
942 agency may deny, suspend, and revoke a license for any of the
943 following reasons:

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

946 Section 19. Paragraph (b) of subsection (1) of section
947 429.73, Florida Statutes, is amended to read:

948 429.73 Rules and standards relating to adult family-care
949 homes.—

950 (1) The agency, in consultation with the department, may
951 adopt rules to administer the requirements of part II of chapter
952 408. The department, in consultation with the Department of
953 Health, the Department of Children and Family Services, and the
954 agency shall, by rule, establish minimum standards to ensure the
955 health, safety, and well-being of each resident in the adult
956 family-care home pursuant to this part. The rules must address:

957 (b) Services that must be provided to all residents of an

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958 adult family-care home and standards for such services, which
959 must include, but need not be limited to:

- 960 1. Room and board.
- 961 2. Assistance necessary to perform the activities of daily
962 living.
- 963 3. Assistance necessary to administer medication.
- 964 4. Supervision of residents.
- 965 5. Health monitoring, including periodic assessments to
966 determine if the resident is competent to handle his or her
967 personal and financial affairs and, if not, whether a
968 responsible person such as a guardian, surrogate, or attorney in
969 fact is available to make decisions on behalf of the resident.
- 970 6. Social and leisure activities.

971 Section 20. Subsection (13) of section 400.141, subsection
972 (3) of section 408.809, subsection (2) of section 429.08, and
973 subsection (5) of section 429.41, Florida Statutes, are
974 repealed.

975 Section 21. Paragraph (h) of subsection (3) of section
976 430.80, Florida Statutes, is amended to read:

977 430.80 Implementation of a teaching nursing home pilot
978 project.—

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

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

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

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987 2. Obtaining and maintaining, pursuant to chapter 675, an
988 unexpired, irrevocable, nontransferable and nonassignable letter
989 of credit issued by a any bank or savings association organized
990 and existing under the laws of this state or a any bank or
991 savings association organized under the laws of the United
992 States that has its principal place of business in this state or
993 has a branch office which is authorized to receive deposits in
994 this state. The letter of credit shall be used to satisfy the
995 obligation of the facility to the claimant upon presentment of a
996 final judgment indicating liability and awarding damages to be
997 paid by the facility or upon presentment of a settlement
998 agreement signed by all parties if the ~~to the agreement when~~
999 ~~such~~ final judgment or settlement is a result of a liability
1000 claim against the facility.

1001 Section 22. Subsection (13) of section 651.118, Florida
1002 Statutes, is amended to read:

1003 651.118 Agency for Health Care Administration; certificates
1004 of need; sheltered beds; community beds.—

1005 (13) Residents, ~~as defined in this chapter,~~ are not
1006 considered new admissions for the purpose of s. 400.141(14)(d)
1007 ~~s. 400.141(15)(d)~~.

1008 Section 23. This act shall take effect July 1, 2009.