

1 A bill to be entitled  
2 An act relating to health care; amending s. 400.462, F.S.;  
3 revising and providing definitions applicable to  
4 regulation of home health agencies; amending s. 400.476,  
5 F.S.; providing requirements for an alternate  
6 administrator of a home health agency; providing  
7 additional duties of an administrator and a director of  
8 nursing of a home health agency; providing additional  
9 training requirements for a home health aide; requiring a  
10 written contract between the agency and certain personnel;  
11 permitting other entities under contract with the home  
12 health agency to provide services under certain  
13 conditions; providing supervisory responsibilities of a  
14 home health agency if services are provided under an  
15 arrangement with another entity; amending s. 400.487,  
16 F.S.; requiring the home health agency to provide a copy  
17 of the service agreement to the patient or the patient's  
18 legal representative; requiring the home health agency to  
19 provide patients with a written notice of patient rights;  
20 providing requirements for the provision of skilled  
21 nursing and therapy services and the supervision thereof;  
22 amending s. 400.933, F.S.; revising licensure inspection  
23 requirements for home medical equipment providers;  
24 amending s. 400.969, F.S.; providing a penalty for  
25 violation of federal certification requirements for  
26 intermediate care facilities for the developmentally  
27 disabled; amending s. 408.805, F.S.; revising the method  
28 for calculating the annual adjustment of license fees

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29 | assessed by the Agency for Health Care Administration;  
 30 | amending s. 429.41, F.S.; revising firesafety requirements  
 31 | for assisted living facilities; amending s. 429.65, F.S.;  
 32 | revising definitions applicable to regulation of adult  
 33 | family-care homes; providing an effective date.

34 |

35 | Be It Enacted by the Legislature of the State of Florida:

36 |

37 | Section 1. Subsections (2) and (14) of section 400.462,  
 38 | Florida Statutes, are amended, present subsections (27), (28),  
 39 | and (29) are renumbered as subsections (28), (29), and (30),  
 40 | respectively, and a new subsection (27) is added to that  
 41 | section, to read:

42 | 400.462 Definitions.—As used in this part, the term:

43 | (2) "Admission" means a decision by the home health  
 44 | agency, during or after an evaluation visit with the patient ~~to~~  
 45 | ~~the patient's home~~, that there is reasonable expectation that  
 46 | the patient's medical, nursing, and social needs for skilled  
 47 | care can be adequately met by the agency in the patient's place  
 48 | of residence. Admission includes completion of an agreement with  
 49 | the patient or the patient's legal representative to provide  
 50 | home health services as required in s. 400.487(1).

51 | (14) "Home health services" means health and medical  
 52 | services and medical supplies furnished by an organization to an  
 53 | individual in the individual's home or place of residence. The  
 54 | term includes organizations that provide one or more of the  
 55 | following:

56 | (a) Nursing care.

57 (b) Physical, occupational, respiratory, or speech  
58 therapy.

59 (c) Home health aide services.

60 (d) Dietetics and nutrition practice and nutrition  
61 counseling.

62 (e) Medical supplies and durable medical equipment,  
63 ~~restricted to drugs and biologicals~~ prescribed by a physician.

64 (27) "Primary home health agency" means the agency that is  
65 responsible for the services furnished to patients and for  
66 implementation of the plan of care.

67 Section 2. Section 400.476, Florida Statutes, is amended  
68 to read:

69 400.476 Personnel ~~Staffing~~ requirements; notifications;  
70 limitations on staffing services.—

71 (1) ADMINISTRATOR.—

72 (a) An administrator may manage only one home health  
73 agency, except that an administrator may manage up to five home  
74 health agencies if all five home health agencies have identical  
75 controlling interests as defined in s. 408.803 and are located  
76 within one agency geographic service area or within an  
77 immediately contiguous county. If the home health agency is  
78 licensed under this chapter and is part of a retirement  
79 community that provides multiple levels of care, an employee of  
80 the retirement community may administer the home health agency  
81 and up to a maximum of four entities licensed under this chapter  
82 or chapter 429 which all have identical controlling interests as  
83 defined in s. 408.803. An administrator shall designate, in  
84 writing, for each licensed entity, a qualified alternate

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85 administrator to serve during the administrator's absence. An  
86 alternate administrator must meet the requirements of this  
87 paragraph and the definition of administrator provided in s.  
88 400.462.

89 (b) An administrator of a home health agency who is a  
90 licensed physician, physician assistant, or registered nurse  
91 licensed to practice in this state may also be the director of  
92 nursing for a home health agency. An administrator may serve as  
93 a director of nursing for up to the number of entities  
94 authorized in subsection (2) only if there are 10 or fewer full-  
95 time equivalent employees and contracted personnel in each home  
96 health agency.

97 (c) An administrator of a home health agency shall:

98 1. Organize and direct the agency's ongoing functions.

99 2. Maintain ongoing liaisons with the board members and  
100 the agency's staff.

101 3. Employ qualified personnel.

102 4. Ensure adequate staff education and evaluations.

103 5. Ensure the accuracy of public information materials and  
104 activities.

105 6. Implement an effective budgeting and accounting system.

106 7. Ensure that the home health agency operates in  
107 compliance with this part, part II of chapter 408, and  
108 department rules.

109 8. Ensure that the organizational structure, including the  
110 specific administrative responsibilities and the lines of  
111 authority for the delegation of responsibility down to the  
112 patient care level, and the services offered are clearly set

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113 forth in writing. Administrative and supervisory functions may  
 114 not be delegated to another agency or organization and all  
 115 services not furnished directly by the primary home health  
 116 agency, including services provided through contracts, must be  
 117 monitored and controlled by the primary home health agency.

118 (2) DIRECTOR OF NURSING.—

119 (a) A director of nursing may be the director of nursing  
 120 for:

121 1. Up to two licensed home health agencies if the agencies  
 122 have identical controlling interests as defined in s. 408.803  
 123 and are located within one agency geographic service area or  
 124 within an immediately contiguous county; or

125 2. Up to five licensed home health agencies if:

126 a. All of the home health agencies have identical  
 127 controlling interests as defined in s. 408.803;

128 b. All of the home health agencies are located within one  
 129 agency geographic service area or within an immediately  
 130 contiguous county; ~~and~~

131 c. Each home health agency has a registered nurse who  
 132 meets the qualifications of a director of nursing and who has a  
 133 written delegation from the director of nursing to serve as the  
 134 director of nursing for that home health agency when the  
 135 director of nursing is not present; and

136 d. The director of nursing, or a similarly qualified  
 137 alternate, is available at all times during the operating hours  
 138 of the home health agency and participates in all activities  
 139 related to the provision of professional services by the home  
 140 health agency, including, but not limited to, the assignment of

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141 personnel and the oversight of nursing services, home health  
142 aides, and certified nursing assistants.

143

144 If a home health agency licensed under this chapter is part of a  
145 retirement community that provides multiple levels of care, an  
146 employee of the retirement community may serve as the director  
147 of nursing of the home health agency and up to a maximum of four  
148 entities, other than home health agencies, licensed under this  
149 chapter or chapter 429 which all have identical controlling  
150 interests as defined in s. 408.803.

151 (b) A home health agency that provides skilled nursing  
152 care may not operate for more than 30 calendar days without a  
153 director of nursing. A home health agency that provides skilled  
154 nursing care and the director of nursing of a home health agency  
155 must notify the agency within 10 business days after termination  
156 of the services of the director of nursing for the home health  
157 agency. A home health agency that provides skilled nursing care  
158 must notify the agency of the identity and qualifications of the  
159 new director of nursing within 10 days after the new director is  
160 hired. If a home health agency that provides skilled nursing  
161 care operates for more than 30 calendar days without a director  
162 of nursing, the home health agency commits a class II  
163 deficiency. In addition to the fine for a class II deficiency,  
164 the agency may issue a moratorium in accordance with s. 408.814  
165 or revoke the license. The agency shall fine a home health  
166 agency that fails to notify the agency as required in this  
167 paragraph \$1,000 for the first violation and \$2,000 for a repeat  
168 violation. The agency may not take administrative action against

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169 a home health agency if the director of nursing fails to notify  
170 the department upon termination of services as the director of  
171 nursing for the home health agency.

172 (c) A home health agency that is not Medicare or Medicaid  
173 certified and does not provide skilled care or provides only  
174 physical, occupational, or speech therapy is not required to  
175 have a director of nursing and is exempt from paragraph (b).

176 (3) TRAINING.—A home health agency shall ensure that each  
177 certified nursing assistant employed by or under contract with  
178 the home health agency and each home health aide employed by or  
179 under contract with the home health agency is adequately trained  
180 to perform the tasks of a home health aide in the home setting.

181 (a) The home health agency may not use an individual to  
182 provide services as a home health aide on a full-time,  
183 temporary, per diem, or other basis unless the individual has  
184 completed a training and competency evaluation program or has  
185 successfully passed a competency test, as provided in s.  
186 400.497, that meets the minimum standards established under  
187 agency rules.

188 (b) A home health aide is not considered competent to  
189 perform any task for which he or she has received an evaluation  
190 of "unsatisfactory." The aide must not perform that task without  
191 being under the direct supervision of a licensed practical nurse  
192 until he or she receives training in that task and subsequently  
193 receives an evaluation of "satisfactory." A home health aide is  
194 not considered to have successfully passed a competency  
195 evaluation if the aide does not have a passing score on the  
196 competency test as specified in department rule.

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197 (4) STAFFING.—Staffing services may be provided anywhere  
198 within the state.

199 (5) PERSONNEL.—

200 (a) A home health agency and its staff must comply with  
201 accepted professional standards and principles, including, but  
202 not limited to, the applicable practice act and the home health  
203 agency's policies and procedures.

204 (b) A home health agency that employs personnel on an  
205 hourly or per-visit basis must provide a written contract  
206 between the agency and those personnel that specifies the  
207 following:

208 1. The acceptance of patients for care only by the primary  
209 home health agency.

210 2. The services that shall be provided to the patient.

211 3. The necessity for personnel to conform to all  
212 applicable agency policies, including personnel qualifications.

213 4. The responsibility of personnel to participate in  
214 developing plans of care.

215 5. The manner in which services will be controlled,  
216 coordinated, and evaluated by the primary home health agency.

217 6. The procedures for submitting clinical and progress  
218 notes, the scheduling of visits, and the periodic evaluation of  
219 patients.

220 7. The procedures for payment for services furnished under  
221 the contract.

222 (c) A home health agency shall provide at least one type  
223 of service directly through home health agency employees but may  
224 provide additional services under an arrangement with another



225 agency or organization. Services provided under those  
 226 arrangements must have a written contract that conforms with the  
 227 requirements specified in paragraph (b).

228 (d) If home health aide services are provided by an  
 229 individual who is not employed directly by the home health  
 230 agency, the services of that home health aide must be provided  
 231 pursuant to paragraphs (b) and (c). If the home health agency  
 232 chooses to provide home health aide services under an  
 233 arrangement with another agency or organization, the  
 234 responsibilities of the home health agency shall include, but  
 235 are not limited to:

236 1. Ensuring the overall quality of the care provided by  
 237 the home health aide.

238 2. Supervising the services provided by the home health  
 239 aide as described in s. 400.487.

240 3. Ensuring that a home health aide who provides services  
 241 under an arrangement with another agency or organization has met  
 242 the training and competency evaluation requirements of s.  
 243 400.497.

244 (e) All personnel furnishing home health services to a  
 245 patient must maintain liaison with the other home health aides  
 246 providing services to that patient to ensure that their efforts  
 247 are coordinated effectively and to support the objectives  
 248 outlined in the patient's plan of care. The clinical record or  
 249 minutes of case conferences shall be reviewed by the agency to  
 250 determine whether effective exchange, reporting, and  
 251 coordination of information regarding patient care has occurred.

252 Section 3. Section 400.487, Florida Statutes, is amended  
 253 to read:

254 400.487 Home health service agreements; physician's,  
 255 physician assistant's, and advanced registered nurse  
 256 practitioner's treatment orders; notice of patient' rights;  
 257 patient assessment; establishment and review of plan of care;  
 258 provision of services; orders not to resuscitate.—

259 (1) Services provided by a home health agency must be  
 260 covered by an agreement between the home health agency and the  
 261 patient or the patient's legal representative specifying the  
 262 home health services to be provided, the rates or charges for  
 263 services paid with private funds, and the sources of payment,  
 264 which may include Medicare, Medicaid, private insurance,  
 265 personal funds, or a combination thereof. The home health agency  
 266 shall provide a copy of the agreement to the patient or the  
 267 patient's legal representative. A home health agency providing  
 268 skilled care must make an assessment of the patient's needs  
 269 within 48 hours after the start of services.

270 (2) When required by the provisions of chapter 464; part  
 271 I, part III, or part V of chapter 468; or chapter 486, the  
 272 attending physician, physician assistant, or advanced registered  
 273 nurse practitioner, acting within his or her respective scope of  
 274 practice, shall establish treatment orders for a patient who is  
 275 to receive skilled care. The treatment orders must be signed by  
 276 the physician, physician assistant, or advanced registered nurse  
 277 practitioner before a claim for payment for the skilled services  
 278 is submitted by the home health agency. If the claim is  
 279 submitted to a managed care organization, the treatment orders

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280 must be signed within the time allowed under the provider  
281 agreement. The treatment orders shall be reviewed, as frequently  
282 as the patient's illness requires, by the physician, physician  
283 assistant, or advanced registered nurse practitioner in  
284 consultation with the home health agency.

285 (3) A home health agency shall arrange for supervisory  
286 visits by a registered nurse to the home of a patient receiving  
287 home health aide services as specified in subsection (9) ~~in~~  
288 ~~accordance with the patient's direction, approval, and agreement~~  
289 ~~to pay the charge for the visits.~~

290 (4) A home health agency shall protect and promote the  
291 rights of each individual under its care, including:

292 (a) Notice of rights.—The home health agency shall provide  
293 the patient with a written notice of the patient's rights before  
294 furnishing care to the patient or during the initial evaluation  
295 visit before the initiation of treatment or care. The home  
296 health agency shall maintain documentation showing that it has  
297 complied with the requirements of this subsection.

298 (b) Exercise of patient rights and respect for property  
299 and person.—The patient has the right to exercise his or her  
300 rights as a patient of the home health agency, which shall  
301 include:

302 1. The patient has the right to have his or her property  
303 treated with respect.

304 2. The patient has the right to voice grievances regarding  
305 treatment or care that is or fails to be furnished or a failure  
306 to respect the patient's property by anyone who is furnishing  
307 services on behalf of the home health agency, and the patient

308 may not be subjected to discrimination or reprisal for voicing  
 309 such grievances.

310 3. The home health agency must investigate complaints made  
 311 by a patient or the patient's family or legal representative  
 312 regarding treatment or care that is or fails to be furnished or  
 313 a failure to respect the patient's property by anyone furnishing  
 314 services on behalf of the home health agency, and the home  
 315 health agency shall document both the existence of the complaint  
 316 and the resolution of the complaint.

317 4. The patient and his or her immediate family or legal  
 318 representative must be informed of the right to report  
 319 complaints to the agency statewide toll-free telephone number as  
 320 provided in s. 408.810.

321 (c) Right to be informed and participate in planning  
 322 treatment and care.—

323 1. The ~~Each~~ patient has the right to be informed in  
 324 advance by the home health agency of: ~~and~~

325 a. The right to participate in ~~the~~ planning ~~of~~ his or her  
 326 treatment and care and planning any changes to the treatment and  
 327 care.

328 b. The individuals who will provide the treatment and care  
 329 and the proposed frequency of their visits.

330 2. Each patient must be provided, upon request, a copy of  
 331 the plan of care established and maintained for that patient by  
 332 the home health agency.

333 (5) When nursing services are ordered, the home health  
 334 agency to which a patient has been admitted for care must  
 335 provide the initial admission visit, all service evaluation

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336 visits, and the discharge visit by a direct employee. Services  
337 provided by others under contractual arrangements to a home  
338 health agency must be monitored and managed by the admitting  
339 home health agency. The admitting home health agency is fully  
340 responsible for ensuring that all care provided through its  
341 employees or contract staff is delivered in accordance with this  
342 part and applicable rules.

343 (6) The skilled care services provided by a home health  
344 agency, directly or under contract, must be supervised and  
345 coordinated in accordance with the plan of care. The home health  
346 agency shall provide skilled nursing services by or under the  
347 supervision of a registered nurse and in accordance with the  
348 plan of care. Any therapy services offered by the home health  
349 agency directly or under a contractual arrangement shall be  
350 provided by a qualified therapist or a qualified therapy  
351 assistant under the supervision of a qualified therapist and in  
352 accordance with the plan of care.

353 (a) A qualified therapist assists the physician in  
354 evaluating the patient's level of functioning, helps develop the  
355 plan of care and revises the plan as necessary, prepares  
356 clinical and progress notes, advises and consults with the  
357 family and other agency personnel, and participates in inservice  
358 programs.

359 (b) The therapist or therapy assistant must meet the  
360 qualifications in the applicable practice act and related rules.

361 (c) A physical therapist assistant or occupational therapy  
362 assistant who provides services must be under the supervision of  
363 a qualified physical therapist or occupational therapist as

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364 required in the applicable practice act and related rules.

365 (d) A physical therapist assistant or occupational therapy  
366 assistant performs services planned, delegated, and supervised  
367 by the therapist, assists in preparing clinical notes and  
368 progress reports, participates in educating the patient and  
369 family, and participates in inservice training programs.

370 (e) Speech therapy services are furnished only by or under  
371 the supervision of a qualified speech-language pathologist or  
372 audiologist as required in the applicable practice act and  
373 related rules.

374 (f) Services are provided according to a written plan of  
375 care. The plan of care shall be reviewed by the physician or  
376 health professional who provided the treatment orders in  
377 subsection (2) and home health agency personnel as often as the  
378 severity of the patient's condition requires, but at least once  
379 every 60 days or more frequently when there is a beneficiary-  
380 elected transfer, there is a significant change in the patient's  
381 condition resulting in a change in the case-mix assignment, or a  
382 patient is discharged and subsequently returned to the same home  
383 health agency during the 60-day period. Home health agency  
384 personnel shall promptly alert the physician or other health  
385 professional who provided the treatment orders regarding any  
386 changes that suggest a need to alter the plan of care.

387 (g) Drugs and treatments may only be administered by home  
388 health agency personnel as ordered by a physician or health  
389 professional as specified in subsection (2), except that  
390 influenza and pneumococcal polysaccharide vaccines may be  
391 administered according to the agency's policy, which shall be

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392 developed in consultation with a physician, and after an  
393 assessment for contraindications. Verbal orders shall be put in  
394 writing and signed and dated with the date of receipt by the  
395 registered nurse or qualified therapist responsible for  
396 furnishing or supervising the ordered services. Verbal orders  
397 shall only be accepted by personnel authorized to do so under  
398 applicable state law and department rules and by the home health  
399 agency's internal policies.

400 (7) The registered nurse shall make the initial evaluation  
401 visit, regularly reevaluate the patient's nursing needs,  
402 initiate the plan of care and necessary revisions, furnish those  
403 services requiring substantial and specialized nursing skill,  
404 initiate appropriate preventive and rehabilitative nursing  
405 procedures, prepare clinical and progress notes, coordinate  
406 services, inform the physician and other personnel of changes in  
407 the patient's condition and needs, counsel the patient and  
408 family regarding meeting nursing and related needs, participate  
409 in inservice training programs, and supervise and teach other  
410 nursing personnel.

411 (8) The licensed practical nurse shall furnish services in  
412 accordance with agency policies, prepare clinical and progress  
413 notes, assist the physician and registered nurse in performing  
414 specialized procedures, prepare equipment and materials for  
415 treatments, observing aseptic technique as required, and assist  
416 the patient in learning appropriate self-care techniques.

417 (9) The home health aide and the certified nursing  
418 assistant provide services that are ordered by the physician in  
419 the plan of care and that the home health aide or the certified

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420 nursing assistant is permitted to perform under state law. The  
421 duties of a home health aide and a certified nursing assistant  
422 include the provision of hands-on personal care, performance of  
423 simple procedures as an extension of therapy or nursing  
424 services, assistance in ambulation or exercises, and assistance  
425 in administering medications that are ordinarily self-  
426 administered, as specified in state rules. Home health aide  
427 services offered by a home health agency must be provided by a  
428 qualified home health aide or a certified nursing assistant.

429 (a) The home health aide or the certified nursing  
430 assistant shall be assigned to a specific patient by the  
431 registered nurse. Written patient care instructions for the home  
432 health aide and the certified nursing assistant shall be  
433 prepared by the registered nurse or other appropriate  
434 professional who is responsible for the supervision of the home  
435 health aide and the certified nursing assistant.

436 (b) If the patient receives skilled nursing care, the  
437 registered nurse shall perform the supervisory visit. If the  
438 patient is not receiving skilled nursing care but is receiving  
439 physical therapy, occupational therapy, or speech-language  
440 pathology services, the appropriate therapist may perform the  
441 supervisory visit. The registered nurse or other professional  
442 must make an onsite visit to the patient's home no less  
443 frequently than every 2 weeks. The visit is not required to be  
444 while the home health aide or the certified nursing assistant is  
445 providing care.

446 (c) If home health aide services are provided to a patient  
447 who is not receiving skilled nursing care, physical or



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448 occupational therapy, or speech-language pathology services, the  
 449 registered nurse must make a supervisory visit to the patient's  
 450 home at least every 60 days. In these cases, to ensure that the  
 451 home health aide or the certified nursing assistant is properly  
 452 caring for the patient, each supervisory visit must occur while  
 453 the home health aide or the certified nursing assistant is  
 454 providing patient care.

455 (10)~~(7)~~ Home health agency personnel may withhold or  
 456 withdraw cardiopulmonary resuscitation if presented with an  
 457 order not to resuscitate executed pursuant to s. 401.45. The  
 458 agency shall adopt rules providing for the implementation of  
 459 such orders. Home health personnel and agencies shall not be  
 460 subject to criminal prosecution or civil liability, nor be  
 461 considered to have engaged in negligent or unprofessional  
 462 conduct, for withholding or withdrawing cardiopulmonary  
 463 resuscitation pursuant to such an order and rules adopted by the  
 464 agency.

465 Section 4. Subsection (2) of section 400.933, Florida  
 466 Statutes, is amended to read:

467 400.933 Licensure inspections and investigations.—

468 (2) The agency shall accept, in lieu of its own periodic  
 469 inspections for licensure, submission of the following:

470 (a) The survey or inspection of an accrediting  
 471 organization, provided the accreditation of the licensed home  
 472 medical equipment provider is not conditional or provisional and  
 473 provided the licensed home medical equipment provider authorizes  
 474 release of, and the agency receives the report of, the  
 475 accrediting organization.~~;~~~~or~~

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476 (b) A copy of a valid medical oxygen retail establishment  
 477 permit issued by the Department of Health, pursuant to chapter  
 478 499.

479 Section 5. Subsection (1) of section 400.969, Florida  
 480 Statutes, is amended to read:

481 400.969 Violation of part; penalties.—

482 (1) In addition to the requirements of part II of chapter  
 483 408, and except as provided in s. 400.967(3), a violation of any  
 484 provision of federal certification required pursuant to s.  
 485 400.960(8), this part, part II of chapter 408, or applicable  
 486 rules is punishable by payment of an administrative or civil  
 487 penalty not to exceed \$5,000.

488 Section 6. Section 408.805, Florida Statutes, is amended  
 489 to read:

490 408.805 Fees required; adjustments. ~~Unless otherwise~~  
 491 ~~limited by authorizing statutes,~~ License fees must be reasonably  
 492 calculated by the agency to cover its costs in carrying out its  
 493 responsibilities under this part, authorizing statutes, and  
 494 applicable rules, including the cost of licensure, inspection,  
 495 and regulation of providers.

496 (1) Licensure fees shall be adjusted to provide for  
 497 biennial licensure under agency rules.

498 (2) The agency shall annually adjust licensure fees,  
 499 including fees paid per bed, by not more than 10 percent above  
 500 the change in the Consumer Price Index based on the 12 months  
 501 immediately preceding the increase.

502 (3) An inspection fee must be paid as required in  
 503 authorizing statutes.

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504 (4) Fees are nonrefundable.

505 (5) When a change is reported that requires issuance of a  
506 license, a fee may be assessed. The fee must be based on the  
507 actual cost of processing and issuing the license.

508 (6) A fee may be charged to a licensee requesting a  
509 duplicate license. The fee may not exceed the actual cost of  
510 duplication and postage.

511 (7) Total fees collected may not exceed the cost of  
512 administering this part, authorizing statutes, and applicable  
513 rules.

514 Section 7. Paragraph (a) of subsection (1) of section  
515 429.41, Florida Statutes, is amended to read:

516 429.41 Rules establishing standards.—

517 (1) It is the intent of the Legislature that rules  
518 published and enforced pursuant to this section shall include  
519 criteria by which a reasonable and consistent quality of  
520 resident care and quality of life may be ensured and the results  
521 of such resident care may be demonstrated. Such rules shall also  
522 ensure a safe and sanitary environment that is residential and  
523 noninstitutional in design or nature. It is further intended  
524 that reasonable efforts be made to accommodate the needs and  
525 preferences of residents to enhance the quality of life in a  
526 facility. The agency, in consultation with the department, may  
527 adopt rules to administer the requirements of part II of chapter  
528 408. In order to provide safe and sanitary facilities and the  
529 highest quality of resident care accommodating the needs and  
530 preferences of residents, the department, in consultation with  
531 the agency, the Department of Children and Family Services, and

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532 the Department of Health, shall adopt rules, policies, and  
533 procedures to administer this part, which must include  
534 reasonable and fair minimum standards in relation to:

535 (a) The requirements for and maintenance of facilities,  
536 not in conflict with the provisions of chapter 553, relating to  
537 plumbing, heating, cooling, lighting, ventilation, living space,  
538 and other housing conditions, which will ensure the health,  
539 safety, and comfort of residents and protection from fire  
540 hazard, including adequate provisions for fire alarm and other  
541 fire protection suitable to the size of the structure. Uniform  
542 firesafety standards shall be established and enforced by the  
543 State Fire Marshal in cooperation with the agency, the  
544 department, and the Department of Health.

545 1. Evacuation capability determination.—

546 a. The provisions of the National Fire Protection  
547 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used  
548 for determining the ability of the residents, with or without  
549 staff assistance, to relocate from or within a licensed facility  
550 to a point of safety as provided in the fire codes adopted  
551 herein. An evacuation capability evaluation for initial  
552 licensure shall be conducted within 6 months after the date of  
553 licensure. For existing licensed facilities that are not  
554 equipped with an automatic fire sprinkler system, the  
555 administrator shall evaluate the evacuation capability of  
556 residents at least annually. The evacuation capability  
557 evaluation for each facility not equipped with an automatic fire  
558 sprinkler system shall be validated, without liability, by the  
559 State Fire Marshal, by the local fire marshal, or by the local

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560 authority having jurisdiction over firesafety, before the  
561 license renewal date. If the State Fire Marshal, local fire  
562 marshal, or local authority having jurisdiction over firesafety  
563 has reason to believe that the evacuation capability of a  
564 facility as reported by the administrator may have changed, it  
565 may, with assistance from the facility administrator, reevaluate  
566 the evacuation capability through timed exiting drills.  
567 Translation of timed fire exiting drills to evacuation  
568 capability may be determined:

569 (I) Three minutes or less: prompt.

570 (II) More than 3 minutes, but not more than 13 minutes:  
571 slow.

572 (III) More than 13 minutes: impractical.

573 b. The Office of the State Fire Marshal shall provide or  
574 cause the provision of training and education on the proper  
575 application of Chapter 5, NFPA 101A, 1995 edition, to its  
576 employees, to staff of the Agency for Health Care Administration  
577 who are responsible for regulating facilities under this part,  
578 and to local governmental inspectors. The Office of the State  
579 Fire Marshal shall provide or cause the provision of this  
580 training within its existing budget, but may charge a fee for  
581 this training to offset its costs. The initial training must be  
582 delivered within 6 months after July 1, 1995, and as needed  
583 thereafter.

584 c. The Office of the State Fire Marshal, in cooperation  
585 with provider associations, shall provide or cause the provision  
586 of a training program designed to inform facility operators on  
587 how to properly review bid documents relating to the

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588 installation of automatic fire sprinklers. The Office of the  
589 State Fire Marshal shall provide or cause the provision of this  
590 training within its existing budget, but may charge a fee for  
591 this training to offset its costs. The initial training must be  
592 delivered within 6 months after July 1, 1995, and as needed  
593 thereafter.

594 d. The administrator of a licensed facility shall sign an  
595 affidavit verifying the number of residents occupying the  
596 facility at the time of the evacuation capability evaluation.

597 2. Firesafety requirements.—

598 a. Except for the special applications provided herein,  
599 effective January 1, 2011 ~~1996~~, the provisions of the current  
600 edition of the National Fire Protection Association, Life Safety  
601 Code, NFPA 101, ~~1994 edition~~, Chapter 22 for new facilities and  
602 Chapter 23 for existing facilities shall be the uniform fire  
603 code applied by the State Fire Marshal for assisted living  
604 facilities, pursuant to s. 633.022.

605 b. Any new facility, regardless of size, that applies for  
606 a license on or after January 1, 1996, must be equipped with an  
607 automatic fire sprinkler system. The exceptions as provided in  
608 s. 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein, apply  
609 to any new facility housing eight or fewer residents. On July 1,  
610 1995, local governmental entities responsible for the issuance  
611 of permits for construction shall inform, without liability, any  
612 facility whose permit for construction is obtained prior to  
613 January 1, 1996, of this automatic fire sprinkler requirement.  
614 As used in this part, the term "a new facility" does not mean an  
615 existing facility that has undergone change of ownership.

616 c. Notwithstanding any provision of s. 633.022 or of the  
617 National Fire Protection Association, NFPA 101A, Chapter 5, 1995  
618 edition, to the contrary, any existing facility housing eight or  
619 fewer residents is not required to install an automatic fire  
620 sprinkler system, nor to comply with any other requirement in  
621 Chapter 23, NFPA 101, 1994 edition, that exceeds the firesafety  
622 requirements of NFPA 101, 1988 edition, that applies to this  
623 size facility, unless the facility has been classified as  
624 impractical to evacuate. Any existing facility housing eight or  
625 fewer residents that is classified as impractical to evacuate  
626 must install an automatic fire sprinkler system within the  
627 timeframes granted in this section.

628 d. Any existing facility that is required to install an  
629 automatic fire sprinkler system under this paragraph need not  
630 meet other firesafety requirements of Chapter 23, NFPA 101, 1994  
631 edition, which exceed the provisions of NFPA 101, 1988 edition.  
632 The mandate contained in this paragraph which requires certain  
633 facilities to install an automatic fire sprinkler system  
634 supersedes any other requirement.

635 e. This paragraph does not supersede the exceptions  
636 granted in NFPA 101, 1988 edition or 1994 edition.

637 f. This paragraph does not exempt facilities from other  
638 firesafety provisions adopted under s. 633.022 and local  
639 building code requirements in effect before July 1, 1995.

640 g. A local government may charge fees only in an amount  
641 not to exceed the actual expenses incurred by local government  
642 relating to the installation and maintenance of an automatic  
643 fire sprinkler system in an existing and properly licensed

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644 assisted living facility structure as of January 1, 1996.

645 h. If a licensed facility undergoes major reconstruction  
646 or addition to an existing building on or after January 1, 1996,  
647 the entire building must be equipped with an automatic fire  
648 sprinkler system. Major reconstruction of a building means  
649 repair or restoration that costs in excess of 50 percent of the  
650 value of the building as reported on the tax rolls, excluding  
651 land, before reconstruction. Multiple reconstruction projects  
652 within a 5-year period the total costs of which exceed 50  
653 percent of the initial value of the building at the time the  
654 first reconstruction project was permitted are to be considered  
655 as major reconstruction. Application for a permit for an  
656 automatic fire sprinkler system is required upon application for  
657 a permit for a reconstruction project that creates costs that go  
658 over the 50-percent threshold.

659 i. Any facility licensed before January 1, 1996, that is  
660 required to install an automatic fire sprinkler system shall  
661 ensure that the installation is completed within the following  
662 timeframes based upon evacuation capability of the facility as  
663 determined under subparagraph 1.:

664 (I) Impractical evacuation capability, 24 months.

665 (II) Slow evacuation capability, 48 months.

666 (III) Prompt evacuation capability, 60 months.

667

668 The beginning date from which the deadline for the automatic  
669 fire sprinkler installation requirement must be calculated is  
670 upon receipt of written notice from the local fire official that  
671 an automatic fire sprinkler system must be installed. The local



672 fire official shall send a copy of the document indicating the  
673 requirement of a fire sprinkler system to the Agency for Health  
674 Care Administration.

675 j. It is recognized that the installation of an automatic  
676 fire sprinkler system may create financial hardship for some  
677 facilities. The appropriate local fire official shall, without  
678 liability, grant two 1-year extensions to the timeframes for  
679 installation established herein, if an automatic fire sprinkler  
680 installation cost estimate and proof of denial from two  
681 financial institutions for a construction loan to install the  
682 automatic fire sprinkler system are submitted. However, for any  
683 facility with a class I or class II, or a history of uncorrected  
684 class III, firesafety deficiencies, an extension must not be  
685 granted. The local fire official shall send a copy of the  
686 document granting the time extension to the Agency for Health  
687 Care Administration.

688 k. A facility owner whose facility is required to be  
689 equipped with an automatic fire sprinkler system under Chapter  
690 23, NFPA 101, 1994 edition, as adopted herein, must disclose to  
691 any potential buyer of the facility that an installation of an  
692 automatic fire sprinkler requirement exists. The sale of the  
693 facility does not alter the timeframe for the installation of  
694 the automatic fire sprinkler system.

695 l. Existing facilities required to install an automatic  
696 fire sprinkler system as a result of construction-type  
697 restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted  
698 herein, or evacuation capability requirements shall be notified  
699 by the local fire official in writing of the automatic fire

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700 sprinkler requirement, as well as the appropriate date for final  
701 compliance as provided in this subparagraph. The local fire  
702 official shall send a copy of the document to the Agency for  
703 Health Care Administration.

704 m. Except in cases of life-threatening fire hazards, if an  
705 existing facility experiences a change in the evacuation  
706 capability, or if the local authority having jurisdiction  
707 identifies a construction-type restriction, such that an  
708 automatic fire sprinkler system is required, it shall be  
709 afforded time for installation as provided in this subparagraph.

710  
711 Facilities that are fully sprinkled and in compliance with other  
712 firesafety standards are not required to conduct more than one  
713 of the required fire drills between the hours of 11 p.m. and 7  
714 a.m., per year. In lieu of the remaining drills, staff  
715 responsible for residents during such hours may be required to  
716 participate in a mock drill that includes a review of evacuation  
717 procedures. Such standards must be included or referenced in the  
718 rules adopted by the State Fire Marshal. Pursuant to s.  
719 633.022(1)(b), the State Fire Marshal is the final  
720 administrative authority for firesafety standards established  
721 and enforced pursuant to this section. All licensed facilities  
722 must have an annual fire inspection conducted by the local fire  
723 marshal or authority having jurisdiction.

724 3. Resident elopement requirements.—Facilities are  
725 required to conduct a minimum of two resident elopement  
726 prevention and response drills per year. All administrators and  
727 direct care staff must participate in the drills which shall

728 include a review of procedures to address resident elopement.  
 729 Facilities must document the implementation of the drills and  
 730 ensure that the drills are conducted in a manner consistent with  
 731 the facility's resident elopement policies and procedures.

732 Section 8. Subsections (2) and (11) of section 429.65,  
 733 Florida Statutes, are amended to read:

734 429.65 Definitions.—As used in this part, the term:

735 (2) "Adult family-care home" means a full-time, family-  
 736 type living arrangement, in a private home, under which up to  
 737 two individuals ~~a person~~ who reside in the home and own or rent  
 738 ~~owns or rents~~ the home provide ~~provides~~ room, board, and  
 739 personal care, on a 24-hour basis, for no more than five  
 740 disabled adults or frail elders who are not relatives. The  
 741 following family-type living arrangements are not required to be  
 742 licensed as an adult family-care home:

743 (a) An arrangement whereby a ~~the~~ person who resides in the  
 744 home and owns or rents the home provides room, board, and  
 745 personal care ~~services~~ for not more than two adults who do not  
 746 receive optional state supplementation under s. 409.212. The  
 747 person who provides the housing, meals, and personal care must  
 748 own or rent the home and reside therein.

749 (b) An arrangement whereby a ~~the~~ person who owns or rents  
 750 the home provides room, board, and personal services only to his  
 751 or her relatives.

752 (c) An establishment that is licensed as an assisted  
 753 living facility under this chapter.

754 (11) "Provider" means one or two individuals ~~a person~~ who  
 755 are ~~is~~ licensed to operate an adult family-care home.

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Section 9. This act shall take effect July 1, 2010.