

1 A bill to be entitled
2 An act relating to assisted living communities; amending
3 s. 400.141, F.S.; revising licensing requirements for
4 registered pharmacists under contract with a nursing home
5 and related health care facilities; amending ss. 408.802,
6 408.806, 408.820, 408.831, and 408.832, F.S.; revising
7 applicability of part II of ch. 408, F.S., relating to
8 health care licensing procedures; creating part I of ch.
9 429, F.S., the "Assisted Care Communities Licensing
10 Procedures Act"; creating s. 429.001, F.S.; providing a
11 short title and providing purpose; creating s. 429.002,
12 F.S.; providing definitions; creating s. 429.003, F.S.;
13 requiring providers to have and display a license;
14 providing limitations; creating s. 429.004, F.S.;
15 establishing license fees and conditions for assessment
16 thereof; providing a method for calculating annual
17 adjustment of fees; providing for inspection fees;
18 providing that fees are nonrefundable; limiting the total
19 amount of fees that may be collected; creating s. 429.005,
20 F.S.; providing a license application process; requiring
21 specified information to be included on the application;
22 requiring payment of late fees under certain
23 circumstances; requiring inspections; providing an
24 exception; authorizing the Agency for Health Care
25 Administration to establish procedures and rules for
26 electronic transmission of required information; creating
27 s. 429.006, F.S.; providing procedures for change of
28 ownership; requiring the transferor to notify the agency

29 | in writing within a specified time period; providing for
30 | duties and liability of the transferor; providing for
31 | maintenance of certain records; creating s. 429.007, F.S.;
32 | providing license categories and requirements therefor;
33 | creating s. 429.008, F.S.; requiring background screening
34 | of specified employees; providing for submission of proof
35 | of compliance under certain circumstances; providing
36 | conditions for granting provisional and standard licenses;
37 | providing an exception to screening requirements; creating
38 | s. 429.009, F.S.; providing minimum licensure
39 | requirements; providing procedures for discontinuance of
40 | operation and surrender of license; requiring forwarding
41 | of client records; requiring publication of a notice of
42 | discontinuance of operation of a licensee; providing for
43 | statewide toll-free telephone numbers for reporting
44 | complaints and abusive, neglectful, and exploitative
45 | practices; requiring proof of legal right to occupy
46 | property, proof of insurance, and proof of financial
47 | viability, under certain circumstances; requiring
48 | disclosure of information relating to financial
49 | instability; providing a penalty; creating s. 429.0105,
50 | F.S.; providing for inspections and investigations to
51 | determine compliance; providing that inspection reports
52 | are public records; requiring retention of records for a
53 | specified period of time; creating s. 429.011, F.S.;
54 | prohibiting certain unlicensed activity by a person or
55 | entity operating or maintaining an assisted care
56 | community; requiring an unlicensed person or entity to

57 | cease activity; providing penalties; requiring reporting
58 | of unlicensed activity; creating s. 429.012, F.S.;
59 | authorizing the agency to impose administrative fines;
60 | creating s. 429.013, F.S.; providing conditions for the
61 | agency to impose a moratorium or emergency suspension on a
62 | licensee; requiring notice; creating s. 429.014, F.S.;
63 | providing grounds for denial or revocation of a license or
64 | change-of-ownership application; providing conditions to
65 | continue operation; exempting renewal applications from
66 | provisions requiring the agency to approve or deny an
67 | application within a specified period of time, under
68 | certain circumstances; creating s. 429.015, F.S.;
69 | authorizing the agency to institute injunction
70 | proceedings, under certain circumstances; creating s.
71 | 429.016, F.S.; providing basis for review of
72 | administrative proceedings challenging agency licensure
73 | enforcement action; creating s. 429.017, F.S.; authorizing
74 | the Department of Elderly Affairs to adopt rules;
75 | providing a timeframe for compliance; creating s. 429.018,
76 | F.S.; requiring a licensee to have an emergency operations
77 | plan; authorizing a licensee to temporarily exceed
78 | licensed capacity under emergency conditions for a
79 | specified period of time; requiring agency approval of
80 | overcapacity requests under certain circumstances;
81 | authorizing the agency to issue an inactive license in
82 | certain locations under specified conditions; requiring
83 | the licensee to provide notice to residents; authorizing
84 | the department to adopt rules relating to emergency

85 management and to report that information to the agency;
86 creating s. 429.019, F.S.; providing grounds for denial or
87 revocation of a license or change-of-ownership
88 application; providing conditions to continue operation;
89 exempting renewal applications from provisions requiring
90 the agency to approve or deny an application within a
91 specified period of time, under certain circumstances;
92 amending s. 429.01, F.S.; creating the "Assisted Living
93 Residences Act"; revising the purpose of the act; amending
94 s. 429.02, F.S.; providing, revising, and deleting
95 definitions; amending ss. 429.04, 429.07, 429.075, 429.08,
96 429.11, and 429.17, F.S.; revising provisions relating to
97 licensing of assisted living residences; conforming
98 terminology and references; amending s. 429.12, F.S.;
99 revising provisions relating to the sale or transfer of
100 ownership of an assisted living residence; amending s.
101 429.14, F.S.; revising provisions relating to
102 administrative penalties; amending s. 429.174, F.S.;
103 providing applicability of background screening of
104 personnel; amending ss. 429.177, 429.18, 429.20, 429.22,
105 429.24, 429.44, 429.47, and 429.49, F.S.; conforming
106 references; amending s. 429.178, F.S.; providing safety
107 requirements for residences serving persons with
108 Alzheimer's disease or other related disorders; repealing
109 a provision relating to a facility's responsibility for
110 the payment of certain training fees; amending s. 429.19,
111 F.S.; revising Agency for Health Care Administration
112 procedures for the imposition of fines for violations of

113 | ch. 429, F.S.; amending s. 429.195, F.S.; permitting the
 114 | licensee of an assisted living residences to provide
 115 | monetary rewards to residents who refer certain
 116 | individuals to the residence; amending s. 429.23, F.S.;
 117 | revising adverse incidents reporting requirements;
 118 | amending s. 429.255, F.S.; permitting certain licensed
 119 | persons to provide limited nursing services; deleting
 120 | rulemaking authority of the Department of Elderly Affairs
 121 | with regard to cardiopulmonary resuscitation in assisted
 122 | living residences; repealing s. 1 of chapter 2010-200,
 123 | Laws of Florida, which provides for future implementation
 124 | of provisions relating to the use of automated external
 125 | defibrillators in assisted living facilities; amending s.
 126 | 429.256, F.S.; providing additional guidelines for the
 127 | assistance with self-administration of medication;
 128 | amending s. 429.26, F.S.; removing a requirement that a
 129 | facility notify a licensed physician when a resident
 130 | exhibits certain signs of dementia, cognitive impairment,
 131 | or change of condition; revising the persons who are
 132 | authorized to notify a resident's case manager about
 133 | examining the resident; amending s. 429.27, F.S.; revising
 134 | provisions relating to the property and personal effects
 135 | of residents; amending s. 429.275, F.S.; removing
 136 | rulemaking authority of the Department of Elderly Affairs
 137 | over financial records, personnel procedures, accounting
 138 | procedures, reporting procedures, and insurance coverage
 139 | for residents of assisted living residences; amending s.
 140 | 429.28, F.S., relating to the resident bill of rights;

141 revising provisions relating to termination of residency;
142 removing responsibilities of the agency for conducting
143 compliance surveys and complaint investigations; amending
144 s. 429.293, F.S.; permitting the use of an arbitration
145 process to resolve a resident's claim of a rights
146 violation or negligence; amending s. 429.294, F.S.;
147 authorizing the release of copies of a resident's records
148 to specified persons under certain conditions; providing
149 limits on the frequency of the release of such records;
150 amending s. 429.298, F.S.; providing limits on the amount
151 of punitive damages; removing a provision that provides
152 for a criminal investigation with a finding of liability
153 for punitive damages; removing a provision that provides
154 for admissibility of findings in subsequent civil and
155 criminal actions; providing that the punitive damages
156 awarded are divided between the claimant and the Health
157 Care Trust Fund rather than the Quality of Long-Term Care
158 Facility Improvement Trust Fund; revising the percentages
159 of the division of the settlement amount; amending s.
160 429.31, F.S.; revising responsibilities of an
161 administrator for providing notice of the closing of an
162 assisted living residence; amending s. 429.34, F.S.;
163 removing authorization for state and local long-term care
164 ombudsman councils to enter and inspect residences;
165 amending s. 429.35, F.S.; removing requirement that the
166 agency forward results of residence inspections to certain
167 entities; amending s. 429.41, F.S.; revising rulemaking
168 authority regarding resident care and maintenance of

169 residences; conforming terminology to changes made by the
 170 act; amending s. 429.42, F.S.; revising provisions
 171 relating to pharmacy services; amending s. 429.445, F.S.;
 172 removing a requirement that assisted living residences
 173 submit certain information to the agency prior to
 174 commencing construction to expand the residence; amending
 175 s. 429.52, F.S.; revising training and education
 176 requirements for certain administrators, residence staff,
 177 and other licensed professionals; requiring trainers
 178 certified by the department to meet continuing education
 179 requirements and standards; providing conditions for
 180 suspension or revocation of a trainer's certificate;
 181 amending s. 429.53, F.S.; removing provisions relating to
 182 preconstruction approvals and reviews and agency
 183 consultations; repealing s. 429.54, F.S., relating to the
 184 collection of information regarding the actual cost of
 185 providing services in assisted living facilities and local
 186 subsidies; amending s. 429.65, F.S.; revising and deleting
 187 definitions; amending ss. 429.67 and 429.69, F.S.;
 188 revising licensure requirements for adult family-care
 189 homes; amending s. 429.71, F.S.; removing a provision
 190 authorizing the agency to request a plan to remedy
 191 violations by adult family-care homes; amending s. 429.73,
 192 F.S.; removing agency rulemaking authority over adult
 193 family-care homes; amending ss. 429.75, 429.83, 429.85,
 194 429.87, 429.905, 429.907, 429.909, 429.913, 429.919,
 195 429.925, and 429.927, F.S.; conforming terminology and
 196 references; amending s. 429.81, F.S.; specifying that

197 | residency agreements require a resident to provide 30
 198 | days' written notice of intent to terminate residency;
 199 | amending s. 429.901, F.S.; removing definitions; amending
 200 | s. 429.911, F.S.; revising provisions relating to the
 201 | denial, suspension, and revocation of adult day care
 202 | center licenses; amending s. 429.915, F.S.; revising
 203 | provisions relating to conditional licenses to remove a
 204 | requirement for a plan of correction to accompany the
 205 | license; amending s. 429.917, F.S.; conforming references;
 206 | removing a training requirement; creating s. 429.926,
 207 | F.S.; providing an exemption from applicability of certain
 208 | minimum licensure requirements to adult day care centers;
 209 | amending s. 429.929, F.S.; removing agency rulemaking
 210 | authority over adult daycare centers; conforming a cross-
 211 | reference; amending ss. 101.62, 101.655, 159.27, 196.1975,
 212 | 202.125, 205.1965, 252.357, 252.385, 380.06, 381.006,
 213 | 381.0072, 381.0303, 394.455, 394.4574, 394.462, 394.4625,
 214 | 394.75, 394.9082, 400.0060, 400.0069, 400.0074, 400.0239,
 215 | 400.148, 400.1755, 400.464, 400.471, 400.474, 400.497,
 216 | 400.506, 400.6045, 400.605, 400.609, 400.701, 400.925,
 217 | 400.93, 405.01, 408.033, 409.212, 409.221, 409.906,
 218 | 409.907, 409.912, 410.031, 410.034, 410.502, 415.102,
 219 | 415.1034, 415.1051, 415.107, 420.626, 430.071, 430.601,
 220 | 456.053, 458.348, 459.025, 468.1695, 468.505, 553.73,
 221 | 627.94073, 633.021, 633.022, 641.31, 651.083, 825.101,
 222 | 893.055, and 893.13, F.S.; conforming cross-references;
 223 | providing an effective date.
 224 |

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

226

227 Section 1. Paragraph (d) of subsection (1) of section
 228 400.141, Florida Statutes, is amended to read:

229 400.141 Administration and management of nursing home
 230 facilities.—

231 (1) Every licensed facility shall comply with all
 232 applicable standards and rules of the agency and shall:

233 (d) Provide for resident use of a community pharmacy as
 234 specified in s. 400.022(1)(q). Any other law to the contrary
 235 notwithstanding, a registered pharmacist licensed in Florida,
 236 that is under contract with a facility licensed under this
 237 chapter ~~or chapter 429~~, shall repackage a nursing facility
 238 resident's bulk prescription medication which has been packaged
 239 by another pharmacist licensed in any state in the United States
 240 into a unit dose system compatible with the system used by the
 241 nursing facility, if the pharmacist is requested to offer such
 242 service. In order to be eligible for the repackaging, a resident
 243 or the resident's spouse must receive prescription medication
 244 benefits provided through a former employer as part of his or
 245 her retirement benefits, a qualified pension plan as specified
 246 in s. 4972 of the Internal Revenue Code, a federal retirement
 247 program as specified under 5 C.F.R. s. 831, or a long-term care
 248 policy as defined in s. 627.9404(1). A pharmacist who correctly
 249 repackages and relabels the medication and the nursing facility
 250 which correctly administers such repackaged medication under
 251 this paragraph may not be held liable in any civil or
 252 administrative action arising from the repackaging. In order to

253 | be eligible for the repackaging, a nursing facility resident for
 254 | whom the medication is to be repackaged shall sign an informed
 255 | consent form provided by the facility which includes an
 256 | explanation of the repackaging process and which notifies the
 257 | resident of the immunities from liability provided in this
 258 | paragraph. A pharmacist who repackages and relabels prescription
 259 | medications, as authorized under this paragraph, may charge a
 260 | reasonable fee for costs resulting from the implementation of
 261 | this provision.

262 | Section 2. Present subsections (15) through (30) of
 263 | section 408.802, Florida Statutes, are renumbered as subsections
 264 | (14) through (27), respectively, and subsections (14), (18), and
 265 | (20) of that section, are amended to read:

266 | 408.802 Applicability.—The provisions of this part apply
 267 | to the provision of services that require licensure as defined
 268 | in this part and to the following entities licensed, registered,
 269 | or certified by the agency, as described in chapters 112, 383,
 270 | 390, 394, 395, 400, ~~429~~, 440, 483, and 765:

271 | ~~(14) Assisted living facilities, as provided under part I~~
 272 | ~~of chapter 429.~~

273 | ~~(18) Adult day care centers, as provided under part III of~~
 274 | ~~chapter 429.~~

275 | ~~(20) Adult family care homes, as provided under part II of~~
 276 | ~~chapter 429.~~

277 | Section 3. Paragraph (c) of subsection (7) of section
 278 | 408.806, Florida Statutes, is amended to read:

279 | 408.806 License application process.—

280 | (7)

281 (c) If an inspection is required by the authorizing
 282 statute for a license application other than an initial
 283 application, the inspection must be unannounced. This paragraph
 284 does not apply to inspections required pursuant to ss. 383.324,
 285 395.0161(4), ~~429.67(6)~~, and 483.061(2).

286 Section 4. Present subsections (14) through (28) of
 287 section 408.820, Florida Statutes, are renumbered as subsections
 288 (13) through (25), respectively, and subsections (13), (17), and
 289 (18) of that section, are amended to read:

290 408.820 Exemptions.—Except as prescribed in authorizing
 291 statutes, the following exemptions shall apply to specified
 292 requirements of this part:

293 ~~(13) Assisted living facilities, as provided under part I~~
 294 ~~of chapter 429, are exempt from s. 408.810(10).~~

295 ~~(17) Adult day care centers, as provided under part III of~~
 296 ~~chapter 429, are exempt from s. 408.810(10).~~

297 ~~(18) Adult family care homes, as provided under part II of~~
 298 ~~chapter 429, are exempt from s. 408.810(7)-(10).~~

299 Section 5. Subsection (3) of section 408.831, Florida
 300 Statutes, is amended to read:

301 408.831 Denial, suspension, or revocation of a license,
 302 registration, certificate, or application.—

303 (3) This section provides standards of enforcement
 304 applicable to all entities licensed or regulated by the Agency
 305 for Health Care Administration. This section controls over any
 306 conflicting provisions of chapters 39, 383, 390, 391, 394, 395,
 307 400, 408, ~~429~~, 468, 483, and 765 or rules adopted pursuant to
 308 those chapters.

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309 Section 6. Section 408.832, Florida Statutes, is amended
310 to read:

311 408.832 Conflicts.—In case of conflict between the
312 provisions of this part and the authorizing statutes governing
313 the licensure of health care providers by the Agency for Health
314 Care Administration found in s. 112.0455 and chapters 383, 390,
315 394, 395, 400, ~~429~~, 440, 483, and 765, the provisions of this
316 part shall prevail.

317 Section 7. Part I of chapter 429, Florida Statutes,
318 consisting of sections 429.01, 429.02, 429.04, 429.07, 429.075,
319 429.08, 429.11, 429.12, 429.14, 429.17, 429.174, 429.176,
320 429.177, 429.178, 429.18, 429.19, 429.195, 429.20, 429.22,
321 429.23, 429.24, 429.255, 429.256, 429.26, 429.27, 429.275,
322 429.28, 429.29, 429.293, 429.294, 429.295, 429.296, 429.297,
323 429.298, 429.31, 429.34, 429.35, 429.41, 429.42, 429.44,
324 429.445, 429.47, 429.49, 429.52, 429.53, and 429.54, Florida
325 Statutes, and entitled "ASSISTED LIVING FACILITIES," is
326 designated as part II of chapter 429, Florida Statutes, and
327 renamed "ASSISTED LIVING RESIDENCES."

328 Section 8. Part II of chapter 429, Florida Statutes,
329 consisting of sections 429.60, 429.63, 429.65, 429.67, 429.69,
330 429.71, 429.73, 429.75, 429.81, 429.83, 429.85, and 429.87,
331 Florida Statutes, is designated as part III of chapter 429,
332 Florida Statutes, and entitled "ADULT FAMILY-CARE HOMES."

333 Section 9. Part III of chapter 429, Florida Statutes,
334 consisting of sections 429.90, 429.901, 429.903, 429.905,
335 429.907, 429.909, 429.911, 429.913, 429.915, 429.917, 429.919,
336 429.925, 429.927, 429.929, and 429.931, Florida Statutes, is

337 designated as part IV of chapter 429, Florida Statutes, and
 338 entitled "ADULT DAY CARE CENTERS."

339 Section 10. Sections 429.001, 429.002, 429.003, 429.004,
 340 429.005, 429.006, 429.007, 429.008, 429.009, 429.0105, 429.011,
 341 429.012, 429.013, 429.014, 429.015, 429.016, 429.017, 429.018,
 342 and 429.019, Florida Statutes, are designated as part I of
 343 chapter 429, Florida Statutes, entitled the "ASSISTED CARE
 344 COMMUNITIES LICENSING PROCEDURE ACT," and created to read:

345 429.001 Short title; purpose.—

346 (1) This part may be cited as the "Assisted Care
 347 Communities Licensing Procedures Act."

348 (2) The Legislature finds that assisted care communities
 349 provide appropriate services for elderly persons and adults in
 350 need of assistance with activities of daily living and allow
 351 those persons to remain in their own homes or reside in a
 352 residential homelike environment that is a community-based
 353 social model with a health component rather than a medical or
 354 nursing home facility. The Legislature further finds that the
 355 goal of assisted care communities is to maximize a person's
 356 dignity and independence and to support the person's ability to
 357 remain in a familiar, nonmedical, residential homelike setting
 358 for as long as is appropriate. Therefore, the Legislature
 359 intends that assisted care communities be operated as
 360 residential homelike environments with supportive services and
 361 not as medical or nursing facilities and, as such, should not be
 362 subject to the same regulations as medical or nursing facilities
 363 but instead should be regulated in a less restrictive manner
 364 that is appropriate for a residential, noninstitutional,

365 nonmedical setting.

366 429.002 Definitions.—As used in this part, the term:

367 (1) "Agency" means the Agency for Health Care
 368 Administration, which is the licensing agency under this
 369 chapter.

370 (2) "Applicant" means an individual, corporation,
 371 partnership, firm, association, or governmental entity that
 372 submits an application for a license to the agency.

373 (3) "Assisted care community" means an assisted living
 374 residence, adult family-care home, or adult day care center as
 375 defined under this chapter.

376 (4) "Change of ownership" means:

377 (a) An event in which the licensee sells or otherwise
 378 transfers its ownership to a different individual or entity as
 379 evidenced by a change in federal employer identification number
 380 or taxpayer identification number; or

381 (b) An event in which 51 percent or more of the ownership,
 382 shares, membership, or controlling interest of a licensee is in
 383 any manner transferred or otherwise assigned. This paragraph
 384 does not apply to a licensee that is publicly traded on a
 385 recognized stock exchange.

386 (5) "Controlling interest" means:

387 (a) The applicant or licensee; or

388 (b) A person or entity that has a 51-percent or greater
 389 ownership interest in the applicant or licensee.

390 (6) "Department" means the Department of Elderly Affairs.

391 (7) "License" means any license issued by the agency under
 392 this chapter.

393 (8) "Licensee" means an individual, corporation,
 394 partnership, firm, association, governmental entity, or other
 395 entity that is issued a license by the agency. The licensee is
 396 legally responsible for all aspects of the licensee's operation
 397 regulated by the agency under this chapter.

398 (9) "Moratorium" means a prohibition on the acceptance of
 399 new admissions.

400 (10) "Participant" means a recipient of basic services or
 401 supportive and optional services provided by an adult day care
 402 center under part IV.

403 (11) "Resident" means a person residing in and receiving
 404 care from an assisted living residence under part II or an adult
 405 family-care home under part III.

406 429.003 License required; display.-

407 (1) It is unlawful to operate an assisted care community
 408 without first obtaining a license from the agency.

409 (2) The license must be displayed in a conspicuous place
 410 readily visible to the public who enter at the address that
 411 appears on the license and is valid only in the hands of the
 412 licensee to whom it is issued and may not be sold, assigned, or
 413 otherwise transferred, voluntarily or involuntarily. The license
 414 is valid only for the licensee and the location for which the
 415 license is issued.

416 429.004 Fees required; adjustments.-License fees must be
 417 reasonably calculated by the agency to cover its costs in
 418 carrying out its responsibilities under this chapter and
 419 applicable rules, including the cost of licensure, inspection,
 420 and regulation of assisted care communities.

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421 (1) License fees shall be adjusted to provide for biennial
422 licensure under agency rules.

423 (2) The agency shall annually adjust license fees,
424 including fees paid per bed, by not more than the change in the
425 Consumer Price Index based on the 12 months immediately
426 preceding the increase.

427 (3) License fees are nonrefundable.

428 (4) When a change is reported that requires issuance of a
429 license, a fee may be assessed. The fee must be based on the
430 actual cost of processing and issuing the license.

431 (5) The agency may charge a fee when a licensee requests a
432 duplicate license. The fee may not exceed the actual cost of
433 duplication and postage and may not exceed \$25.

434 (6) Total fees collected may not exceed the cost of
435 administering this chapter and applicable rules.

436 429.005 License application process.-

437 (1) An application for licensure must be made to the
438 agency on forms furnished by the agency, submitted under oath,
439 and accompanied by the appropriate fee in order to be accepted
440 and considered timely. The application must contain information
441 required by this chapter and applicable rules and must include:

442 (a) The name, address, and social security number of:

443 1. The applicant;

444 2. The administrator or a similarly titled person who is
445 responsible for the day-to-day operation of the assisted care
446 community;

447 3. The financial officer or similarly titled person who is
448 responsible for the financial operation of the assisted care

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449 community; and

450 4. Each controlling interest if the applicant or
451 controlling interest is an individual.

452 (b) The name, address, and federal employer identification
453 number or taxpayer identification number of the applicant and
454 each controlling interest if the applicant or controlling
455 interest is not an individual.

456 (c) The name by which the assisted care community is to be
457 known.

458 (d) The total number of beds or capacity requested, as
459 applicable.

460 (e) The name of the person or persons under whose
461 management or supervision the licensee will operate and the name
462 of the administrator, if required.

463 (f) If the applicant offers continuing care agreements as
464 defined in chapter 651, proof shall be furnished that the
465 applicant has obtained a certificate of authority as required
466 for operation under chapter 651.

467 (g) Other information, including satisfactory inspection
468 results, that the agency finds necessary to determine the
469 ability of the applicant to carry out its responsibilities under
470 this part, and applicable rules.

471 (h) An affidavit, under penalty of perjury, as required in
472 s. 435.05(3), stating compliance with the provisions of this
473 section and chapter 435.

474 (2) (a) The applicant for a renewal license must submit an
475 application that must be received by the agency at least 60 days
476 but no more than 120 days before the expiration of the current

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477 license. An application received more than 120 days before the
478 expiration of the current license shall be returned to the
479 applicant. If the renewal application and fee are received
480 before the license expiration date, the license shall not be
481 deemed to have expired if the license expiration date occurs
482 during the agency's review of the renewal application.

483 (b) The applicant for initial licensure due to a change of
484 ownership must submit an application that must be received by
485 the agency at least 60 days before the date of change of
486 ownership.

487 (c) For any other application or request, the applicant
488 must submit an application or request that must be received by
489 the agency at least 60 days but no more than 120 days before the
490 requested effective date, unless otherwise specified in this
491 chapter or applicable rules. An application received more than
492 120 days before the requested effective date shall be returned
493 to the applicant.

494 (d) The agency shall notify the licensee by mail or
495 electronically at least 90 days before the expiration of a
496 license that a renewal license is necessary to continue
497 operation. The failure to timely submit a renewal application
498 and license fee shall result in a \$50 per day late fee charged
499 to the licensee by the agency; however, the aggregate amount of
500 the late fee may not exceed 50 percent of the licensure fee or
501 \$500, whichever is less. If an application is received after the
502 required filing date and exhibits a hand-canceled postmark
503 obtained from a United States post office dated on or before the
504 required filing date, no fine will be levied.

505 (3) (a) Upon receipt of an application for a license, the
506 agency shall examine the application and, within 30 days after
507 receipt, notify the applicant in writing or electronically of
508 any apparent errors or omissions and request any additional
509 information required.

510 (b) Requested information omitted from an application for
511 licensure, license renewal, or change of ownership, other than
512 an inspection, must be filed with the agency within 21 days
513 after the agency's request for omitted information or the
514 application shall be deemed incomplete and shall be withdrawn
515 from further consideration and the fees shall be forfeited.

516 (c) Within 60 days after the receipt of a complete
517 application, the agency shall approve or deny the application.

518 (4) (a) Licensees subject to the provisions of this part
519 shall be issued biennial licenses unless conditions of the
520 license category specify a shorter license period.

521 (b) Each license issued shall indicate the name of the
522 licensee, the license type, the date the license is effective,
523 the expiration date of the license, and the maximum capacity of
524 the assisted care community.

525 (5) In accordance with this chapter and applicable rules,
526 proof of compliance with s. 429.009 must be submitted with an
527 application for licensure.

528 (6) (a) An applicant must demonstrate compliance with the
529 requirements in this chapter and applicable rules during an
530 inspection pursuant to s. 429.0105, as required by part II, part
531 III, or part IV.

532 (b) If an inspection is required under this chapter for a

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533 license application other than an initial application, the
534 inspection must be unannounced. This paragraph does not apply to
535 inspections required pursuant to s. 429.67(6).

536 (c) If a licensee is not available when an inspection is
537 attempted, the application shall be denied. This paragraph does
538 not apply to inspections required pursuant to s. 429.67(6).

539 (7) The agency may establish procedures for the electronic
540 notification and submission of required information, including,
541 but not limited to:

542 (a) Licensure applications.

543 (b) Required signatures.

544 (c) Payment of fees.

545 (d) Notarization of applications.

546 429.006 Change of ownership.—Whenever a change of
547 ownership occurs:

548 (1) The transferor shall notify the agency in writing at
549 least 60 days before the anticipated date of the change of
550 ownership.

551 (2) The transferee shall make application to the agency
552 for a license within the timeframes required in s. 429.005.

553 (3) The transferor shall be responsible and liable for:

554 (a) The lawful operation of the licensee and the welfare
555 of the residents served until the date the transferee is
556 licensed by the agency.

557 (b) Any and all penalties imposed against the transferor
558 for violations occurring before the date of change of ownership.

559 (4) Any restriction on licensure, including a conditional
560 license existing at the time of a change of ownership, shall

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561 remain in effect until the agency determines that the grounds
562 for the restriction are corrected.

563 (5) The transferee shall maintain records of the
564 transferor as required under this chapter and applicable rules,
565 including:

566 (a) All resident and participant records.

567 (b) Inspection reports.

568 (c) All records required to be maintained pursuant to s.
569 409.913, if applicable.

570 429.007 License categories.—

571 (1) STANDARD LICENSE.—A standard license may be issued to
572 an applicant at the time of initial licensure, license renewal,
573 or change of ownership. A standard license shall be issued when
574 the applicant is in compliance with all statutory requirements
575 and agency rules. Unless sooner revoked, a standard license
576 expires 2 years after the date of issue.

577 (2) PROVISIONAL LICENSE.—A provisional license shall be
578 issued to an applicant applying for an initial license or for a
579 change of ownership. A provisional license must be limited in
580 duration to a specific period of time, up to 6 months, as
581 determined by the agency.

582 (3) INACTIVE LICENSES.—A licensee may submit a request to
583 the agency for an inactive license or to extend a previously
584 approved inactive period. Such request must include a written
585 justification for the inactive license with the beginning and
586 ending dates of inactivity specified, a plan for the transfer of
587 any residents, and the appropriate licensure fees. The agency
588 may not accept a request that is submitted after initiating

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589 closure, after any suspension of service, or after notifying
590 residents of closure or suspension of service, unless the action
591 is a result of a disaster at the licensed premises. For the
592 purposes of this section, the term "disaster" means a sudden
593 emergency occurrence beyond the control of the licensee, whether
594 natural, technological, or manmade, which renders the licensee
595 inoperable at the premises. Upon agency approval, the licensee
596 shall notify residents of any necessary discharge or transfer as
597 required by part II or part III or applicable rules. The
598 beginning of the inactive license period is the date the
599 licensee ceases operations. The end of the inactive license
600 period shall become the license expiration date. All licensure
601 fees must be current, must be paid in full, and may be prorated.
602 Reactivation of an inactive license requires the approval of a
603 renewal application, including payment of licensure fees and
604 agency inspections indicating compliance with all requirements
605 of this part, parts II and III, and applicable rules.

606 (4) TEMPORARY LICENSE.—An applicant against whom a
607 proceeding denying, suspending, or revoking a license is pending
608 at the time of license renewal shall be issued a temporary
609 license effective until final action not subject to further
610 appeal.

611 (5) OTHER LICENSES.—Other types of license categories may
612 be issued pursuant to this chapter or applicable rules.

613 429.008 Background screening; prohibited offenses.—

614 (1) Level 2 background screening pursuant to chapter 435
615 must be conducted through the agency on each of the following
616 persons, who are considered staff members or employees for the

617 purposes of conducting screening under chapter 435:

618 (a) The licensee, if an individual.

619 (b) The administrator or a similarly titled person who is
620 responsible for the day-to-day operation of the assisted living
621 community licensed pursuant to this chapter.

622 (c) The financial officer or similarly titled individual
623 who is responsible for the financial operation of the licensee.

624 (d) Any person who is a controlling interest who has been
625 convicted of any offense prohibited by s. 435.04. The licensee
626 shall submit to the agency a description and explanation of the
627 conviction when applying for a license.

628 (e) Any person, as required by this chapter, seeking
629 employment with a licensee who is expected to, or whose
630 responsibilities may require him or her to, provide personal
631 care or services directly to residents or have access to
632 resident funds, personal property, or living areas; and any
633 person, as required by this chapter, contracting with a licensee
634 whose responsibilities require him or her to provide personal
635 care or personal services directly to residents. Evidence of
636 contractor screening may be retained by the contractor's
637 employer or the licensee.

638 (2) Every 5 years after his or her licensure, employment,
639 or entry into a contract in a capacity that under subsection (1)
640 would require level 2 background screening under chapter 435,
641 each such person must submit to level 2 background rescreening
642 as a condition of retaining such license or continuing in such
643 employment or contractual status. For any such rescreening, the
644 agency shall request the Department of Law Enforcement to

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645 forward the person's fingerprints to the Federal Bureau of
646 Investigation for a national criminal history record check. If
647 the fingerprints of such a person are not retained by the
648 Department of Law Enforcement under s. 943.05(2)(g), the person
649 must file a complete set of fingerprints with the agency and the
650 agency shall forward the fingerprints to the Department of Law
651 Enforcement for state processing, and the Department of Law
652 Enforcement shall forward the fingerprints to the Federal Bureau
653 of Investigation for a national criminal history record check.
654 The fingerprints may be retained by the Department of Law
655 Enforcement under s. 943.05(2)(g). Proof of compliance with
656 level 2 screening standards submitted within the previous 5
657 years to meet any licensee or professional licensure
658 requirements of the agency, the Department of Health, the Agency
659 for Persons with Disabilities, the Department of Children and
660 Family Services, or the Department of Financial Services for an
661 applicant for a certificate of authority or provisional
662 certificate of authority to operate a continuing care retirement
663 community under chapter 651 satisfies the requirements of this
664 section if the person subject to screening has not been
665 unemployed for more than 90 days and such proof is accompanied,
666 under penalty of perjury, by an affidavit of compliance with the
667 provisions of chapter 435 and this section using forms provided
668 by the agency.

669 (3) All fingerprints must be provided in electronic
670 format. Screening results shall be reviewed by the agency with
671 respect to the offenses specified in s. 435.04 and this section,
672 and the qualifying or disqualifying status of the person named

673 in the request shall be maintained in a database. The qualifying
674 or disqualifying status of the person named in the request shall
675 be posted on a secure website for retrieval by the licensee or
676 designated agent on the licensee's behalf.

677 (4) In addition to the offenses listed in s. 435.04, all
678 persons required to undergo background screening pursuant to
679 this chapter must not have an arrest awaiting final disposition
680 for, must not have been found guilty of, regardless of
681 adjudication, or entered a plea of guilty to, and must not have
682 been adjudicated delinquent and the record must not have been
683 sealed or expunged for any of the following offenses or any
684 similar offense of another jurisdiction:

685 (a) This chapter, if the offense was a felony.

686 (b) Section 409.920, relating to Medicaid provider fraud.

687 (c) Section 409.9201, relating to Medicaid fraud.

688 (d) Section 741.28, relating to domestic violence.

689 (e) Section 817.034, relating to fraudulent acts through
690 mail, wire, radio, electromagnetic, photoelectronic, or
691 photooptical systems.

692 (f) Section 817.234, relating to false and fraudulent
693 insurance claims.

694 (g) Section 817.505, relating to patient brokering.

695 (h) Section 817.568, relating to criminal use of personal
696 identification information.

697 (i) Section 817.60, relating to obtaining a credit card
698 through fraudulent means.

699 (j) Section 817.61, relating to fraudulent use of credit
700 cards, if the offense was a felony.

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701 (k) Section 831.01, relating to forgery.

702 (l) Section 831.02, relating to uttering forged
703 instruments.

704 (m) Section 831.07, relating to forging bank bills,
705 checks, drafts, or promissory notes.

706 (n) Section 831.09, relating to uttering forged bank
707 bills, checks, drafts, or promissory notes.

708 (o) Section 831.30, relating to fraud in obtaining
709 medicinal drugs.

710 (p) Section 831.31, relating to the sale, manufacture,
711 delivery, or possession with the intent to sell, manufacture, or
712 deliver any counterfeit controlled substance, if the offense was
713 a felony.

714
715 A person who serves as a controlling interest of, is employed
716 by, or contracts with a licensee on July 31, 2011, who has been
717 screened and qualified according to standards specified in s.
718 435.03 or s. 435.04 must be rescreened by July 31, 2016. The
719 agency may adopt rules to establish a schedule to stagger the
720 implementation of the required rescreening over the 5-year
721 period, beginning July 31, 2011, through July 31, 2016. If, upon
722 rescreening, such person has a disqualifying offense that was
723 not a disqualifying offense at the time of the last screening,
724 but is a current disqualifying offense and was committed before
725 the last screening, he or she may apply for an exemption from
726 the appropriate licensing agency and, if agreed to by the
727 employer, may continue to perform his or her duties until the
728 licensing agency renders a decision on the application for

729 exemption if the person is eligible to apply for an exemption
 730 and the exemption request is received by the agency within 30
 731 days after receipt of the rescreening results by the person.

732 (5) (a) As provided in chapter 435, the agency may grant an
 733 exemption from disqualification to a person who is subject to
 734 this section and who:

735 1. Does not have an active professional license or
 736 certification from the Department of Health; or

737 2. Has an active professional license or certification
 738 from the Department of Health but is not providing a service
 739 within the scope of that license or certification.

740 (b) As provided in chapter 435, the appropriate regulatory
 741 board within the Department of Health, or the department itself
 742 if there is no board, may grant an exemption from
 743 disqualification to a person who is subject to this section and
 744 who has received a professional license or certification from
 745 the Department of Health or a regulatory board within that
 746 department and that person is providing a service within the
 747 scope of his or her licensed or certified practice.

748 (6) The agency and the Department of Health may adopt
 749 rules pursuant to ss. 120.536(1) and 120.54 to implement this
 750 section, chapter 435, and parts II, III, and IV requiring
 751 background screening and to implement and adopt criteria
 752 relating to retaining fingerprints pursuant to s. 943.05(2).

753 (7) There is no unemployment compensation or other
 754 monetary liability on the part of, and no cause of action for
 755 damages arising against, an employer that, upon notice of a
 756 disqualifying offense listed under chapter 435 or this section,

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757 terminates the person against whom the report was issued,
758 whether or not that person has filed for an exemption with the
759 Department of Health or the agency.

760 429.009 Minimum licensure requirements.—In addition to the
761 licensure requirements specified in this chapter and applicable
762 rules, each applicant and licensee must comply with the
763 requirements of this section in order to obtain and maintain a
764 license.

765 (1) An applicant for licensure must comply with the
766 background screening requirements of s. 429.008.

767 (2) An applicant for licensure must provide a description
768 and explanation of any exclusions, suspensions, or terminations
769 of the applicant from the Medicaid program.

770 (3) Unless otherwise specified in this chapter, or
771 applicable rules, any information required to be reported to the
772 agency must be submitted within 21 calendar days after the
773 report period or effective date of the information, whichever is
774 earlier, including, but not limited to, any change of:

775 (a) Information contained in the most recent application
776 for licensure.

777 (b) Required insurance or bonds.

778 (4) Whenever a licensee discontinues operation:

779 (a) The licensee must inform the agency not less than 30
780 days before the discontinuance of operation and inform residents
781 or participants of such discontinuance as required by this
782 chapter. Immediately upon discontinuance of operation, the
783 licensee shall surrender the license to the agency and the
784 license shall be canceled.

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785 (b) The licensee shall remain responsible for retaining
786 and appropriately distributing all records within the timeframes
787 prescribed in this chapter and applicable rules. In addition,
788 the licensee or, in the event of death or dissolution of a
789 licensee, the estate or agent of the licensee shall:

790 1. Make arrangements to forward records for each resident
791 to one of the following, based upon the resident's choice: the
792 resident or the resident's legal representative, the resident's
793 attending physician, or the health care provider where the
794 resident currently receives services; or

795 2. Cause a notice to be published in the newspaper of
796 greatest general circulation in the county in which the licensee
797 was located that advises residents of the discontinuance of the
798 licensed operation. The notice must inform residents that they
799 may obtain copies of their records and specify the name,
800 address, and telephone number of the person from whom the copies
801 of records may be obtained. The notice must appear at least once
802 a week for 4 consecutive weeks.

803 (5) (a) On or before the first day services are provided to
804 a resident, a licensee must inform the resident and his or her
805 immediate family or representative, if appropriate, of the right
806 to report:

807 1. Complaints. The statewide toll-free telephone number
808 for reporting complaints to the agency must be provided to
809 residents in a manner that is clearly legible and must include
810 the words: "To report a complaint regarding the services you
811 receive, please call toll-free (phone number)."

812 2. Abusive, neglectful, or exploitative practices. The

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813 statewide toll-free telephone number for the central abuse
814 hotline must be provided to residents in a manner that is
815 clearly legible and must include the words: "To report abuse,
816 neglect, or exploitation, please call toll-free (phone number)."

817 3. Medicaid fraud. An agency-written description of
818 Medicaid fraud and the statewide toll-free telephone number for
819 the central Medicaid fraud hotline must be provided to residents
820 in a manner that is clearly legible and must include the words:
821 "To report suspected Medicaid fraud, please call toll-free
822 (phone number)."

823
824 The agency shall publish a minimum of a 90-day advance notice of
825 a change in the toll-free telephone numbers.

826 (b) Each licensee shall establish appropriate policies and
827 procedures for providing such notice to residents.

828 (6) An applicant must provide the agency with proof of the
829 applicant's legal right to occupy the property before a license
830 may be issued. Proof may include, but need not be limited to,
831 copies of warranty deeds, lease or rental agreements, contracts
832 for deeds, quitclaim deeds, or other such documentation.

833 (7) If proof of insurance is required under this chapter,
834 that insurance must be in compliance with chapter 624, chapter
835 626, chapter 627, or chapter 628 and with agency rules.

836 (8) Upon application for initial licensure or change of
837 ownership licensure, the applicant shall furnish satisfactory
838 proof of the applicant's financial ability to operate in
839 accordance with the requirements of this chapter and applicable
840 rules. The agency shall establish standards that require the

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841 applicant to provide information concerning the applicant's
842 controlling interests. The agency shall also establish
843 documentation requirements, to be completed by each applicant,
844 that show anticipated revenues and expenditures, the basis for
845 financing the anticipated cash-flow requirements of the
846 licensee, and an applicant's access to contingency financing. A
847 current certificate of authority, pursuant to chapter 651, may
848 be provided as proof of financial ability to operate. The agency
849 may require a licensee to provide proof of financial ability to
850 operate at any time if there is evidence of financial
851 instability, including, but not limited to, unpaid expenses
852 necessary for the basic operations of the licensee.

853 (9) A controlling interest may not withhold from the
854 agency any evidence of financial instability, including, but not
855 limited to, checks returned due to insufficient funds,
856 delinquent accounts, nonpayment of withholding taxes, unpaid
857 utility expenses, nonpayment for essential services, or adverse
858 court action concerning the financial viability of the licensee
859 or any other licensee licensed under this part that is under the
860 control of the controlling interest. Any person who violates
861 this subsection commits a misdemeanor of the second degree,
862 punishable as provided in s. 775.082 or s. 775.083. Each day of
863 continuing violation is a separate offense.

864 429.0105 Right of inspection; copies; inspection reports.—

865 (1) An authorized officer or employee of the agency may
866 make or cause to be made any inspection or investigation deemed
867 necessary by the agency to determine the state of compliance
868 with this chapter and applicable rules. The right of inspection

869 extends to any business that the agency has reason to believe is
 870 being operated without a license, but inspection of any business
 871 suspected of being operated without the appropriate license may
 872 not be made without the permission of the owner or person in
 873 charge unless a warrant is first obtained from a circuit court.

874 Any application for a license issued under this chapter or
 875 applicable rules constitutes permission for an appropriate
 876 inspection to verify the information submitted on or in
 877 connection with the application.

878 (a) All inspections shall be unannounced, except as
 879 specified in s. 429.005.

880 (b) Inspections for relicensure shall be conducted
 881 biennially except as specified under this chapter or applicable
 882 rules.

883 (2) The agency shall have access to and the licensee shall
 884 provide, or if requested send, copies of all licensee records
 885 required during an inspection or other review at no cost to the
 886 agency, including records requested during an offsite review.

887 (3) A violation must be corrected within 30 calendar days
 888 after the licensee is notified of inspection results unless an
 889 alternative timeframe is required or approved by the agency.

890 (4) (a) Each licensee shall maintain as public information,
 891 available upon request, records of all inspection reports
 892 pertaining to that licensee that have been filed by the agency
 893 unless those reports are exempt from or contain information that
 894 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 895 Constitution or is otherwise made confidential by law. Copies of
 896 such reports shall be retained in the records of the licensee

897 for at least 3 years following the date the reports are filed
 898 and issued, regardless of a change of ownership.

899 (b) A licensee shall, upon the request of any person who
 900 has completed a written application with intent to be admitted
 901 by such licensee, any person who is a resident, or any relative,
 902 spouse, or guardian of any such person, furnish to the requester
 903 a copy of the last inspection report pertaining to the licensee
 904 that was issued by the agency if such report is used in lieu of
 905 a licensure inspection.

906 429.011 Unlicensed activity.-

907 (1) A person or entity may not offer or advertise services
 908 that require licensure as defined by this chapter or applicable
 909 rules to the public without obtaining a valid license from the
 910 agency. A licenseholder may not advertise or hold out to the
 911 public that he or she holds a license for other than that for
 912 which he or she actually holds the license.

913 (2) The operation or maintenance of an unlicensed assisted
 914 care community is a violation of this chapter. Unlicensed
 915 activity constitutes harm that materially affects the health,
 916 safety, and welfare of residents or participants. The agency or
 917 any state attorney may, in addition to other remedies provided
 918 in this part, bring an action for an injunction to restrain such
 919 violation, or to enjoin the future operation or maintenance of
 920 the unlicensed assisted care community in violation of this
 921 chapter, until compliance with this chapter and agency rules has
 922 been demonstrated to the satisfaction of the agency.

923 (3) It is unlawful for any person or entity to own,
 924 operate, or maintain an assisted care community requiring

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925 licensure pursuant to this chapter without obtaining a license.
926 If after receiving notification from the agency, such person or
927 entity fails to cease operation and apply for a license under
928 this chapter, the person or entity shall be subject to penalties
929 as prescribed under this chapter and applicable rules. Each day
930 of continued operation is a separate offense.

931 (4) Any person or entity that fails to cease operation
932 after agency notification may be fined \$1,000 for each day of
933 noncompliance.

934 (5) When a controlling interest or licensee has an
935 interest in more than one entity and fails to license an entity
936 rendering services that require licensure pursuant to this
937 chapter, the agency may revoke all licenses and impose actions
938 under s. 429.013 and a fine of \$1,000 per day, unless otherwise
939 specified under this chapter, against each licensee until such
940 time as the appropriate license is obtained for the unlicensed
941 operation.

942 (6) In addition to granting injunctive relief pursuant to
943 subsection (2), if the agency determines that a person or entity
944 is operating or maintaining an assisted care community requiring
945 licensure pursuant to this chapter without obtaining a license
946 and determines that a condition exists that poses a threat to
947 the health, safety, or welfare of a resident or participant of
948 the person or entity, the person or entity is subject to the
949 same actions and fines imposed against a licensee as specified
950 in this chapter and agency rules.

951 (7) Any person aware of the operation of an unlicensed
952 person or entity must report that person or entity to the

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953 agency.

954 (8) An assisted care community under construction is not
955 subject to the provisions of this section.

956 429.012 Administrative fines; violations.—As a penalty for
957 any violation of this chapter, or applicable rules, the agency
958 may impose an administrative fine pursuant to the provisions of
959 this chapter.

960 429.013 Moratorium; emergency suspension.—

961 (1) The agency may impose an immediate moratorium or
962 emergency suspension as defined in s. 120.60 on any licensee if
963 the agency determines that any condition related to the licensee
964 presents a threat to the health, safety, or welfare of a
965 resident or participant.

966 (2) A licensee, the license of which is denied or revoked,
967 may be subject to immediate imposition of a moratorium or
968 emergency suspension to run concurrently with licensure denial,
969 revocation, or injunction.

970 (3) A moratorium or emergency suspension remains in effect
971 after a change of ownership, unless the agency has determined
972 that the conditions that created the moratorium, emergency
973 suspension, or denial of licensure have been corrected.

974 (4) When a moratorium or emergency suspension is placed on
975 a licensee, notice of the action shall be posted and visible to
976 the public at the location of the licensee until the action is
977 lifted.

978 429.014 License or application denial; revocation.—

979 (1) In addition to the grounds provided in part II, part
980 III, or part IV, grounds that may be used by the agency for

981 denying or revoking a license or change of ownership application
 982 include any of the following actions by a controlling interest:

983 (a) False representation of a material fact in the license
 984 application or omission of any material fact from the
 985 application.

986 (b) An intentional or negligent act materially affecting
 987 the health or safety of a resident or participant of an assisted
 988 care community.

989 (c) A violation of this chapter or applicable rules.

990 (d) A demonstrated pattern of violations.

991 (e) The applicant, licensee, or controlling interest has
 992 been or is currently excluded, suspended, or terminated, for
 993 cause, from participation in the Medicaid program.

994 (2) If a licensee lawfully continues to operate while a
 995 denial or revocation is pending in litigation, the licensee must
 996 continue to meet all other requirements of this chapter and
 997 applicable rules and must file subsequent renewal applications
 998 for licensure and pay all licensure fees. The provisions of ss.
 999 120.60(1) and 429.005(3)(c) shall not apply to renewal
 1000 applications filed during the time period in which the
 1001 litigation of the denial or revocation is pending until that
 1002 litigation is final.

1003 (3) An action under s. 429.013 or denial of the license of
 1004 the transferor may be grounds for denial of a change of
 1005 ownership application of the transferee.

1006 (4) In addition to the grounds provided in authorizing
 1007 statutes, the agency shall deny an application for a license or
 1008 license renewal if the applicant or a person having a

1009 controlling interest in an applicant has been:
 1010 (a) Convicted of, or enters a plea of guilty to,
 1011 regardless of adjudication, a felony under chapter 409, chapter
 1012 817, or chapter 893, unless the sentence and any subsequent
 1013 period of probation for such convictions or plea ended more than
 1014 15 years before the date of the application;
 1015 (b) Terminated for cause from the Florida Medicaid program
 1016 pursuant to s. 409.913, unless the applicant has been in good
 1017 standing with the Florida Medicaid program for the most recent 5
 1018 years; or
 1019 (c) Terminated for cause, pursuant to the appeals
 1020 procedures established by the Florida Medicaid program, unless
 1021 the applicant has been in good standing with the Florida
 1022 Medicaid program for the most recent 5 years and the termination
 1023 occurred at least 20 years before the date of the application.
 1024 429.015 Injunctions.-
 1025 (1) In addition to the other powers provided by this
 1026 chapter and applicable rules, the agency may institute
 1027 injunction proceedings in a court of competent jurisdiction in
 1028 the local jurisdiction of the residence to:
 1029 (a) Restrain or prevent the establishment or operation of
 1030 a person or entity that does not have a license or is in
 1031 violation of any provision of this chapter or applicable rules.
 1032 The agency may also institute injunction proceedings in a court
 1033 of competent jurisdiction when a violation of this chapter or
 1034 applicable rules constitutes an emergency affecting the
 1035 immediate health and safety of a resident.
 1036 (b) Enforce the provisions of this chapter or any minimum

1037 standard, rule, or order issued or entered into pursuant thereto
 1038 when the attempt by the agency to correct a violation through
 1039 administrative sanctions has failed or when the violation
 1040 materially affects the health, safety, or welfare of residents
 1041 or participants or involves any operation of an unlicensed
 1042 assisted care community.

1043 (c) Terminate the operation of a licensee when a violation
 1044 of any provision of this chapter or any standard or rule adopted
 1045 pursuant thereto exists that materially affects the health,
 1046 safety, or welfare of a resident or participant.

1047 (2) If action is necessary to protect a resident or
 1048 participant of a licensee from an immediate, life-threatening
 1049 situation, the court may allow a temporary injunction without
 1050 bond upon proper proofs being made. If it appears by competent
 1051 evidence or a sworn, substantiated affidavit that a temporary
 1052 injunction should be issued, the court, pending the
 1053 determination on final hearing, shall enjoin the operation of
 1054 the licensee.

1055 429.016 Administrative proceedings.—Administrative
 1056 proceedings challenging agency licensure enforcement action
 1057 shall be reviewed on the basis of the facts and conditions that
 1058 resulted in the agency action.

1059 429.017 Rules.—The department is authorized to adopt rules
 1060 as necessary to administer this part. Any licensee that is in
 1061 operation at the time of adoption of any applicable rule under
 1062 this chapter shall be given a reasonable time under the
 1063 particular circumstances, not to exceed 6 months after the date
 1064 of such adoption, within which to comply with that rule, unless

1065 otherwise specified by rule.

1066 429.018 Emergency management planning; emergency
 1067 operations; inactive license.—

1068 (1) A licensee required by part II, part III, or part IV
 1069 to have an emergency operations plan must designate a safety
 1070 liaison to serve as the primary contact for emergency
 1071 operations.

1072 (2) An entity subject to this part may temporarily exceed
 1073 its licensed capacity to act as a receiving licensee in
 1074 accordance with an approved emergency operations plan for up to
 1075 15 days. While in an overcapacity status, each licensee must
 1076 furnish or arrange for appropriate care and services to all
 1077 residents. In addition, the agency may approve requests for
 1078 overcapacity in excess of 15 days, which approvals may be based
 1079 upon satisfactory justification and need as provided by the
 1080 receiving and sending licensees.

1081 (3) (a) An inactive license may be issued to a licensee
 1082 subject to this section when the licensee is located in a
 1083 geographic area in which a state of emergency was declared by
 1084 the Governor, if the licensee:

1085 1. Suffered damage to its operation during the state of
 1086 emergency.

1087 2. Is currently licensed.

1088 3. Does not have a provisional license.

1089 4. Will be temporarily unable to provide services but is
 1090 reasonably expected to resume services within 12 months.

1091 (b) An inactive license may be issued for a period not to
 1092 exceed 12 months but may be renewed by the agency for up to 12

1093 additional months upon demonstration to the agency of progress
 1094 toward reopening. A request by a licensee for an inactive
 1095 license or to extend the previously approved inactive period
 1096 must be submitted in writing to the agency, accompanied by
 1097 written justification for the inactive license, and must state
 1098 the beginning and ending dates of inactivity and include a plan
 1099 for the transfer of any residents and appropriate licensure
 1100 fees. Upon agency approval, the licensee shall notify residents
 1101 of any necessary discharge or transfer as required under this
 1102 chapter or applicable rules. The beginning of the inactive
 1103 licensure period shall be the date the licensee ceases
 1104 operations. The end of the inactive period shall become the
 1105 license expiration date, and all licensure fees must be current,
 1106 must be paid in full, and may be prorated. Reactivation of an
 1107 inactive license requires the prior approval by the agency of a
 1108 renewal application, including payment of licensure fees and
 1109 agency inspections indicating compliance with all requirements
 1110 of this chapter and applicable rules and statutes.

1111 (4) The department may adopt rules relating to emergency
 1112 management planning, communications, and operations. Licensees
 1113 providing residential services must utilize an online database
 1114 approved by the agency to report information to the agency
 1115 regarding the licensee's emergency status, planning, or
 1116 operations.

1117 429.019 Denial, suspension, or revocation of a license or
 1118 application.-

1119 (1) In addition to any other remedies provided by law, the
 1120 agency may deny an application or suspend or revoke the license

1121 of an assisted care community:

1122 (a) If the applicant, licensee, or a licensee subject to
 1123 this part that shares a common controlling interest with the
 1124 applicant has failed to pay all outstanding fines, liens, or
 1125 overpayments assessed by final order of the agency, not subject
 1126 to further appeal, unless a repayment plan is approved by the
 1127 agency; or

1128 (b) For failure to comply with any repayment plan.

1129 (2) In reviewing an application requesting a change of
 1130 ownership or change of the licensee, the transferor shall,
 1131 before agency approval of the change, repay or make arrangements
 1132 to repay any amounts owed to the agency. The issuance of a
 1133 license to the transferee shall be delayed until the transferor
 1134 repays or makes arrangements to repay the amounts owed.

1135 Section 11. Section 429.01, Florida Statutes, is amended
 1136 to read:

1137 429.01 Short title; purpose.—

1138 (1) This act may be cited as the "Assisted Living
 1139 Residences ~~Facilities~~ Act."

1140 (2) The purpose of this act is to promote the availability
 1141 of appropriate services for elderly persons and adults with
 1142 disabilities in the least restrictive and most homelike
 1143 environment, to encourage the development of residences
 1144 ~~facilities~~ that promote the dignity, individuality, privacy, and
 1145 decisionmaking ability of such persons, to provide for the
 1146 health, safety, and welfare of residents of assisted living
 1147 residences ~~facilities~~ in the state, to promote continued
 1148 improvement of such residences ~~facilities~~, to encourage the

1149 development of innovative and affordable residences ~~facilities~~
 1150 particularly for persons with low to moderate incomes, to ensure
 1151 that all agencies of the state cooperate in the protection of
 1152 such residents, and to ensure that needed economic, social,
 1153 mental health, health, and leisure services are made available
 1154 to residents of such residences ~~facilities~~ through the efforts
 1155 of the Agency for Health Care Administration, the Department of
 1156 Elderly Affairs, the Department of Children and Family Services,
 1157 the Department of Health, assisted living residences ~~facilities~~,
 1158 and other community agencies. To the maximum extent possible,
 1159 appropriate community-based programs must be available to state-
 1160 supported residents to augment the services provided in assisted
 1161 living residences ~~facilities~~. The Legislature recognizes that
 1162 assisted living residences ~~facilities~~ are an important part of
 1163 the continuum of long-term care in the state as community-based
 1164 social models with a health component and not as medical or
 1165 nursing facilities. In support of the goal of aging in place,
 1166 the Legislature further recognizes that assisted living
 1167 residences ~~facilities~~ should be operated ~~and regulated~~ as
 1168 residential environments with supportive services and not as
 1169 medical or nursing facilities and, as such, should not be
 1170 subject to the same regulations as medical or nursing facilities
 1171 but instead be regulated in a less restrictive manner that is
 1172 appropriate for a residential, non-medical setting. The services
 1173 available in these residences ~~facilities~~, either directly or
 1174 through contract or agreement, are intended to help residents
 1175 remain as independent as possible. Regulations governing these
 1176 residences ~~facilities~~ must be sufficiently flexible to allow the

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1177 residences ~~facilities~~ to adopt policies that enable residents to
 1178 age in place when resources are available to meet their needs
 1179 and accommodate their preferences.

1180 (3) The principle that a license issued under this part is
 1181 a public trust and a privilege and is not an entitlement should
 1182 guide the finder of fact or trier of law at any administrative
 1183 proceeding or in a court action initiated by the Agency for
 1184 Health Care Administration to enforce this part.

1185 Section 12. Section 429.02, Florida Statutes, is amended
 1186 to read:

1187 429.02 Definitions.—When used in this part, the term:

1188 (1) "Activities of daily living" means functions and tasks
 1189 for self-care, including ambulation, bathing, dressing, eating,
 1190 grooming, and toileting, and other similar tasks.

1191 (2) "Administrator" means an individual at least 21 years
 1192 of age who is responsible for the operation and maintenance of
 1193 an assisted living residence facility; for promoting the
 1194 resident's dignity, autonomy, independence, and privacy in the
 1195 least restrictive and most homelike setting consistent with the
 1196 resident's preferences and physical and mental status; and for
 1197 ensuring the appropriateness of continued placement of a
 1198 resident, in consultation with the resident, resident's
 1199 representative or designee, if applicable, and the resident's
 1200 physician.

1201 ~~(3) "Agency" means the Agency for Health Care~~
 1202 ~~Administration.~~

1203 (3) ~~(4)~~ "Aging in place" or "age in place" means the
 1204 process of providing increased or adjusted services to a person

1205 to compensate for the physical or mental decline that may occur
 1206 with the aging process, in order to maximize the person's
 1207 dignity and independence and permit them to remain in a
 1208 familiar, noninstitutional, residential environment for as long
 1209 as possible, as determined by the individual, his or her
 1210 physician and the administrator. Such services may be provided
 1211 by residence facility staff, volunteers, family, or friends, or
 1212 through contractual arrangements with a third party.

1213 (4) "Arbitration" means a process whereby a neutral third
 1214 person or panel, called an arbitrator or arbitration panel,
 1215 considers the facts and arguments presented by parties and
 1216 renders a decision which may be binding or nonbinding as
 1217 provided for in chapter 44.

1218 (5) "Assisted living residence facility" or "residence"
 1219 means any residential setting that provides, directly or
 1220 indirectly by means of contracts or arrangements, for a period
 1221 exceeding 24 hours ~~building or buildings, section or distinct~~
 1222 ~~part of a building, private home, boarding home, home for the~~
 1223 ~~aged, or other residential facility, whether operated for profit~~
 1224 ~~or not, which undertakes through its ownership or management to~~
 1225 ~~provide~~ housing, meals, and one or more personal services that
 1226 meet the resident's changing needs and preferences ~~for a period~~
 1227 ~~exceeding 24 hours~~ to one or more adults who are not relatives
 1228 of the owner or administrator. "Residential setting" includes,
 1229 but is not limited to, a building or buildings, section or
 1230 distinct part of a building, private home, or other residence.

1231 (6) "Chemical restraint" means a pharmacologic drug that
 1232 physically limits, restricts, or deprives an individual of

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1233 movement or mobility, and is used for discipline or convenience
 1234 and not required for the treatment of medical symptoms.

1235 (7) "Community living support plan" means a written
 1236 document prepared by a mental health resident and the resident's
 1237 mental health case manager in consultation with the
 1238 administrator, or the administrator's designee, of an assisted
 1239 living residence facility with a limited mental health license
 1240 ~~or the administrator's designee.~~ A copy must be provided to the
 1241 administrator. The plan must include information about the
 1242 supports, services, and special needs of the resident which
 1243 enable the resident to live in the assisted living residence
 1244 facility and a method by which residence facility staff can
 1245 recognize and respond to the signs and symptoms particular to
 1246 that resident which indicate the need for professional services.

1247 (8) "Cooperative agreement" means a written statement of
 1248 understanding between a mental health care provider and the
 1249 administrator of the assisted living residence facility with a
 1250 limited mental health license in which a mental health resident
 1251 is living. The agreement must specify directions for accessing
 1252 emergency and after-hours care for the mental health resident. A
 1253 single cooperative agreement may service all mental health
 1254 residents who are clients of the same mental health care
 1255 provider.

1256 (9) "Department" means the Department of Elderly Affairs.

1257 (10) "Emergency" means a situation, physical condition, or
 1258 method of operation which presents imminent danger of death or
 1259 serious physical or mental harm to residence facility residents.

1260 (11) "Extended congregate care" means acts beyond those

1261 authorized in subsection (18) ~~(16)~~ that may be performed
 1262 pursuant to part I of chapter 464 by persons licensed thereunder
 1263 while carrying out their professional duties, and other
 1264 supportive services which may be specified by rule. The purpose
 1265 of such services is to enable residents to age in place in a
 1266 residential environment despite mental or physical limitations
 1267 that might otherwise disqualify them from residency in a
 1268 residence facility licensed pursuant to this chapter ~~under this~~
 1269 ~~part~~.

1270 (12) "Guardian" means a person to whom the law has
 1271 entrusted the custody and control of the person or property, or
 1272 both, of a person who has been legally adjudged incapacitated.

1273 (13) "Licensed residence" means an assisted living
 1274 residence for which a licensee has been issued a license
 1275 pursuant to this chapter.

1276 (14) ~~(13)~~ "Limited nursing services" means acts that may be
 1277 performed pursuant to part I of chapter 464 by persons licensed
 1278 thereunder while carrying out their professional duties but
 1279 limited to those acts which the department specifies by rule.
 1280 Acts which may be specified by rule as allowable limited nursing
 1281 services shall be for persons who meet the admission criteria
 1282 established by the department for assisted living residences
 1283 ~~facilities~~ and shall not be complex enough to require 24-hour
 1284 nursing supervision and may include such services as the
 1285 application and care of routine dressings, and care of casts,
 1286 braces, and splints.

1287 (15) ~~(14)~~ "Managed risk" means the process by which the
 1288 residence facility staff discuss the service plan and the needs

1289 of the resident with the resident and, if applicable, the
 1290 resident's representative or designee or the resident's
 1291 surrogate, guardian, or attorney in fact, in such a way that the
 1292 consequences of a decision, including any inherent risk, are
 1293 explained to all parties and reviewed periodically in
 1294 conjunction with the service plan, taking into account changes
 1295 in the resident's status and the ability of the residence
 1296 ~~facility~~ to respond accordingly.

1297 (16)~~(15)~~ "Mental health resident" means an individual who
 1298 receives social security disability income due to a mental
 1299 disorder as determined by the Social Security Administration or
 1300 receives supplemental security income due to a mental disorder
 1301 as determined by the Social Security Administration and receives
 1302 optional state supplementation.

1303 (17) "Person" means any individual, partnership,
 1304 corporation, association, or governmental unit.

1305 (18)~~(16)~~ "Personal services" means direct physical
 1306 assistance with or supervision of the activities of daily living
 1307 and the self-administration of medication and other similar
 1308 services which the department may define by rule. "Personal
 1309 services" shall not be construed to mean the provision of
 1310 medical, nursing, dental, or mental health services.

1311 (19)~~(17)~~ "Physical restraint" means a device which
 1312 physically limits, restricts, or deprives an individual of
 1313 movement or mobility, including, but not limited to, a half-bed
 1314 rail, a full-bed rail, a geriatric chair, and a posey restraint.
 1315 The term "physical restraint" shall also include any device
 1316 which was not specifically manufactured as a restraint but which

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1317 has been altered, arranged, or otherwise used for this purpose.
 1318 The term shall not include bandage material used for the purpose
 1319 of binding a wound or injury.

1320 (20)~~(18)~~ "Relative" means an individual who is the father,
 1321 mother, stepfather, stepmother, son, daughter, brother, sister,
 1322 grandmother, grandfather, great-grandmother, great-grandfather,
 1323 grandson, granddaughter, uncle, aunt, first cousin, nephew,
 1324 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
 1325 daughter-in-law, brother-in-law, sister-in-law, stepson,
 1326 stepdaughter, stepbrother, stepsister, half brother, or half
 1327 sister of an owner or administrator.

1328 (21)~~(19)~~ "Resident" means a person 18 years of age or
 1329 older, residing in and receiving care from an assisted living
 1330 residence ~~a facility~~.

1331 (22)~~(20)~~ "Resident's representative or designee" means a
 1332 person other than the owner, or an agent or employee of the
 1333 assisted living residence ~~facility~~, designated in writing by the
 1334 resident, if legally competent, to receive notice of changes in
 1335 the contract executed pursuant to s. 429.24; to receive notice
 1336 of and to participate in meetings between the resident and the
 1337 residence ~~facility~~ owner, administrator, or staff concerning the
 1338 rights of the resident; to assist the resident in contacting the
 1339 ombudsman council if the resident has a complaint against the
 1340 residence ~~facility~~; or to bring legal action on behalf of the
 1341 resident pursuant to s. 429.29.

1342 (23)~~(21)~~ "Service plan" means a written plan, developed
 1343 and agreed upon by the resident and, if applicable, the
 1344 resident's representative or designee or the resident's

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1345 surrogate, guardian, or attorney in fact, if any, and the
 1346 administrator or the administrator's designee representing the
 1347 residence facility, which addresses the unique physical and
 1348 psychosocial needs, abilities, and personal preferences of each
 1349 resident receiving extended congregate care services. The plan
 1350 shall include a brief written description, in easily understood
 1351 language, of what services shall be provided, who shall provide
 1352 the services, when the services shall be rendered, and the
 1353 purposes and benefits of the services.

1354 ~~(24)~~~~(22)~~ "Shared responsibility" means exploring the
 1355 options available to a resident within a residence facility and
 1356 the risks involved with each option when making decisions
 1357 pertaining to the resident's abilities, preferences, and service
 1358 needs, thereby enabling the resident and, if applicable, the
 1359 resident's representative or designee, or the resident's
 1360 surrogate, guardian, or attorney in fact, and the residence
 1361 facility to develop a service plan which best meets the
 1362 resident's needs and seeks to improve the resident's quality of
 1363 life.

1364 ~~(25)~~~~(23)~~ "Supervision" means reminding residents to engage
 1365 in activities of daily living and the self-administration of
 1366 medication, and, when necessary, observing or providing verbal
 1367 cuing to residents while they perform these activities.
 1368 Supervision does not include one-on-one observation.

1369 ~~(26)~~~~(24)~~ "Supplemental security income," Title XVI of the
 1370 Social Security Act, means a program through which the Federal
 1371 Government guarantees a minimum monthly income to every person
 1372 who is age 65 or older, or disabled, or blind and meets the

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1373 income and asset requirements.

1374 ~~(27)~~~~(25)~~ "Supportive services" means services designed to
 1375 encourage and assist residents ~~aged persons or adults with~~
 1376 ~~disabilities~~ to remain in the least restrictive living
 1377 environment and to maintain their independence as long as
 1378 possible.

1379 ~~(28)~~~~(26)~~ "Twenty-four-hour nursing supervision" means
 1380 services that are ordered by a physician for a resident whose
 1381 condition requires the supervision of a physician and continued
 1382 monitoring of vital signs and physical status. Such services
 1383 shall be: medically complex enough to require constant
 1384 supervision, assessment, planning, or intervention by a nurse;
 1385 required to be performed by or under the direct supervision of
 1386 licensed nursing personnel or other professional personnel for
 1387 safe and effective performance; ~~required on a daily basis;~~ and
 1388 consistent with the nature and severity of the resident's
 1389 condition or the disease state or stage.

1390 Section 13. Section 429.04, Florida Statutes, is amended
 1391 to read:

1392 429.04 Residences ~~Facilities~~ to be licensed; exemptions.-

1393 (1) For the administration of this part, residences
 1394 ~~facilities~~ to be licensed by the agency shall include all
 1395 assisted living residences ~~facilities~~ as defined in this part.

1396 (2) The following are exempt from licensure under this
 1397 part:

1398 (a) Any facility, institution, or other place operated by
 1399 the Federal Government or any agency of the Federal Government.

1400 (b) Any facility or part of a facility licensed under

1401 chapter 393 or chapter 394.

1402 (c) Any facility licensed as an adult family-care home
 1403 under part II.

1404 (d) Any person who provides housing, meals, and one or
 1405 more personal services on a 24-hour basis in the person's own
 1406 home to not more than two adults who do not receive optional
 1407 state supplementation. The person who provides the housing,
 1408 meals, and personal services must own or rent the home and
 1409 reside therein.

1410 (e) Any home or facility approved by the United States
 1411 Department of Veterans Affairs as a residential care home
 1412 wherein care is provided exclusively to three or fewer veterans.

1413 (f) Any facility that has been incorporated in this state
 1414 for 50 years or more on or before July 1, 1983, and the board of
 1415 directors of which is nominated or elected by the residents,
 1416 until the facility is sold or its ownership is transferred; or
 1417 any facility, with improvements or additions thereto, which has
 1418 existed and operated continuously in this state for 60 years or
 1419 more on or before July 1, 1989, is directly or indirectly owned
 1420 and operated by a nationally recognized fraternal organization,
 1421 is not open to the public, and accepts only its own members and
 1422 their spouses as residents.

1423 (g) Any facility certified under chapter 651, or a
 1424 retirement community, may provide services authorized under this
 1425 part ~~or part III of chapter 400~~ to its residents who live in
 1426 single-family homes, duplexes, quadruplexes, or apartments
 1427 located on the campus without obtaining a license to operate an
 1428 assisted living residence ~~facility~~ if residential units within

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1429 such buildings are used by residents who do not require staff
1430 supervision for that portion of the day when personal services
1431 are not being delivered and the owner obtains a home health
1432 license to provide such services. However, any building or
1433 distinct part of a building on the campus that is designated for
1434 persons who receive personal services and require supervision
1435 beyond that which is available while such services are being
1436 rendered must be licensed in accordance with this part. If a
1437 facility provides personal services to residents who do not
1438 otherwise require supervision and the owner is not licensed as a
1439 home health agency, the buildings or distinct parts of buildings
1440 where such services are rendered must be licensed under this
1441 part. A resident of a facility that obtains a home health
1442 license may contract with a home health agency of his or her
1443 choice, provided that the home health agency provides liability
1444 insurance and workers' compensation coverage for its employees.
1445 Facilities covered by this exemption may establish policies that
1446 give residents the option of contracting for services and care
1447 beyond that which is provided by the facility to enable them to
1448 age in place. For purposes of this section, a retirement
1449 community consists of a residence facility licensed under this
1450 part or a facility licensed under part II of chapter 400, and
1451 apartments designed for independent living located on the same
1452 campus.

1453 (h) Any residential unit for independent living which is
1454 located within a facility certified under chapter 651, or any
1455 residential unit for independent living which is colocated with
1456 a nursing home licensed under part II of chapter 400 or

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1457 | colocated with a residence ~~facility~~ licensed under this part in
1458 | which services are provided through an outpatient clinic or a
1459 | nursing home on an outpatient basis.

1460 | Section 14. Section 429.07, Florida Statutes, is amended
1461 | to read:

1462 | 429.07 License required; fee.—

1463 | (1) The requirements of part I ~~part II of chapter 408~~
1464 | apply to the provision of services that require licensure
1465 | ~~pursuant to this part and part II of chapter 408~~ and to entities
1466 | licensed by or applying for such licensure from the agency
1467 | pursuant to this part. A license issued by the agency is
1468 | required in order to operate an assisted living residence
1469 | ~~facility~~ in this state.

1470 | (2) Separate licenses shall be required for residences
1471 | ~~facilities~~ maintained in separate premises, even though operated
1472 | under the same management. A separate license shall not be
1473 | required for separate buildings on the same grounds.

1474 | (3) In addition to the requirements of part I ~~s. 408.806,~~
1475 | each license granted by the agency must state the type of care
1476 | for which the license is granted. Licenses shall be issued for
1477 | one or more of the following categories of care: standard,
1478 | extended congregate care, ~~limited nursing services,~~ or limited
1479 | mental health.

1480 | (a) A standard license shall be issued to a licensee for a
1481 | residence ~~facilities~~ providing one or more of the personal
1482 | services identified in s. 429.02. ~~Such facilities may also~~
1483 | ~~employ or contract with a person licensed under part I of~~
1484 | ~~chapter 464 to administer medications and perform other tasks as~~

1485 ~~specified in s. 429.255.~~

1486 (b) An extended congregate care license shall be issued to
 1487 a licensee for a residence ~~facilities~~ providing, directly or
 1488 through contract, services beyond those authorized in paragraph
 1489 (a), including services performed by persons licensed under part
 1490 I of chapter 464 and supportive services, as defined by rule, to
 1491 persons who would otherwise be disqualified from continued
 1492 residence in a residence ~~facility~~ licensed under this part.

1493 1. In order for extended congregate care services to be
 1494 provided, the agency must first determine that all requirements
 1495 established in law and rule are met and must specifically
 1496 designate, on the residence's ~~facility's~~ license, that such
 1497 services may be provided and whether the designation applies to
 1498 all or part of the residence ~~facility~~. Such designation may be
 1499 made at the time of initial licensure or relicensure, or upon
 1500 request in writing by a licensee under this chapter ~~part~~ and
 1501 ~~part II of chapter 408~~. The notification of approval or the
 1502 denial of the request shall be made in accordance with part I
 1503 ~~part II of chapter 408~~. Existing facilities qualifying to
 1504 ~~provide extended congregate care services must have maintained a~~
 1505 ~~standard license and may not have been subject to administrative~~
 1506 ~~sanctions during the previous 2 years, or since initial~~
 1507 ~~licensure if the facility has been licensed for less than 2~~
 1508 ~~years, for any of the following reasons:~~

1509 a. ~~A class I or class II violation;~~

1510 b. ~~Three or more repeat or recurring class III violations~~
 1511 ~~of identical or similar resident care standards from which a~~
 1512 ~~pattern of noncompliance is found by the agency;~~

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1513 ~~e. Three or more class III violations that were not~~
1514 ~~corrected in accordance with the corrective action plan approved~~
1515 ~~by the agency;~~

1516 ~~d. Violation of resident care standards which results in~~
1517 ~~requiring the facility to employ the services of a consultant~~
1518 ~~pharmacist or consultant dietitian;~~

1519 ~~e. Denial, suspension, or revocation of a license for~~
1520 ~~another facility licensed under this part in which the applicant~~
1521 ~~for an extended congregate care license has at least 25 percent~~
1522 ~~ownership interest; or~~

1523 ~~f. Imposition of a moratorium pursuant to this part or~~
1524 ~~part II of chapter 408 or initiation of injunctive proceedings.~~

1525 2. A licensee facility that is licensed to provide
1526 extended congregate care services shall maintain a written
1527 progress report for ~~on~~ each person who receives services, and
1528 the report must describe ~~which describes~~ the type, amount,
1529 duration, scope, and outcome of services that are rendered and
1530 the general status of the resident's health. ~~A registered nurse,~~
1531 ~~or appropriate designee, representing the agency shall visit the~~
1532 ~~facility at least quarterly to monitor residents who are~~
1533 ~~receiving extended congregate care services and to determine if~~
1534 ~~the facility is in compliance with this part, part II of chapter~~
1535 ~~408, and relevant rules. One of the visits may be in conjunction~~
1536 ~~with the regular survey. The monitoring visits may be provided~~
1537 ~~through contractual arrangements with appropriate community~~
1538 ~~agencies. A registered nurse shall serve as part of the team~~
1539 ~~that inspects the facility. The agency may waive one of the~~
1540 ~~required yearly monitoring visits for a facility that has been~~

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1541 ~~licensed for at least 24 months to provide extended congregate~~
1542 ~~care services, if, during the inspection, the registered nurse~~
1543 ~~determines that extended congregate care services are being~~
1544 ~~provided appropriately, and if the facility has no class I or~~
1545 ~~class II violations and no uncorrected class III violations. The~~
1546 ~~agency must first consult with the long term care ombudsman~~
1547 ~~council for the area in which the facility is located to~~
1548 ~~determine if any complaints have been made and substantiated~~
1549 ~~about the quality of services or care. The agency may not waive~~
1550 ~~one of the required yearly monitoring visits if complaints have~~
1551 ~~been made and substantiated.~~

1552 3. A licensee facility that is licensed to provide
1553 extended congregate care services shall ~~must~~:

1554 a. Demonstrate the capability to meet unanticipated
1555 resident service needs.

1556 b. Offer a physical environment that promotes a homelike
1557 setting, provides for resident privacy, promotes resident
1558 independence, and allows sufficient congregate space as defined
1559 by rule.

1560 c. Have sufficient staff available, taking into account
1561 the physical plant and firesafety features of the residential
1562 setting ~~building~~, to assist with the evacuation of residents in
1563 an emergency.

1564 d. Adopt and follow policies and procedures that maximize
1565 resident independence, dignity, choice, and decisionmaking to
1566 permit residents to age in place, so that moves due to changes
1567 in functional status are minimized or avoided.

1568 e. Allow residents or, if applicable, a resident's

1569 representative, designee, surrogate, guardian, or attorney in
 1570 fact to make a variety of personal choices, participate in
 1571 developing service plans, and share responsibility in
 1572 decisionmaking.

1573 f. Implement the concept of managed risk.

1574 g. Provide, directly or through contract, the services of
 1575 a person licensed under part I of chapter 464.

1576 h. In addition to the training mandated in s. 429.52,
 1577 provide specialized training as defined by rule for residence
 1578 facility staff.

1579 4. A licensed residence that provides facility ~~that is~~
 1580 ~~licensed to provide~~ extended congregate care services is exempt
 1581 from the criteria for continued residency set forth in rules
 1582 adopted under s. 429.41. A licensed residence facility must
 1583 adopt its own requirements within guidelines for continued
 1584 residency set forth by rule. However, the residence facility may
 1585 not serve residents who require 24-hour nursing supervision. A
 1586 licensed residence facility that provides extended congregate
 1587 care services must also provide each resident with a written
 1588 copy of residence facility policies governing admission and
 1589 retention.

1590 5. The primary purpose of extended congregate care
 1591 services is to allow residents, as they become more impaired,
 1592 the option of remaining in a familiar setting from which they
 1593 would otherwise be disqualified for continued residency. A
 1594 licensed residence that provides facility ~~licensed to provide~~
 1595 extended congregate care services may also admit an individual
 1596 who exceeds the admission criteria for a residence facility with

1597 a standard license, if the individual is determined appropriate
 1598 for admission to the extended congregate care residence
 1599 ~~facility~~.

1600 6. Before the admission of an individual to a licensed
 1601 residence that provides facility ~~licensed to provide~~ extended
 1602 congregate care services, the individual must undergo a medical
 1603 examination as provided in s. 429.26(4) and the licensee
 1604 ~~facility~~ must develop a preliminary service plan for the
 1605 individual.

1606 7. When a licensee facility can no longer provide or
 1607 arrange for services in accordance with the resident's service
 1608 plan and needs and the licensee's facility's policy, the
 1609 licensee facility shall make arrangements for relocating the
 1610 person in accordance with s. 429.28(1)(k).

1611 ~~8. Failure to provide extended congregate care services~~
 1612 ~~may result in denial of extended congregate care license~~
 1613 ~~renewal.~~

1614 ~~(c) A limited nursing services license shall be issued to~~
 1615 ~~a facility that provides services beyond those authorized in~~
 1616 ~~paragraph (a) and as specified in this paragraph.~~

1617 ~~1. In order for limited nursing services to be provided in~~
 1618 ~~a facility licensed under this part, the agency must first~~
 1619 ~~determine that all requirements established in law and rule are~~
 1620 ~~met and must specifically designate, on the facility's license,~~
 1621 ~~that such services may be provided. Such designation may be made~~
 1622 ~~at the time of initial licensure or relicensure, or upon request~~
 1623 ~~in writing by a licensee under this part and part II of chapter~~
 1624 ~~408. Notification of approval or denial of such request shall be~~

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1625 ~~made in accordance with part II of chapter 408. Existing~~
1626 ~~facilities qualifying to provide limited nursing services shall~~
1627 ~~have maintained a standard license and may not have been subject~~
1628 ~~to administrative sanctions that affect the health, safety, and~~
1629 ~~welfare of residents for the previous 2 years or since initial~~
1630 ~~licensure if the facility has been licensed for less than 2~~
1631 ~~years.~~

1632 ~~2. Facilities that are licensed to provide limited nursing~~
1633 ~~services shall maintain a written progress report on each person~~
1634 ~~who receives such nursing services, which report describes the~~
1635 ~~type, amount, duration, scope, and outcome of services that are~~
1636 ~~rendered and the general status of the resident's health. A~~
1637 ~~registered nurse representing the agency shall visit such~~
1638 ~~facilities at least twice a year to monitor residents who are~~
1639 ~~receiving limited nursing services and to determine if the~~
1640 ~~facility is in compliance with applicable provisions of this~~
1641 ~~part, part II of chapter 408, and related rules. The monitoring~~
1642 ~~visits may be provided through contractual arrangements with~~
1643 ~~appropriate community agencies. A registered nurse shall also~~
1644 ~~serve as part of the team that inspects such facility.~~

1645 ~~3. A person who receives limited nursing services under~~
1646 ~~this part must meet the admission criteria established by the~~
1647 ~~agency for assisted living facilities. When a resident no longer~~
1648 ~~meets the admission criteria for a facility licensed under this~~
1649 ~~part, arrangements for relocating the person shall be made in~~
1650 ~~accordance with s. 429.28(1)(k), unless the facility is licensed~~
1651 ~~to provide extended congregate care services.~~

1652 (4) In accordance with s. 429.004 ~~408.805~~, an applicant or

1653 licensee shall pay a fee for each license application submitted
 1654 under this chapter ~~part, part II of chapter 408,~~ and applicable
 1655 rules. The amount of the fee shall be established by rule.

1656 (a) The biennial license fee required of a residence
 1657 facility is \$300 per license, with an additional fee of \$50 per
 1658 resident based on the total licensed resident capacity of the
 1659 residence facility, except that no additional fee will be
 1660 assessed for beds designated for recipients of Medicaid ~~optional~~
 1661 ~~state supplementation payments provided for in s. 409.212.~~ The
 1662 total fee may not exceed \$10,000.

1663 (b) In addition to the total fee assessed under paragraph
 1664 (a), the agency shall require a licensed residence facilities
 1665 that provides ~~are licensed to provide~~ extended congregate care
 1666 services under this part to pay an additional fee per licensed
 1667 residence facility. The amount of the biennial fee shall be \$400
 1668 per license, with an additional fee of \$10 per resident based on
 1669 the total licensed resident capacity of the residence facility.

1670 ~~(c) In addition to the total fee assessed under paragraph~~
 1671 ~~(a), the agency shall require facilities that are licensed to~~
 1672 ~~provide limited nursing services under this part to pay an~~
 1673 ~~additional fee per licensed facility. The amount of the biennial~~
 1674 ~~fee shall be \$250 per license, with an additional fee of \$10 per~~
 1675 ~~resident based on the total licensed resident capacity of the~~
 1676 ~~facility.~~

1677 (5) Counties or municipalities applying for licenses under
 1678 this part are exempt from the payment of license fees.

1679 (6) In order to determine whether the residence is
 1680 adequately protecting residents' rights as provided in s.

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1681 429.28, the agency shall conduct a biennial survey that includes
 1682 private informal conversations with a sample of residents to
 1683 discuss the residents' experiences within the residence.

1684 (7) An assisted living residence that has been cited
 1685 within the previous 24-month period for a class I or class II
 1686 violation, regardless of the status of any enforcement or
 1687 disciplinary action, is subject to periodic unannounced
 1688 monitoring to determine if the residence is in compliance with
 1689 this part and applicable rules. Monitoring may occur through a
 1690 desk review or an onsite assessment. If the class I or class II
 1691 violation relates to providing or failing to provide nursing
 1692 care, a registered nurse must participate in at least two onsite
 1693 monitoring visits within a 12-month period.

1694 Section 15. Section 429.075, Florida Statutes, is amended
 1695 to read:

1696 429.075 Limited mental health license.—A licensee
 1697 operating an assisted living residence ~~facility~~ that serves
 1698 three or more mental health residents must obtain a limited
 1699 mental health license.

1700 (1) To obtain a limited mental health license, a licensee
 1701 must have ~~facility must hold~~ a standard license as an assisted
 1702 living residence ~~facility~~, must not have any current uncorrected
 1703 ~~deficiencies or~~ violations, and must ensure that, within 6
 1704 months after receiving a limited mental health license, the
 1705 residence ~~facility~~ administrator and the staff of the residence
 1706 ~~facility~~ who are in direct contact with mental health residents
 1707 must complete training of no less than 6 hours related to their
 1708 duties. Such designation may be made at the time of initial

1709 licensure or relicensure or upon request in writing by a
 1710 licensee under this chapter ~~part and part II of chapter 408~~.
 1711 Notification of approval or denial of such request shall be made
 1712 in accordance with this chapter ~~part, part II of chapter 408~~,
 1713 and applicable rules. This training will be provided by or
 1714 approved by the Department of Children and Family Services.

1715 (2) A residence that is ~~Facilities~~ licensed to provide
 1716 services to mental health residents shall provide appropriate
 1717 supervision and staffing to provide for the health, safety, and
 1718 welfare of such residents.

1719 (3) A residence ~~facility~~ that has a limited mental health
 1720 license must:

1721 (a) Have a copy of each mental health resident's community
 1722 living support plan and the cooperative agreement with the
 1723 mental health care services provider. The support plan and the
 1724 agreement may be combined.

1725 (b) Have documentation that is provided by the Department
 1726 of Children and Family Services that each mental health resident
 1727 has been assessed and determined to be able to live in the
 1728 community in an assisted living residence ~~facility~~ with a
 1729 limited mental health license.

1730 (c) Make the community living support plan available for
 1731 inspection by the resident, the resident's legal guardian, the
 1732 resident's health care surrogate, and other individuals who have
 1733 a lawful basis for reviewing this document.

1734 (d) Assist the mental health resident in carrying out the
 1735 activities identified in the individual's community living
 1736 support plan.

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1737 (4) A residence ~~facility~~ with a limited mental health
1738 license may enter into a cooperative agreement with a private
1739 mental health provider. For purposes of the limited mental
1740 health license, the private mental health provider may act as
1741 the case manager.

1742 Section 16. Section 429.08, Florida Statutes, is amended
1743 to read:

1744 429.08 Unlicensed residences ~~facilities~~; referral of
1745 person for residency to unlicensed residence ~~facility~~;
1746 penalties.—

1747 (1) (a) This section applies to the unlicensed operation of
1748 an assisted living residence ~~facility~~ in addition to the
1749 requirements of part I ~~part II of chapter 408~~.

1750 (b) Except as provided under paragraph (d), any person who
1751 owns, operates, or maintains an ~~unlicensed~~ assisted living
1752 residence for which such person does not hold a valid license
1753 facility commits a felony of the third degree, punishable as
1754 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of
1755 continued operation is a separate offense.

1756 (c) Any person found guilty of violating paragraph (a) a
1757 second or subsequent time commits a felony of the second degree,
1758 punishable as provided under s. 775.082, s. 775.083, or s.
1759 775.084. Each day of continued operation is a separate offense.

1760 (d) Any person who owns, operates, or maintains an
1761 ~~unlicensed~~ assisted living residence for which such person does
1762 not hold a valid license ~~facility~~ due to a change in this part
1763 or a modification in rule within 6 months after the effective
1764 date of such change and who, within 10 working days after

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1765 receiving notification from the agency, fails to cease operation
 1766 or apply for a license under this part commits a felony of the
 1767 third degree, punishable as provided in s. 775.082, s. 775.083,
 1768 or s. 775.084. Each day of continued operation is a separate
 1769 offense.

1770 (e) The agency shall publish a list, by county, of
 1771 licensed assisted living residences ~~facilities~~. This information
 1772 may be provided electronically or through the agency's Internet
 1773 site.

1774 (2) It is unlawful to knowingly refer a person for
 1775 residency to an unlicensed assisted living residence ~~facility~~;
 1776 to an assisted living residence for which ~~facility~~ the
 1777 licensee's license ~~of which~~ is under denial or has been
 1778 suspended or revoked; or to an assisted living residence
 1779 ~~facility~~ that has a moratorium pursuant to part I ~~part II~~ of
 1780 ~~chapter 408~~.

1781 (a) Any health care practitioner, as defined in s.
 1782 456.001, or emergency medical technician or paramedic certified
 1783 pursuant to part III or chapter 401, who is aware of the
 1784 operation of an unlicensed residence ~~facility~~ shall report that
 1785 residence ~~facility~~ to the agency. Failure to report an assisted
 1786 living residence for which ~~a facility~~ that the practitioner
 1787 knows or has reasonable cause to suspect a license has not been
 1788 obtained ~~is unlicensed~~ shall be reported to the practitioner's
 1789 licensing board.

1790 ~~(b) Any provider as defined in s. 408.803 which knowingly~~
 1791 ~~discharges a patient or client to an unlicensed facility is~~
 1792 ~~subject to sanction by the agency.~~

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1793 (b)~~(e)~~ Any employee of the agency or department, or the
 1794 Department of Children and Family Services, who knowingly refers
 1795 a person for residency to an unlicensed residence facility; to a
 1796 residence for which the licensee's license facility ~~the license~~
 1797 ~~of which~~ is under denial or has been suspended or revoked; or to
 1798 a residence facility that has a moratorium pursuant to part I
 1799 ~~part II of chapter 408~~ is subject to disciplinary action by the
 1800 agency or department, or the Department of Children and Family
 1801 Services.

1802 (c)~~(d)~~ The employer of any person who is under contract
 1803 with the agency or department, or the Department of Children and
 1804 Family Services, and who knowingly refers a person for residency
 1805 to an unlicensed residence facility; to a residence for which
 1806 the licensee's license facility ~~the license of which~~ is under
 1807 denial or has been suspended or revoked; or to a residence
 1808 facility that has a moratorium pursuant to part I ~~part II of~~
 1809 ~~chapter 408~~ shall be fined and required to prepare a corrective
 1810 action plan designed to prevent such referrals.

1811 Section 17. Section 429.11, Florida Statutes, is amended
 1812 to read:

1813 429.11 Initial application for license; provisional
 1814 license.—

1815 (1) Each applicant for licensure must comply with all
 1816 provisions of part I ~~part II of chapter 408~~ and must:

1817 (a) Identify all other homes or residences facilities,
 1818 including the addresses and the license or licenses under which
 1819 they operate, if applicable, which are currently operated by the
 1820 applicant or administrator and which provide housing, meals, and

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1821 personal services to residents.

1822 (b) Provide the location of the residence ~~facility~~ for
 1823 which a license is sought and documentation, signed by the
 1824 appropriate local government official, which states that the
 1825 applicant has met local zoning requirements.

1826 (c) Provide the name, address, date of birth, social
 1827 security number, education, and experience of the administrator,
 1828 if different from the applicant.

1829 (2) The applicant shall provide proof of liability
 1830 insurance as defined in s. 624.605.

1831 (3) If the applicant is a community residential home, the
 1832 applicant must provide proof that it has met the requirements
 1833 specified in chapter 419.

1834 (4) The applicant must furnish proof that the residence
 1835 ~~facility~~ has received a satisfactory firesafety inspection. The
 1836 local authority having jurisdiction or the State Fire Marshal
 1837 must conduct the inspection within 30 days after written request
 1838 by the applicant.

1839 (5) The applicant must furnish documentation of a
 1840 satisfactory sanitation inspection of the residence ~~facility~~ by
 1841 the county health department.

1842 (6) ~~In addition to the license categories available in s.~~
 1843 ~~408.808,~~ A provisional license may be issued to an applicant
 1844 making initial application for licensure or making application
 1845 for a change of ownership. A provisional license shall be
 1846 limited in duration to a specific period of time not to exceed 6
 1847 months, as determined by the agency.

1848 (7) A county or municipality may not issue an occupational

1849 license that is being obtained for the purpose of operating a
 1850 residence facility regulated under this part without first
 1851 ascertaining that the applicant has been licensed to operate
 1852 such residence facility at the specified location or locations
 1853 by the agency. The agency shall furnish to local agencies
 1854 responsible for issuing occupational licenses sufficient
 1855 instruction for making such determinations.

1856 Section 18. Section 429.12, Florida Statutes, is amended
 1857 to read:

1858 429.12 Sale or transfer of ownership of a residence
 1859 facility. ~~It is the intent of the Legislature~~ To protect the
 1860 rights of the residents of an assisted living residence facility
 1861 ~~when the facility is sold or the ownership thereof is~~
 1862 ~~transferred. Therefore,~~ in addition to the requirements of part
 1863 I ~~part II of chapter 408~~, whenever a residence facility is sold
 1864 or the ownership thereof is transferred, including leasing:

1865 (1) The transferee shall notify the residents, in writing,
 1866 of the change of ownership within 7 days after receipt of the
 1867 new license.

1868 (2) The transferor of a residence facility the license of
 1869 which is denied pending an administrative hearing shall, as a
 1870 part of the written change-of-ownership contract, advise the
 1871 transferee of such action ~~that a plan of correction must be~~
 1872 ~~submitted by the transferee and approved by the agency at least~~
 1873 ~~7 days before the change of ownership and that failure to~~
 1874 ~~correct the condition which resulted in the moratorium pursuant~~
 1875 ~~to part II of chapter 408 or denial of licensure is grounds for~~
 1876 ~~denial of the transferee's license.~~

1877 Section 19. Section 429.14, Florida Statutes, is amended
 1878 to read:

1879 429.14 Administrative penalties.—

1880 (1) In addition to the requirements of part I ~~part II~~ of
 1881 ~~chapter 408~~, the agency may deny, revoke, and suspend any
 1882 license issued under this chapter ~~part~~ and impose an
 1883 administrative fine in the manner provided in chapter 120
 1884 against a licensee for a violation of any provision of this
 1885 chapter ~~part, part II of chapter 408~~, or applicable rules, or
 1886 for any of the following actions by a licensee, or for the
 1887 actions of any person subject to level 2 background screening
 1888 under s. 429.008 ~~408.809~~, or for the actions of any facility
 1889 ~~employee~~:

1890 (a) An intentional or negligent act seriously affecting
 1891 the health, safety, or welfare of a resident of the residence
 1892 facility.

1893 (b) The determination by the agency that the owner lacks
 1894 the financial ability to provide continuing adequate care to
 1895 residents.

1896 ~~(c) Misappropriation or conversion of the property of a~~
 1897 ~~resident of the facility.~~

1898 ~~(d) Failure to follow the criteria and procedures provided~~
 1899 ~~under part I of chapter 394 relating to the transportation,~~
 1900 ~~voluntary admission, and involuntary examination of a facility~~
 1901 ~~resident.~~

1902 ~~(c)(e)~~ A citation of any of the following violations
 1903 ~~deficiencies~~ as specified in s. 429.19:

1904 1. One or more cited class I violations ~~deficiencies~~.

1905 2. Three or more cited class II violations ~~deficiencies~~.

1906 3. Five or more cited class III violations ~~deficiencies~~
 1907 that have been cited on a single survey and have not been
 1908 corrected within the times specified.

1909 (d) ~~(f)~~ Failure to comply with the background screening
 1910 standards of this part, s. 429.008 ~~408.809(1)~~, or chapter 435.

1911 (e) ~~(g)~~ Violation of a moratorium.

1912 (f) ~~(h)~~ Failure of the license applicant, the licensee
 1913 during relicensure, or a licensee that holds a provisional
 1914 license to meet the minimum license requirements of this part,
 1915 or related rules, at the time of license application or renewal.

1916 (g) ~~(i)~~ An intentional or negligent life-threatening act in
 1917 violation of the uniform firesafety standards for assisted
 1918 living residences ~~facilities~~ or other firesafety standards that
 1919 threatens the health, safety, or welfare of a resident of a
 1920 residence facility, as communicated to the agency by the local
 1921 authority having jurisdiction or the State Fire Marshal.

1922 (h) ~~(j)~~ Knowingly operating any unlicensed residence
 1923 ~~facility or providing without a license any service that must be~~
 1924 ~~licensed under this chapter or chapter 400.~~

1925 (i) ~~(k)~~ Any act constituting a ground upon which
 1926 application for a license may be denied.

1927 (2) Upon notification by the local authority having
 1928 jurisdiction or by the State Fire Marshal, the agency may deny
 1929 or revoke the license of a licensee of an assisted living
 1930 residence facility that fails to correct cited fire code
 1931 violations that affect or threaten the health, safety, or
 1932 welfare of a resident of the residence ~~a facility~~.

1933 (3) The agency may deny a license to any applicant or
 1934 controlling interest that ~~as defined in part II of chapter 408~~
 1935 ~~which~~ has or had a 51 percent ~~25-percent~~ or greater financial or
 1936 ownership interest in any other residence facility licensed
 1937 under this part, or in any entity licensed by this state or
 1938 another state to provide health or residential care, which
 1939 facility or entity during the 5 years prior to the application
 1940 for a license closed due to financial inability to operate; had
 1941 a receiver appointed or a license denied, suspended, or revoked;
 1942 was subject to a moratorium; or had an injunctive proceeding
 1943 initiated against it.

1944 ~~(4) The agency shall deny or revoke the license of an~~
 1945 ~~assisted living facility that has two or more class I violations~~
 1946 ~~that are similar or identical to violations identified by the~~
 1947 ~~agency during a survey, inspection, monitoring visit, or~~
 1948 ~~complaint investigation occurring within the previous 2 years.~~

1949 (4)~~(5)~~ An action taken by the agency to suspend, deny, or
 1950 revoke a licensee's facility's license under this part or part I
 1951 ~~part II of chapter 408~~, in which the agency claims that the
 1952 residence facility owner or a staff member ~~an employee~~ of the
 1953 residence facility has threatened the health, safety, or welfare
 1954 of a resident of the residence facility be heard by the Division
 1955 of Administrative Hearings of the Department of Management
 1956 Services within 120 days after receipt of the residence's
 1957 ~~facility's~~ request for a hearing, unless that time limitation is
 1958 waived by both parties. The administrative law judge must render
 1959 a decision within 30 days after receipt of a proposed
 1960 recommended order.

1961 ~~(6) The agency shall provide to the Division of Hotels and~~
 1962 ~~Restaurants of the Department of Business and Professional~~
 1963 ~~Regulation, on a monthly basis, a list of those assisted living~~
 1964 ~~facilities that have had their licenses denied, suspended, or~~
 1965 ~~revoked or that are involved in an appellate proceeding pursuant~~
 1966 ~~to s. 120.60 related to the denial, suspension, or revocation of~~
 1967 ~~a license.~~

1968 (5)~~(7)~~ Agency notification of a license suspension or
 1969 revocation, or denial of a license renewal, shall be posted and
 1970 visible to the public at the residence facility.

1971 Section 20. Section 429.17, Florida Statutes, is amended
 1972 to read:

1973 429.17 Expiration of license; renewal; conditional
 1974 license.—

1975 (1) ~~Limited nursing,~~ Extended congregate care, and limited
 1976 mental health licenses shall expire at the same time as the
 1977 residence's ~~facility's~~ standard license, regardless of when
 1978 issued.

1979 (2) A license shall be renewed in accordance with part I
 1980 ~~part II of chapter 408~~ and upon the provision of satisfactory
 1981 ~~proof of ability to operate and conduct the facility in~~
 1982 ~~accordance with the requirements of this part and adopted rules,~~
 1983 ~~including proof that the~~ residence facility has received a
 1984 satisfactory firesafety inspection, conducted by the local
 1985 authority having jurisdiction or the State Fire Marshal, within
 1986 the preceding 12 months.

1987 (3) In addition to the requirements of part I ~~part II of~~
 1988 ~~chapter 408,~~ each residence facility must report to the agency

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1989 any adverse court action concerning the residence's ~~facility's~~
 1990 financial viability, within 7 days after its occurrence. The
 1991 agency shall have access to books, records, and any other
 1992 financial documents maintained by the residence ~~facility~~ to the
 1993 extent necessary to determine the residence's ~~facility's~~
 1994 financial stability.

1995 (4) In addition to the license categories available in
 1996 part I s. 408.808, a conditional license may be issued to an
 1997 applicant for license renewal if the applicant fails to meet all
 1998 standards and requirements for licensure. A conditional license
 1999 issued under this subsection shall be limited in duration to a
 2000 specific period of time not to exceed 6 months, as determined by
 2001 the agency, and shall be accompanied by an agency-approved plan
 2002 of correction.

2003 (5) When an extended congregate care or limited nursing
 2004 license is requested during a residence's ~~facility's~~ biennial
 2005 license period, the fee shall be prorated in order to permit the
 2006 additional license to expire at the end of the biennial license
 2007 period. The fee shall be calculated as of the date the
 2008 additional license application is received by the agency.

2009 (6) The department may by rule establish renewal
 2010 procedures, identify forms, and specify documentation necessary
 2011 to administer this section. ~~The agency, in consultation with the~~
 2012 ~~department, may adopt rules to administer the requirements of~~
 2013 ~~part II of chapter 408.~~

2014 Section 21. Section 429.174, Florida Statutes, is amended
 2015 to read:

2016 429.174 Background screening.—The agency shall require

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2017 level 2 background screening for personnel as required in s.
 2018 429.008(1)(e) ~~408.809(1)(e)~~ pursuant to chapter 435 and s.
 2019 429.008 ~~408.809~~.

2020 Section 22. Section 429.177, Florida Statutes, is amended
 2021 to read:

2022 429.177 Patients with Alzheimer's disease or other related
 2023 disorders; certain disclosures.—A licensed residence that
 2024 ~~facility licensed under this part which~~ claims that it provides
 2025 special care for persons who have Alzheimer's disease or other
 2026 related disorders must disclose in its advertisements or in a
 2027 separate document those services that distinguish the care as
 2028 being especially applicable to, or suitable for, such persons.
 2029 The residence ~~facility~~ must give a copy of all such
 2030 advertisements or a copy of the document to each person who
 2031 requests information about programs and services for persons
 2032 with Alzheimer's disease or other related disorders offered by
 2033 the residence ~~facility~~ and must maintain a copy of all such
 2034 advertisements and documents in its records. The agency shall
 2035 examine all such advertisements and documents in the residence's
 2036 ~~facility's~~ records as part of the license renewal procedure.

2037 Section 23. Section 429.178, Florida Statutes, is amended
 2038 to read:

2039 429.178 Special care for persons with Alzheimer's disease
 2040 or other related disorders.—

2041 (1) A residence that ~~facility which~~ advertises that it
 2042 provides special care for persons with Alzheimer's disease or
 2043 other related disorders must meet the following standards of
 2044 operation:

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2045 (a)1. ~~If the facility has 17 or more residents,~~ Have an
 2046 awake staff member on duty at all hours of the day and night for
 2047 each secured unit of the residence that houses any residents
 2048 with Alzheimer's disease or other related disorders.~~;~~ ~~or~~

2049 2. ~~If the facility has fewer than 17 residents,~~ have an
 2050 awake staff member on duty at all hours of the day and night or
 2051 have mechanisms in place to monitor and ensure the safety of the
 2052 ~~facility's residents.~~

2053 (b) Offer activities specifically designed for persons who
 2054 are cognitively impaired.

2055 (c) Have a physical environment that provides for the
 2056 safety and welfare of the ~~facility's~~ residents of the residence.

2057 (d) Employ staff who have completed the training and
 2058 continuing education required in subsection (2).

2059
 2060 For the safety and protection of residents with Alzheimer's
 2061 disease, related disorders, or dementia, a secured locked unit
 2062 may be designated. The unit may consist of the entire building
 2063 or a distinct part of the building. Exit doors shall be equipped
 2064 with an operating alarm system which releases upon activation of
 2065 the fire alarm. These units are exempt from specific life safety
 2066 requirements to which assisted living residences are normally
 2067 subject. A staff member must be awake and present in the secured
 2068 unit at all times.

2069 (2) (a) A staff member ~~An individual~~ who is employed by a
 2070 residence facility that provides special care for residents with
 2071 Alzheimer's disease or other related disorders, and who has
 2072 regular contact with such residents, must complete up to 4 hours

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2073 of initial dementia-specific training developed or approved by
2074 the department. The training shall be completed within 3 months
2075 after beginning employment and shall satisfy the core training
2076 requirements of s. 429.52(2)(g).

2077 (b) A direct care staff member ~~caregiver~~ who is employed
2078 by a residence facility that provides special care for residents
2079 with Alzheimer's disease or other related disorders, and who
2080 provides direct care to such residents, must complete the
2081 ~~required~~ initial training required in paragraph (a) and 4
2082 additional hours of training developed or approved by the
2083 department. The training shall be completed within 9 months
2084 after beginning employment and shall satisfy the core training
2085 requirements of s. 429.52(2)(g).

2086 (c) A staff member ~~An individual~~ who is employed by a
2087 residence facility that provides special care for residents with
2088 Alzheimer's disease or other related disorders, but who only has
2089 incidental contact with such residents, must be given, at a
2090 minimum, general information on interacting with individuals
2091 with Alzheimer's disease or other related disorders, within 3
2092 months after beginning employment.

2093 (3) In addition to the training required under subsection
2094 (2), a direct care staff member ~~caregiver~~ must participate in a
2095 minimum of 4 contact hours of continuing education each calendar
2096 year. The continuing education must include one or more topics
2097 included in the dementia-specific training developed or approved
2098 by the department, ~~in which the caregiver has not received~~
2099 ~~previous training~~.

2100 (4) Upon completing any training listed in subsection (2),

2101 the staff member ~~employee~~ or direct care staff member ~~caregiver~~
 2102 shall be issued a certificate that includes the name of the
 2103 training provider, the topic covered, and the date and signature
 2104 of the training provider. The certificate is evidence of
 2105 completion of training in the identified topic, and the staff
 2106 member ~~employee~~ or direct care staff member ~~caregiver~~ is not
 2107 required to repeat training in that topic if the staff member
 2108 ~~employee~~ or direct care staff member ~~caregiver~~ changes
 2109 employment to a different residence ~~facility~~. The staff member
 2110 ~~employee~~ or direct care staff member ~~caregiver~~ must comply with
 2111 other applicable continuing education requirements.

2112 (5) The department, or its designee, shall approve the
 2113 initial and continuing education courses and providers.

2114 (6) The department shall maintain and post on its website
 2115 ~~keep~~ a current list of providers who are approved to provide
 2116 initial and continuing education for staff and direct care staff
 2117 members of residences ~~facilities~~ that provide special care for
 2118 persons with Alzheimer's disease or other related disorders.

2119 ~~(7) Any facility more than 90 percent of whose residents~~
 2120 ~~receive monthly optional supplementation payments is not~~
 2121 ~~required to pay for the training and education programs required~~
 2122 ~~under this section. A facility that has one or more such~~
 2123 ~~residents shall pay a reduced fee that is proportional to the~~
 2124 ~~percentage of such residents in the facility. A facility that~~
 2125 ~~does not have any residents who receive monthly optional~~
 2126 ~~supplementation payments must pay a reasonable fee, as~~
 2127 ~~established by the department, for such training and education~~
 2128 ~~programs.~~

2129 (7)~~(8)~~ The department shall adopt rules to establish
 2130 standards for trainers and training and to implement this
 2131 section.

2132 Section 24. Section 429.18, Florida Statutes, is amended
 2133 to read:

2134 429.18 Disposition of fees and administrative fines.—
 2135 Income from fees and fines collected under this part shall be
 2136 directed to and used by the agency for the following purposes:

2137 (1) Up to 50 percent of the trust funds accrued each
 2138 fiscal year under this part may be used to offset the expenses
 2139 of receivership, pursuant to s. 429.22, if the court determines
 2140 that the income and assets of the residence ~~facility~~ are
 2141 insufficient to provide for adequate management and operation.

2142 (2) An amount of \$5,000 of the trust funds accrued each
 2143 year under this part shall be allocated to pay for inspection-
 2144 related physical and mental health examinations requested by the
 2145 agency pursuant to s. 429.26 for residents who are either
 2146 recipients of supplemental security income or have monthly
 2147 incomes not in excess of the maximum combined federal and state
 2148 cash subsidies available to supplemental security income
 2149 recipients, as provided for in s. 409.212. Such funds shall only
 2150 be used where the resident is ineligible for Medicaid.

2151 (3) Any trust funds accrued each year under this part and
 2152 not used for the purposes specified in subsections (1) and (2)
 2153 shall be used to offset the costs of the licensure program,
 2154 verifying information submitted, defraying the costs of
 2155 processing the names of applicants, and conducting inspections
 2156 and monitoring visits pursuant to this part and part I ~~part II~~

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2157 ~~of chapter 408.~~

2158 Section 25. Section 429.19, Florida Statutes, is amended
2159 to read:

2160 429.19 Violations; imposition of administrative fines;
2161 grounds.—

2162 (1) ~~In addition to the requirements of part II of chapter~~
2163 ~~408,~~ The agency shall impose an administrative fine in the
2164 manner provided in chapter 120 for the violation of any
2165 provision of this chapter part, ~~part II of chapter 408,~~ and
2166 applicable rules by an assisted living residence facility, for
2167 the actions of any person subject to level 2 background
2168 screening under s.~~429.008 408.809,~~ ~~for the actions of any~~
2169 ~~facility employee,~~ or for an intentional or negligent act
2170 seriously affecting the health, safety, or welfare of a resident
2171 of the residence facility.

2172 (2) Each violation of this part and adopted rules shall be
2173 classified according to the nature of the violation and the
2174 gravity of its probable effect on residents of the residence
2175 ~~facility residents.~~ The agency shall indicate the classification
2176 on the written notice of the violation as follows:

2177 (a) Class "I" violations are those conditions or
2178 occurrences related to the operation and maintenance of a
2179 residence or to the care of residents which the agency
2180 determines present an imminent danger to the residents or a
2181 substantial probability that death or serious physical or
2182 emotional harm would result therefrom. The condition or practice
2183 constituting a class I violation shall be abated or eliminated
2184 within 24 hours, unless a fixed period, as determined by the

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2185 agency, is required for correction defined in s. 408.813. The
 2186 agency shall impose an administrative fine for a cited class I
 2187 violation in an amount not less than \$5,000 and not exceeding
 2188 \$10,000 for each violation. A fine shall be levied
 2189 notwithstanding the correction of the violation.

2190 (b) Class "II" violations are those conditions or
 2191 occurrences related to the operation and maintenance of a
 2192 residence or to the care of residents which the agency
 2193 determines directly threaten the physical or emotional health,
 2194 safety, or security of the residents, other than class I
 2195 violations defined in s. 408.813. The agency shall impose an
 2196 administrative fine for a cited class II violation in an amount
 2197 not less than \$1,000 and not exceeding \$5,000 for each
 2198 violation. A fine shall be levied notwithstanding the correction
 2199 of the violation.

2200 (c) Class "III" violations are those conditions or
 2201 occurrences related to the operation and maintenance of a
 2202 residence or to the care of residents which the agency
 2203 determines indirectly or potentially threaten the physical or
 2204 emotional health, safety, or security of residents, other than
 2205 class I or class II violations defined in s. 408.813. The agency
 2206 shall impose an administrative fine for a cited class III
 2207 violation in an amount not less than \$500 and not exceeding
 2208 \$1,000 for each violation. If a class III violation is corrected
 2209 within the time specified, a fine may not be imposed.

2210 (d) Class "IV" violations are those conditions or
 2211 occurrences related to the operation and maintenance of a
 2212 residence or to required reports, forms, or documents that do

2213 not have the potential of negatively affecting residents. These
 2214 violations are of a type that the agency determines do not
 2215 threaten the health, safety, or security of residents ~~defined in~~
 2216 s. ~~408.813~~. The agency shall impose an administrative fine for a
 2217 cited class IV violation in an amount not less than \$100 and not
 2218 exceeding \$200 for each violation. A citation for a class IV
 2219 violation must specify the time within which the violation is
 2220 required to be corrected. If a class IV violation is corrected
 2221 within the time specified, a fine may not be imposed.

2222 (3) For purposes of this section, in determining if a
 2223 penalty is to be imposed and in fixing the amount of the fine,
 2224 the agency shall consider the following factors:

2225 (a) The gravity of the violation, including the
 2226 probability that death or serious physical or emotional harm to
 2227 a resident will result or has resulted, the severity of the
 2228 action or potential harm, and the extent to which the provisions
 2229 of the applicable laws or rules were violated.

2230 (b) Actions taken by the owner or administrator to correct
 2231 violations.

2232 (c) Any previous violations.

2233 (d) The financial benefit to the residence ~~facility~~ of
 2234 committing or continuing the violation.

2235 (e) The licensed capacity of the residence ~~facility~~.

2236 (4) Each day of continuing violation after the date fixed
 2237 for termination of the violation, as ordered by the agency,
 2238 constitutes an additional, separate, and distinct violation.

2239 (5) Any action taken to correct a violation shall be
 2240 documented in writing by the licensee ~~owner~~ or administrator of

2241 the residence facility and verified through followup visits by
 2242 agency personnel or desk review. The agency may impose a fine
 2243 and, in the case of an owner-operated residence facility, revoke
 2244 or deny a licensee's facility's license when the agency has
 2245 documented that a residence facility administrator has
 2246 fraudulently misrepresented ~~misrepresents~~ action taken to
 2247 correct a violation.

2248 (6) Any residence facility whose owner fails to apply for
 2249 a change-of-ownership license in accordance with part I ~~part II~~
 2250 ~~of chapter 408~~ and operates the residence facility under the new
 2251 ownership is subject to a fine of \$5,000.

2252 (7) In addition to any administrative fines imposed, the
 2253 agency may assess a survey fee, equal to the lesser of one half
 2254 of the residence's facility's biennial license and bed fee or
 2255 \$500, to cover the cost of conducting initial complaint
 2256 investigations that result in the finding of a violation that
 2257 was the subject of the complaint ~~or monitoring visits conducted~~
 2258 ~~under s. 429.28(3)(c) to verify the correction of the~~
 2259 ~~violations.~~

2260 (8) During an inspection, the agency shall ~~make a~~
 2261 ~~reasonable attempt to~~ discuss each violation with the owner or
 2262 administrator of the residence, before facility, ~~prior to~~
 2263 written notification.

2264 ~~(9) The agency shall develop and disseminate an annual~~
 2265 ~~list of all facilities sanctioned or fined for violations of~~
 2266 ~~state standards, the number and class of violations involved,~~
 2267 ~~the penalties imposed, and the current status of cases. The list~~
 2268 ~~shall be disseminated, at no charge, to the Department of~~

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2269 ~~Elderly Affairs, the Department of Health, the Department of~~
 2270 ~~Children and Family Services, the Agency for Persons with~~
 2271 ~~Disabilities, the area agencies on aging, the Florida Statewide~~
 2272 ~~Advocacy Council, and the state and local ombudsman councils.~~
 2273 ~~The Department of Children and Family Services shall disseminate~~
 2274 ~~the list to service providers under contract to the department~~
 2275 ~~who are responsible for referring persons to a facility for~~
 2276 ~~residency. The agency may charge a fee commensurate with the~~
 2277 ~~cost of printing and postage to other interested parties~~
 2278 ~~requesting a copy of this list. This information may be provided~~
 2279 ~~electronically or through the agency's Internet site.~~

2280 Section 26. Section 429.195, Florida Statutes, is amended
 2281 to read:

2282 429.195 Rebates prohibited; penalties.—

2283 (1) It is unlawful for the licensee of any assisted living
 2284 residence facility licensed under this chapter ~~part~~ to contract
 2285 or promise to pay or receive any commission, bonus, kickback, or
 2286 rebate or engage in any split-fee arrangement in any form
 2287 whatsoever with any physician, surgeon, organization, agency, or
 2288 person, either directly or indirectly, for residents referred to
 2289 a licensed ~~an~~ assisted living residence facility ~~licensed under~~
 2290 ~~this part~~. A licensee for a residence facility may employ or
 2291 contract with persons to market the residence facility, provided
 2292 the employee or contract provider clearly indicates that he or
 2293 she represents the residence facility. A person or agency
 2294 independent of the residence facility may provide placement or
 2295 referral services for a fee to individuals seeking assistance in
 2296 finding a suitable residence facility; however, any fee paid for

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2297 placement or referral services must be paid by the individual
 2298 looking for a residence facility, not by the residence facility.

2299 (2) A violation of this section shall be considered
 2300 patient brokering and is punishable as provided in s. 817.505.

2301 (3) This section does not apply to residents of an
 2302 assisted living residence who refer friends, family members, or
 2303 other individuals with whom they have a personal relationship to
 2304 the assisted living residence, and does not prohibit the
 2305 licensee of the assisted living residence from providing a
 2306 monetary reward to the resident for making such a referral.

2307 Section 27. Section 429.20, Florida Statutes, is amended
 2308 to read:

2309 429.20 Certain solicitation prohibited; third-party
 2310 supplementation.—

2311 (1) A person may not, in connection with the solicitation
 2312 of contributions by or on behalf of an assisted living residence
 2313 facility or residences facilities, misrepresent or mislead any
 2314 person, by any manner, means, practice, or device whatsoever, to
 2315 believe that the receipts of such solicitation will be used for
 2316 charitable purposes, if that is not the fact.

2317 (2) Solicitation of contributions of any kind in a
 2318 threatening, coercive, or unduly forceful manner by or on behalf
 2319 of an assisted living residence facility or residences
 2320 ~~facilities~~ by any agent, employee, owner, or representative of
 2321 any assisted living residence facility or residences facilities
 2322 is prohibited grounds for denial, suspension, or revocation of
 2323 ~~the license of the assisted living facility or facilities by or~~
 2324 ~~on behalf of which such contributions were solicited.~~

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2325 (3) The admission or maintenance of assisted living
 2326 residence facility residents whose care is supported, in whole
 2327 or in part, by state funds may not be conditioned upon the
 2328 receipt of any manner of contribution or donation from any
 2329 person. ~~The solicitation or receipt of contributions in~~
 2330 ~~violation of this subsection is grounds for denial, suspension,~~
 2331 ~~or revocation of license, as provided in s. 429.14, for any~~
 2332 ~~assisted living facility by or on behalf of which such~~
 2333 ~~contributions were solicited.~~

2334 (4) An assisted living residence facility may accept
 2335 additional supplementation from third parties on behalf of
 2336 residents receiving optional state supplementation in accordance
 2337 with s. 409.212.

2338 Section 28. Section 429.22, Florida Statutes, is amended
 2339 to read:

2340 429.22 Receivership proceedings.—

2341 (1) As an alternative to or in conjunction with an
 2342 injunctive proceeding, the agency may petition a court of
 2343 competent jurisdiction for the appointment of a receiver, if
 2344 suitable alternate placements are not available, when any of the
 2345 following conditions exist:

2346 (a) The residence facility is operating without a license
 2347 having been obtained by a licensee and refuses to make
 2348 application for a license as required by ss. 429.07 and 429.08.

2349 (b) The residence facility is closing or has informed the
 2350 agency that it intends to close and adequate arrangements have
 2351 not been made for relocation of the residents within 7 days,
 2352 exclusive of weekends and holidays, of the closing of the

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2353 residence ~~faciility~~.

2354 (c) The agency determines there exist in the residence
 2355 ~~faciility~~ conditions which present an imminent danger to the
 2356 health, safety, or welfare of the residents of the residence
 2357 ~~faciility~~ or a substantial probability that death or serious
 2358 physical harm would result therefrom.

2359 (d) The licensee of the residence ~~faciility~~ cannot meet its
 2360 financial obligation for providing food, shelter, care, and
 2361 utilities.

2362 (2) Petitions for receivership shall take precedence over
 2363 other court business unless the court determines that some other
 2364 pending proceeding, having similar statutory precedence, shall
 2365 have priority. A hearing shall be conducted within 5 days of the
 2366 filing of the petition, at which time all interested parties
 2367 shall have the opportunity to present evidence pertaining to the
 2368 petition. The agency shall notify, by certified mail, the
 2369 licensee, owner or administrator of the residence ~~faciility~~ named
 2370 in the petition, and the residence ~~faciility~~ resident or, if
 2371 applicable, the resident's representative or designee, or the
 2372 resident's surrogate, guardian, or attorney in fact, of its
 2373 filing, the substance of the violation, and the date and place
 2374 set for the hearing. The court shall grant the petition only
 2375 upon finding that the health, safety, or welfare of residence
 2376 ~~faciility~~ residents would be threatened if a condition existing
 2377 at the time the petition was filed is permitted to continue. A
 2378 receiver shall not be appointed ex parte unless the court
 2379 determines that one or more of the conditions in subsection (1)
 2380 exist; that the residence licensee, ~~faciility~~ owner, or

2381 administrator cannot be found; that all reasonable means of
 2382 locating the licensee, owner, or administrator and notifying him
 2383 or her of the petition and hearing have been exhausted; or that
 2384 the licensee, owner, or administrator after notification of the
 2385 hearing chooses not to attend. After such findings, the court
 2386 may appoint any qualified person as a receiver, except it may
 2387 not appoint any owner or affiliate of the residence that
 2388 ~~facility which~~ is in receivership. The receiver may be selected
 2389 from a list of persons qualified to act as receivers developed
 2390 by the agency and presented to the court with each petition for
 2391 receivership. Under no circumstances may the agency or
 2392 designated agency employee be appointed as a receiver for more
 2393 than 60 days; however, the receiver may petition the court, one
 2394 time only, for a 30-day extension. The court shall grant the
 2395 extension upon a showing of good cause.

2396 (3) The receiver must make provisions for the continued
 2397 health, safety, and welfare of all residents of the residence
 2398 ~~facility~~ and:

2399 (a) Shall exercise those powers and perform those duties
 2400 set out by the court.

2401 (b) Shall operate the residence ~~facility~~ in such a manner
 2402 as to assure safety and adequate health care for the residents.

2403 (c) Shall take such action as is reasonably necessary to
 2404 protect or conserve the assets or property of the residence
 2405 ~~facility~~ for which the receiver is appointed, or the proceeds
 2406 from any transfer thereof, and may use them only in the
 2407 performance of the powers and duties set forth in this section
 2408 and by order of the court.

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2409 (d) May use the building, fixtures, furnishings, and any
2410 accompanying consumable goods in the provision of care and
2411 services to residents and to any other persons receiving
2412 services from the residence ~~facility~~ at the time the petition
2413 for receivership was filed. The receiver shall collect payments
2414 for all goods and services provided to residents or others
2415 during the period of the receivership at the same rate of
2416 payment charged by the owners at the time the petition for
2417 receivership was filed, or at a fair and reasonable rate
2418 otherwise approved by the court.

2419 (e) May correct or eliminate any deficiency in the
2420 structure or furnishings of the residence ~~facility~~ which
2421 endangers the safety or health of residents while they remain in
2422 the residence ~~facility~~, if the total cost of correction does not
2423 exceed \$10,000. The court may order expenditures for this
2424 purpose in excess of \$10,000 on application from the receiver
2425 after notice to the owner and a hearing.

2426 (f) May let contracts and hire agents and employees to
2427 carry out the powers and duties of the receiver.

2428 (g) Shall honor all leases, mortgages, and secured
2429 transactions governing the building or buildings in which the
2430 residence ~~facility~~ is located and all goods and fixtures in the
2431 building or buildings of which the receiver has taken
2432 possession, but only to the extent of payments which, in the
2433 case of a rental agreement, are for the use of the property
2434 during the period of the receivership, or which, in the case of
2435 a purchase agreement, become due during the period of the
2436 receivership.

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2437 (h) Shall have full power to direct and manage and to
2438 discharge employees of the residence ~~facility~~, subject to any
2439 contract rights they may have. The receiver shall pay employees
2440 at the rate of compensation, including benefits, approved by the
2441 court. A receivership does not relieve the licensee or owner of
2442 any obligation to employees made prior to the appointment of a
2443 receiver and not carried out by the receiver.

2444 (i) Shall be entitled to and take possession of all
2445 property or assets of residents which are in the possession of a
2446 residence, licensee, facility or its owner. The receiver shall
2447 preserve all property, assets, and records of residents of which
2448 the receiver takes possession and shall provide for the prompt
2449 transfer of the property, assets, and records to the new
2450 placement of any transferred resident. An inventory list
2451 certified by the licensee or owner and receiver shall be made
2452 immediately at the time the receiver takes possession of the
2453 residence facility.

2454 (4) (a) A person who is served with notice of an order of
2455 the court appointing a receiver and of the receiver's name and
2456 address shall be liable to pay the receiver for any goods or
2457 services provided by the receiver after the date of the order if
2458 the person would have been liable for the goods or services as
2459 supplied by the licensee or owner. The receiver shall give a
2460 receipt for each payment and shall keep a copy of each receipt
2461 on file. The receiver shall deposit accounts received in a
2462 separate account and shall use this account for all
2463 disbursements.

2464 (b) The receiver may bring an action to enforce the

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2465 liability created by paragraph (a).

2466 (c) A payment to the receiver of any sum owing to the
2467 residence, licensee, facility or its owner shall discharge any
2468 obligation to the residence facility to the extent of the
2469 payment.

2470 (5) (a) A receiver may petition the court that he or she
2471 not be required to honor any lease, mortgage, secured
2472 transaction, or other wholly or partially executory contract
2473 entered into by the licensee or owner of the residence facility
2474 if the rent, price, or rate of interest required to be paid
2475 under the agreement was substantially in excess of a reasonable
2476 rent, price, or rate of interest at the time the contract was
2477 entered into, or if any material provision of the agreement was
2478 unreasonable, when compared to contracts negotiated under
2479 similar conditions. Any relief in this form provided by the
2480 court shall be limited to the life of the receivership, unless
2481 otherwise determined by the court.

2482 (b) If the receiver is in possession of real estate or
2483 goods subject to a lease, mortgage, or security interest which
2484 the receiver has obtained a court order to avoid under paragraph
2485 (a), and if the real estate or goods are necessary for the
2486 continued operation of the residence facility under this
2487 section, the receiver may apply to the court to set a reasonable
2488 rental, price, or rate of interest to be paid by the receiver
2489 during the duration of the receivership. The court shall hold a
2490 hearing on the application within 15 days. The receiver shall
2491 send notice of the application to any known persons who own the
2492 property involved at least 10 days prior to the hearing. Payment

2493 | by the receiver of the amount determined by the court to be
 2494 | reasonable is a defense to any action against the receiver for
 2495 | payment or for possession of the goods or real estate subject to
 2496 | the lease, security interest, or mortgage involved by any person
 2497 | who received such notice, but the payment does not relieve the
 2498 | licensee or owner of the residence facility of any liability for
 2499 | the difference between the amount paid by the receiver and the
 2500 | amount due under the original lease, security interest, or
 2501 | mortgage involved.

2502 | (6) The court shall set the compensation of the receiver,
 2503 | which will be considered a necessary expense of a receivership.

2504 | (7) A receiver may be held liable in a personal capacity
 2505 | only for the receiver's own gross negligence, intentional acts,
 2506 | or breach of fiduciary duty.

2507 | (8) The court may require a receiver to post a bond.

2508 | (9) The court may direct the agency to allocate funds from
 2509 | the Health Care Trust Fund to the receiver, subject to the
 2510 | provisions of s. 429.18.

2511 | (10) The court may terminate a receivership when:

2512 | (a) The court determines that the receivership is no
 2513 | longer necessary because the conditions which gave rise to the
 2514 | receivership no longer exist or the agency grants the licensee
 2515 | of the residence facility a new license; or

2516 | (b) All of the residents in the residence facility have
 2517 | been transferred or discharged.

2518 | (11) Within 30 days after termination, the receiver shall
 2519 | give the court a complete accounting of all property of which
 2520 | the receiver has taken possession, of all funds collected, and

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2521 of the expenses of the receivership.

2522 (12) Nothing in this section shall be deemed to relieve
 2523 any licensee, owner, administrator, or employee of a residence
 2524 ~~facility~~ placed in receivership of any civil or criminal
 2525 liability incurred, or any duty imposed by law, by reason of
 2526 acts or omissions of the licensee, owner, administrator, or
 2527 employee prior to the appointment of a receiver; nor shall
 2528 anything contained in this section be construed to suspend
 2529 during the receivership any obligation of the owner,
 2530 administrator, or employee for payment of taxes or other
 2531 operating and maintenance expenses of the residence ~~facility~~ or
 2532 of the licensee, owner, administrator, employee, or any other
 2533 person for the payment of mortgages or liens. The owner shall
 2534 retain the right to sell or mortgage any residence ~~facility~~
 2535 under receivership, subject to approval of the court which
 2536 ordered the receivership.

2537 Section 29. Section 429.23, Florida Statutes, is amended
 2538 to read:

2539 429.23 Internal risk management and quality assurance
 2540 program; adverse incidents and reporting requirements.—

2541 (1) Every licensed residence facility ~~licensed under this~~
 2542 ~~part~~ may, as part of its administrative functions, voluntarily
 2543 establish a risk management and quality assurance program, the
 2544 purpose of which is to assess resident care practices, residence
 2545 ~~facility~~ incident reports, violations ~~deficiencies~~ cited by the
 2546 agency, adverse incident reports, and resident grievances and
 2547 develop plans of action to correct and respond quickly to
 2548 identify quality differences.

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2549 (2) Every licensed residence facility ~~licensed under this~~
 2550 ~~part~~ is required to maintain adverse incident reports. For
 2551 purposes of this section, the term, "adverse incident" means:

2552 (a) An event over which residence staff ~~facility personnel~~
 2553 could exercise control rather than as a result of the resident's
 2554 condition and results in:

- 2555 1. Death;
- 2556 2. Brain or spinal damage;
- 2557 3. Permanent disfigurement;
- 2558 4. Fracture or dislocation of bones or joints;
- 2559 5. Any condition that required medical attention to which
 2560 the resident has not given his or her consent, excluding
 2561 proceedings governed by part I of chapter 394, but including
 2562 failure to honor advanced directives;

2563 6. Any condition that requires the transfer of the
 2564 resident from the residence facility to a unit providing more
 2565 acute care due to the incident rather than the resident's
 2566 condition before the incident; or

2567 7. An event that is reported to law enforcement ~~or its~~
 2568 ~~personnel~~ for investigation; or

2569 (b) Resident elopement, if the elopement places the
 2570 resident at risk of harm or injury.

2571 ~~(3) Licensed facilities shall provide within 1 business~~
 2572 ~~day after the occurrence of an adverse incident, by electronic~~
 2573 ~~mail, facsimile, or United States mail, a preliminary report to~~
 2574 ~~the agency on all adverse incidents specified under this~~
 2575 ~~section. The report must include information regarding the~~
 2576 ~~identity of the affected resident, the type of adverse incident,~~

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2577 ~~and the status of the facility's investigation of the incident.~~

2578 (3)~~(4)~~ Licensed residences ~~facilities~~ shall provide within
2579 7 business ~~15~~ days after the occurrence of an adverse incident,
2580 by electronic mail, facsimile, or United States mail, a full
2581 report to the agency on the all adverse incident, including
2582 information regarding the identity of the affected resident, the
2583 type of adverse incident, and incidents specified in this
2584 ~~section. The report must include the results of the~~ residence's
2585 ~~facility's~~ investigation into the adverse incident.

2586 ~~(5) Each facility shall report monthly to the agency any~~
2587 ~~liability claim filed against it. The report must include the~~
2588 ~~name of the resident, the dates of the incident leading to the~~
2589 ~~claim, if applicable, and the type of injury or violation of~~
2590 ~~rights alleged to have occurred. This report is not discoverable~~
2591 ~~in any civil or administrative action, except in such actions~~
2592 ~~brought by the agency to enforce the provisions of this part.~~

2593 (4)~~(6)~~ Abuse, neglect, or exploitation must be reported to
2594 the Department of Children and Family Services as required under
2595 chapter 415.

2596 (5)~~(7)~~ The information reported to the agency pursuant to
2597 subsection (3) which relates to persons licensed under chapter
2598 458, chapter 459, chapter 461, chapter 464, or chapter 465 shall
2599 be reviewed by the agency. The agency shall determine whether
2600 any of the incidents potentially involved conduct by a health
2601 care professional who is subject to disciplinary action, in
2602 which case the provisions of s. 456.073 apply. The agency may
2603 investigate, as it deems appropriate, any such incident and
2604 prescribe measures that must or may be taken in response to the

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2605 incident. The agency shall review each incident and determine
 2606 whether it potentially involved conduct by a health care
 2607 professional who is subject to disciplinary action, in which
 2608 case the provisions of s. 456.073 apply.

2609 ~~(6)-(8)~~ If the agency, through its receipt of the adverse
 2610 incident reports prescribed in this part or through any
 2611 investigation, has reasonable belief that conduct by a staff
 2612 member ~~or employee~~ of a licensed residence facility is grounds
 2613 for disciplinary action by the appropriate board, the agency
 2614 shall report this fact to such regulatory board.

2615 ~~(7)-(9)~~ The adverse incident report ~~reports and preliminary~~
 2616 ~~adverse incident reports~~ required under this section is ~~are~~
 2617 confidential as provided by law and is ~~are~~ not discoverable or
 2618 admissible in any civil or administrative action, except in
 2619 disciplinary proceedings by the agency or appropriate regulatory
 2620 board.

2621 ~~(8)-(10)~~ The Department of Elderly Affairs may adopt rules
 2622 necessary to administer this section.

2623 Section 30. Section 429.24, Florida Statutes, is amended
 2624 to read:

2625 429.24 Contracts.—

2626 (1) The presence of each resident in a residence facility
 2627 shall be covered by a contract, executed at the time of
 2628 admission or prior thereto, between the licensee and the
 2629 resident or his or her designee or legal representative. Each
 2630 party to the contract shall be provided with a duplicate
 2631 original thereof, and the licensee shall keep on file in the
 2632 residence facility all such contracts. The licensee may not

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2633 | destroy or otherwise dispose of any such contract until 5 years
2634 | after its expiration.

2635 | (2) Each contract must contain express provisions
2636 | specifically setting forth the services and accommodations to be
2637 | provided by the residence facility; the rates or charges;
2638 | provision for at least 30 days' written notice of a rate
2639 | increase; the rights, duties, and obligations of the residents,
2640 | other than those specified in s. 429.28; and other matters that
2641 | the parties deem appropriate. Whenever money is deposited or
2642 | advanced by a resident in a contract as security for performance
2643 | of the contract agreement or as advance rent for other than the
2644 | next immediate rental period:

2645 | (a) Such funds shall be deposited in a banking institution
2646 | in this state that is located, if possible, in the same
2647 | community in which the residence facility is located; shall be
2648 | kept separate from the funds and property of the residence
2649 | facility; may not be represented as part of the assets of the
2650 | residence facility on financial statements; and shall be used,
2651 | or otherwise expended, only for the account of the resident.

2652 | (b) The licensee shall, within 30 days of receipt of
2653 | advance rent or a security deposit, notify the resident or
2654 | residents in writing of the manner in which the licensee is
2655 | holding the advance rent or security deposit and state the name
2656 | and address of the depository where the moneys are being held.
2657 | The licensee shall notify residents of the residence's
2658 | facility's policy on disposition of advance deposits.

2659 | (3) (a) The contract shall include a refund policy to be
2660 | implemented at the time of a resident's transfer, discharge, or

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2661 death. The refund policy shall provide that the resident or
 2662 responsible party is entitled to a prorated refund based on the
 2663 daily rate for any unused portion of payment beyond the
 2664 termination date after all charges, including the cost of
 2665 damages to the residential unit resulting from circumstances
 2666 other than normal use, have been paid to the licensee. For the
 2667 purpose of this paragraph, the termination date shall be the
 2668 date the unit is vacated by the resident and cleared of all
 2669 personal belongings. If the amount of belongings does not
 2670 preclude renting the unit, the residence ~~facility~~ may clear the
 2671 unit and charge the resident or his or her estate for moving and
 2672 storing the items at a rate equal to the actual cost to the
 2673 residence ~~facility~~, not to exceed 20 percent of the regular rate
 2674 for the unit, provided that 14 days' advance written
 2675 notification is given. If the resident's possessions are not
 2676 claimed within 45 days after notification, the residence
 2677 ~~facility~~ may dispose of them. The contract shall also specify
 2678 any other conditions under which claims will be made against the
 2679 refund due the resident. Except in the case of death or a
 2680 discharge due to medical reasons, the refunds shall be computed
 2681 in accordance with the notice of relocation requirements
 2682 specified in the contract. However, a resident may not be
 2683 required to provide the licensee with more than 30 days' notice
 2684 of termination. If after a contract is terminated, the licensee
 2685 ~~facility~~ intends to make a claim against a refund due the
 2686 resident, the licensee ~~facility~~ shall notify the resident or
 2687 responsible party in writing of the claim and shall provide said
 2688 party with a reasonable time period of no less than 14 calendar

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2689 days to respond. The licensee ~~facility~~ shall provide a refund to
 2690 the resident or responsible party within 45 days after the
 2691 transfer, discharge, or death of the resident. The agency shall
 2692 impose a fine upon a licensee ~~facility~~ that fails to comply with
 2693 the refund provisions of the paragraph, which fine shall be
 2694 equal to three times the amount due to the resident. One-half of
 2695 the fine shall be remitted to the resident or his or her estate,
 2696 and the other half to the Health Care Trust Fund to be used for
 2697 the purpose specified in s. 429.18.

2698 (b) If a licensee agrees to reserve a bed for a resident
 2699 who is admitted to a medical facility, including, but not
 2700 limited to, a nursing home, health care facility, or psychiatric
 2701 facility, the resident or his or her responsible party shall
 2702 notify the licensee of any change in status that would prevent
 2703 the resident from returning to the residence ~~facility~~. Until
 2704 such notice is received, the agreed-upon daily rate may be
 2705 charged by the licensee.

2706 (c) The purpose of any advance payment and a refund policy
 2707 for such payment, including any advance payment for housing,
 2708 meals, or personal services, shall be covered in the contract.

2709 (4) The contract shall state whether or not the residence
 2710 ~~facility~~ is affiliated with any religious organization and, if
 2711 so, which organization and its general responsibility to the
 2712 residence ~~facility~~.

2713 (5) Neither the contract nor any provision thereof
 2714 relieves any licensee of any requirement or obligation imposed
 2715 upon the licensee ~~it~~ by this part or rules adopted under this
 2716 part.

2717 (6) In lieu of the provisions of this section, facilities
 2718 certified under chapter 651 shall comply with the requirements
 2719 of s. 651.055.

2720 (7) Notwithstanding the provisions of this section,
 2721 residences ~~facilities~~ which consist of 60 or more dwelling units
 2722 ~~apartments~~ may require refund policies and termination notices
 2723 in accordance with the provisions of part II of chapter 83,
 2724 provided that the lease is terminated automatically without
 2725 financial penalty in the event of a resident's death or
 2726 relocation due to psychiatric hospitalization or to medical
 2727 reasons which necessitate services or care beyond which the
 2728 licensee ~~facility~~ is licensed to provide. The date of
 2729 termination in such instances shall be the date the unit is
 2730 fully vacated. A lease may be substituted for the contract if it
 2731 meets the disclosure requirements of this section. For the
 2732 purpose of this section, the term "apartment" means a room or
 2733 set of rooms with a kitchen or kitchenette and lavatory located
 2734 within one or more buildings containing other similar or like
 2735 residential units.

2736 (8) The department may by rule clarify terms, establish
 2737 procedures, clarify refund policies and contract provisions, and
 2738 specify documentation as necessary to administer this section.

2739 Section 31. Section 429.255, Florida Statutes, is amended
 2740 to read:

2741 429.255 Use of personnel; emergency care.-

2742 (1) (a) Persons under contract to the residence facility,
 2743 or residence facility staff, ~~or volunteers~~, who are licensed
 2744 according to part I of chapter 464, or those persons exempt

2745 | under s. 464.022(1), and others as defined by rule, may
 2746 | administer medications to residents, take residents' vital
 2747 | signs, manage individual weekly pill organizers for residents
 2748 | who self-administer medication, give prepackaged enemas ordered
 2749 | by a physician, observe residents, document observations on the
 2750 | appropriate resident's record, report observations to the
 2751 | resident's physician, and contract or allow residents or a
 2752 | resident's representative, designee, surrogate, guardian, or
 2753 | attorney in fact to contract with a third party, provided
 2754 | residents meet the criteria for appropriate placement as defined
 2755 | in s. 429.26. Nursing assistants certified pursuant to part II
 2756 | of chapter 464 may take residents' vital signs as directed by a
 2757 | licensed nurse or physician. Persons under contract to the
 2758 | residence or residence staff who are licensed under part I of
 2759 | chapter 464 may provide limited nursing services.

2760 | (b) All staff in residences ~~facilities~~ licensed under this
 2761 | part shall exercise their ~~professional~~ responsibility to observe
 2762 | residents, to document observations on the appropriate
 2763 | resident's record, and to report the observations to the
 2764 | administrator or the administrator's designee ~~resident's~~
 2765 | ~~physician.~~ The ~~However, the owner or~~ administrator of the
 2766 | residence ~~facility~~ shall be responsible for determining that the
 2767 | resident receiving services is appropriate for residence in the
 2768 | assisted living residence ~~facility~~.

2769 | ~~(c) In an emergency situation, licensed personnel may~~
 2770 | ~~carry out their professional duties pursuant to part I of~~
 2771 | ~~chapter 464 until emergency medical personnel assume~~
 2772 | ~~responsibility for care.~~

2773 (2) In residences for which a licensee has been ~~facilities~~
 2774 licensed to provide extended congregate care, persons under
 2775 contract to the residence facility, or residence facility staff,
 2776 ~~or volunteers~~, who are licensed according to part I of chapter
 2777 464, or those persons exempt under s. 464.022(1), or those
 2778 persons certified as nursing assistants pursuant to part II of
 2779 chapter 464, may also perform all duties within the scope of
 2780 their license or certification, as approved by the residence
 2781 ~~facility~~ administrator and pursuant to this part.

2782 (3) Residence Facility staff may withhold or withdraw
 2783 cardiopulmonary resuscitation if presented with an order not to
 2784 resuscitate executed pursuant to s. 401.45. ~~The department shall~~
 2785 ~~adopt rules providing for the implementation of such orders.~~
 2786 Residence Facility staff and residences facilities shall not be
 2787 subject to criminal prosecution or civil liability, nor be
 2788 considered to have engaged in negligent or unprofessional
 2789 conduct, for withholding or withdrawing cardiopulmonary
 2790 resuscitation pursuant to such an order and rules adopted by the
 2791 department. The absence of an order to resuscitate executed
 2792 pursuant to s. 401.45 does not preclude a physician from
 2793 withholding or withdrawing cardiopulmonary resuscitation as
 2794 otherwise permitted by law.

2795 Section 32. Section 429.256, Florida Statutes, is amended
 2796 to read:

2797 429.256 Assistance with self-administration of
 2798 medication.—

2799 (1) For the purposes of this section, the term:

2800 (a) "Informed consent" means advising the resident, or the

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2801 resident's surrogate, guardian, or attorney in fact, that an
2802 assisted living residence ~~facility~~ is not required to have a
2803 licensed nurse on staff, that the resident may be receiving
2804 assistance with self-administration of medication from an
2805 unlicensed person, and that such assistance, if provided by an
2806 unlicensed person, will or will not be overseen by a licensed
2807 nurse.

2808 (b) "Unlicensed person" means an individual not currently
2809 licensed to practice nursing or medicine who is employed by or
2810 under contract to an assisted living residence ~~facility~~ and who
2811 has received training with respect to assisting with the self-
2812 administration of medication in an assisted living residence
2813 ~~facility~~ as provided under s. 429.52 prior to providing such
2814 assistance as described in this section.

2815 (2) Residents who are capable of self-administering their
2816 own medications without assistance shall be encouraged and
2817 allowed to do so. However, an unlicensed person may, consistent
2818 with a dispensed prescription's label or the package directions
2819 of an over-the-counter medication, assist a resident whose
2820 condition is medically stable with the self-administration of
2821 routine, regularly scheduled medications that are intended to be
2822 self-administered. Assistance with self-medication by an
2823 unlicensed person may occur only upon a documented request by,
2824 and the written informed consent of, a resident or the
2825 resident's surrogate, guardian, or attorney in fact. To minimize
2826 the potential risk for improper dosage administration of
2827 prescription drugs, a residence may require standard medication
2828 dispensing systems for residents' prescriptions. For the

2829 | purposes of this section, self-administered medications include
 2830 | both legend and over-the-counter oral dosage forms, topical
 2831 | dosage forms and topical ophthalmic, otic, and nasal dosage
 2832 | forms including solutions, suspensions, sprays, and inhalers.

2833 | (3) Assistance with self-administration of medication
 2834 | includes:

2835 | (a) Taking the medication, in its previously dispensed,
 2836 | properly labeled container, from where it is stored, and
 2837 | bringing it to the resident.

2838 | (b) In the presence of the resident, reading the label,
 2839 | opening the container, removing a prescribed amount of
 2840 | medication from the container, and closing the container.

2841 | (c) Placing an oral dosage in the resident's hand or
 2842 | placing the dosage in another container and helping the resident
 2843 | by lifting the container to his or her mouth.

2844 | (d) Applying topical medications.

2845 | (e) Returning the medication container to proper storage.

2846 | (f) Keeping a record of when a resident receives
 2847 | assistance with self-administration under this section.

2848 | (g) Preparing syringes for injection or the administration
 2849 | of medications by any injectable route.

2850 | (h) Administering medications through intermittent
 2851 | positive pressure breathing machines or a nebulizer.

2852 | (i) Using a glucometer to perform blood glucose checks.

2853 | (j) Assisting with the putting on and taking off ted hose.

2854 | (4) Assistance with self-administration does not include:

2855 | (a) Mixing, compounding, converting, or calculating
 2856 | medication doses, except for measuring a prescribed amount of

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2857 liquid medication or breaking a scored tablet or crushing a
2858 tablet as prescribed.

2859 ~~(b) The preparation of syringes for injection or the~~
2860 ~~administration of medications by any injectable route.~~

2861 ~~(c) Administration of medications through intermittent~~
2862 ~~positive pressure breathing machines or a nebulizer.~~

2863 (b)~~(d)~~ Administration of medications by way of a tube
2864 inserted in a cavity of the body.

2865 (c)~~(e)~~ Administration of parenteral preparations.

2866 (d)~~(f)~~ Irrigations or debriding agents used in the
2867 treatment of a skin condition.

2868 (e)~~(g)~~ Rectal, urethral, or vaginal preparations.

2869 (f)~~(h)~~ Medications ordered by the physician or health care
2870 professional with prescriptive authority to be given "as
2871 needed," unless the order is written with specific parameters
2872 that preclude independent judgment on the part of the unlicensed
2873 person, and at the request of a competent resident.

2874 (g)~~(i)~~ Medications for which the time of administration,
2875 the amount, the strength of dosage, the method of
2876 administration, or the reason for administration requires
2877 judgment or discretion on the part of the unlicensed person.

2878 (5) Assistance with the self-administration of medication
2879 by an unlicensed person as described in this section shall not
2880 be considered administration as defined in s. 465.003.

2881 (6) The department may by rule establish residence
2882 ~~facility~~ procedures and interpret terms as necessary to
2883 implement this section.

2884 Section 33. Section 429.26, Florida Statutes, is amended

2885 to read:

2886 429.26 Appropriateness of placements; examinations of
 2887 residents.—

2888 (1) The ~~owner or~~ administrator of a residence facility is
 2889 responsible for determining the appropriateness of admission of
 2890 an individual to the residence facility and for determining the
 2891 continued appropriateness of residency ~~residence of an~~
 2892 ~~individual~~ in the residence facility. A determination shall be
 2893 based upon an assessment of the strengths, needs, and
 2894 preferences of the resident, the care and services offered or
 2895 arranged for by the residence facility in accordance with
 2896 residence facility policy, and any limitations in law or rule
 2897 related to admission criteria or continued residency for the
 2898 type of license held by the licensee of the residence facility
 2899 ~~under this part~~. A resident may not be moved from one residence
 2900 ~~facility~~ to another without consultation with and agreement from
 2901 the resident or, if applicable, the resident's representative or
 2902 designee or the resident's family, guardian, surrogate, or
 2903 attorney in fact. In the case of a resident who has been placed
 2904 by the department or the Department of Children and Family
 2905 Services, the administrator must notify the appropriate contact
 2906 person in the applicable department.

2907 (2) A physician, physician assistant, or nurse
 2908 practitioner who is employed by an assisted living residence
 2909 ~~facility~~ to provide an initial examination for admission
 2910 purposes may not have financial interest in the residence
 2911 ~~facility~~.

2912 (3) Persons licensed under part I of chapter 464 who are

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2913 employed by or under contract with a residence ~~faciility~~ shall,
 2914 on a routine basis or at least monthly, perform a nursing
 2915 assessment of the residents for whom they are providing nursing
 2916 services ordered by a physician, except administration of
 2917 medication, and shall document such assessment, including any
 2918 significant change ~~substantial changes~~ in a resident's status
 2919 which may necessitate relocation to a nursing home, hospital, or
 2920 specialized health care facility. Such records shall be
 2921 maintained in the residence ~~faciility~~ for inspection by the
 2922 agency and shall be forwarded to the resident's case manager, if
 2923 applicable.

2924 (4) If possible, each resident shall have been examined by
 2925 a licensed physician, a licensed physician assistant, or a
 2926 licensed nurse practitioner within 60 days before admission to
 2927 the residence ~~faciility~~. The signed and completed medical
 2928 examination report shall be submitted to the owner or
 2929 administrator of the residence ~~faciility~~ who shall use the
 2930 information contained therein to assist in the determination of
 2931 the appropriateness of the resident's admission and continued
 2932 stay in the residence ~~faciility~~. The medical examination report
 2933 shall become a permanent part of the record of the resident at
 2934 the residence ~~faciility~~ and shall be made available to the agency
 2935 during inspection or upon request. An assessment that has been
 2936 completed through the Comprehensive Assessment and Review for
 2937 Long-Term Care Services (CARES) Program fulfills the
 2938 requirements for a medical examination under this subsection and
 2939 s. 429.07(3)(b)6.

2940 (5) Except as provided in s. 429.07, if a medical

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2941 examination has not been completed within 60 days before the
 2942 admission of the resident to the residence facility, a licensed
 2943 physician, licensed physician assistant, or licensed nurse
 2944 practitioner shall examine the resident and complete a medical
 2945 examination form provided by the agency within 30 days following
 2946 the admission to the residence facility to enable the residence
 2947 licensee, facility owner or administrator to determine the
 2948 appropriateness of the admission. The medical examination form
 2949 shall become a permanent part of the record of the resident at
 2950 the residence facility and shall be made available to the agency
 2951 during inspection by the agency or upon request.

2952 (6) Any resident accepted in a residence facility and
 2953 placed by the department or the Department of Children and
 2954 Family Services shall have been examined by medical personnel
 2955 within 30 days before placement in the residence facility. The
 2956 examination shall include an assessment of the appropriateness
 2957 of placement in a residence facility. The findings of this
 2958 examination shall be recorded on the examination form provided
 2959 by the agency. The completed form shall accompany the resident
 2960 and shall be submitted to the residence facility ~~owner or~~
 2961 administrator. Additionally, in the case of a mental health
 2962 resident, the Department of Children and Family Services must
 2963 provide documentation that the individual has been assessed by a
 2964 psychiatrist, clinical psychologist, clinical social worker, or
 2965 psychiatric nurse, or an individual who is supervised by one of
 2966 these professionals, and determined to be appropriate to reside
 2967 in an assisted living residence facility. The documentation must
 2968 be in the residence facility within 30 days after the mental

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2969 health resident has been admitted to the residence ~~facility~~. An
 2970 evaluation completed upon discharge from a state mental hospital
 2971 meets the requirements of this subsection related to
 2972 appropriateness for placement as a mental health resident
 2973 providing it was completed within 90 days prior to admission to
 2974 the residence ~~facility~~. The applicable department shall provide
 2975 to the residence ~~facility~~ administrator any information about
 2976 the resident that would help the administrator meet his or her
 2977 responsibilities under subsection (1). Further, department
 2978 personnel shall explain to the residence administrator ~~facility~~
 2979 ~~operator~~ any special needs of the resident and advise the
 2980 administrator ~~operator~~ whom to call should problems arise. The
 2981 applicable department shall advise and assist the residence
 2982 ~~facility~~ administrator where the special needs of residents who
 2983 are recipients of optional state supplementation require such
 2984 assistance.

2985 ~~(7) The facility must notify a licensed physician when a~~
 2986 ~~resident exhibits signs of dementia or cognitive impairment or~~
 2987 ~~has a change of condition in order to rule out the presence of~~
 2988 ~~an underlying physiological condition that may be contributing~~
 2989 ~~to such dementia or impairment. The notification must occur~~
 2990 ~~within 30 days after the acknowledgment of such signs by~~
 2991 ~~facility staff. If an underlying condition is determined to~~
 2992 ~~exist, the facility shall arrange, with the appropriate health~~
 2993 ~~care provider, the necessary care and services to treat the~~
 2994 ~~condition.~~

2995 (7)(8) The Department of Children and Family Services may
 2996 require an examination for supplemental security income and

2997 optional state supplementation recipients residing in facilities
 2998 at any time and shall provide the examination whenever a
 2999 resident's condition requires it. Any facility administrator;
 3000 personnel of the agency, the department, or the Department of
 3001 Children and Family Services; ~~or long-term care ombudsman~~
 3002 ~~council member~~ who believes a resident needs to be evaluated
 3003 shall notify the resident's case manager, who shall take
 3004 appropriate action. A report of the examination findings shall
 3005 be provided to the resident's case manager and the facility
 3006 administrator to help the administrator meet his or her
 3007 responsibilities under subsection (1).

3008 (8) ~~(9)~~ A terminally ill resident who no longer meets the
 3009 criteria for continued residency may remain in the residence
 3010 ~~facility~~ if the arrangement is mutually agreeable to the
 3011 resident and the administrator, ~~facility~~; additional care is
 3012 rendered through a licensed hospice, and the resident is under
 3013 the care of a physician who agrees that the physical needs of
 3014 the resident are being met.

3015 (9) ~~(10)~~ Residences ~~Facilities~~ licensed to provide extended
 3016 congregate care services shall promote aging in place by
 3017 determining appropriateness of continued residency based on a
 3018 comprehensive review of the resident's physical and functional
 3019 status; the ability of the residence ~~facility~~, family members,
 3020 friends, or any other pertinent individuals or agencies to
 3021 provide the care and services required; and documentation that a
 3022 written service plan consistent with residence ~~facility~~ policy
 3023 has been developed and implemented to ensure that the resident's
 3024 needs and preferences are addressed.

3025 ~~(10)-(11)~~ A ~~No~~ resident who requires 24-hour nursing
 3026 supervision, except for a resident who is an enrolled hospice
 3027 patient pursuant to part IV of chapter 400, may not ~~shall~~ be
 3028 retained in a licensed residence facility ~~licensed under this~~
 3029 ~~part~~.

3030 Section 34. Section 429.27, Florida Statutes, is amended
 3031 to read:

3032 429.27 Property and personal affairs of residents.—

3033 (1) (a) A resident shall be given the option of using his
 3034 or her own belongings, as space permits; choosing his or her
 3035 roommate; and, whenever possible, unless the resident is
 3036 adjudicated incompetent or incapacitated under state law,
 3037 managing his or her own affairs.

3038 (b) The admission of a resident to a residence facility
 3039 and his or her presence therein shall not give ~~confer on~~ the
 3040 residence facility or its licensee, owner, administrator,
 3041 employees, or representatives ~~any authority~~ to manage, use, or
 3042 dispose of any property of the resident; nor shall such
 3043 admission or presence confer on any of such persons any
 3044 authority or responsibility for the personal affairs of the
 3045 resident, except that which may be necessary for the safe
 3046 management of the residence facility or for the safety of the
 3047 resident.

3048 (2) The licensee, ~~A facility, or an~~ owner, administrator,
 3049 or employee of an assisted living residence, or representative
 3050 thereof, may not act as the guardian, trustee, or conservator
 3051 for any resident of the residence ~~assisted living facility~~ or
 3052 any of such resident's property. A licensee, ~~An~~ owner,

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3053 administrator, or staff member, or representative thereof, may
 3054 not act as a competent resident's payee for social security,
 3055 veteran's, or railroad benefits without the consent of the
 3056 resident. Any residence ~~facility~~ whose licensee, owner,
 3057 administrator, or staff, or representative thereof, serves as
 3058 representative payee for any resident of the residence ~~facility~~
 3059 shall file a surety bond with the agency in an amount equal to
 3060 twice the average monthly aggregate income or personal funds due
 3061 to residents, or expendable for their account, which are
 3062 received by a residence ~~facility~~. Any residence ~~facility~~ whose
 3063 licensee, owner, administrator, or staff, or a representative
 3064 thereof, is granted power of attorney for any resident of the
 3065 residence ~~facility~~ shall file a surety bond with the agency for
 3066 each resident for whom such power of attorney is granted. The
 3067 surety bond shall be in an amount equal to twice the average
 3068 monthly income of the resident, plus the value of any resident's
 3069 property under the control of the attorney in fact. The bond
 3070 shall be executed by the residence's licensee, owner,
 3071 administrator, or staff, or a representative thereof, ~~facility~~
 3072 as principal and a licensed surety company. The bond shall be
 3073 conditioned upon the faithful compliance of the licensee, owner,
 3074 administrator, or staff, or a representative thereof, of the
 3075 residence ~~facility~~ with this section and shall run to the agency
 3076 for the benefit of any resident who suffers a financial loss as
 3077 a result of the misuse or misappropriation by a licensee, owner,
 3078 administrator, or staff, or representative thereof, of the
 3079 residence ~~facility~~ of funds held pursuant to this subsection.
 3080 Any surety company that cancels or does not renew the bond of

3081 any licensee shall notify the agency in writing not less than 30
 3082 days in advance of such action, giving the reason for the
 3083 cancellation or nonrenewal. Any residence's licensee, facility
 3084 owner, administrator, or staff, or representative thereof, who
 3085 is granted power of attorney for any resident of the residence
 3086 facility shall, on a monthly basis, be required to provide the
 3087 resident a written statement of any transaction made on behalf
 3088 of the resident pursuant to this subsection, and a copy of such
 3089 statement given to the resident shall be retained in each
 3090 resident's file and available for agency inspection.

3091 (3) A residence administrator facility, upon mutual
 3092 consent with the resident, shall provide for the safekeeping in
 3093 the residence facility of personal effects, including funds, not
 3094 in excess of \$500 ~~and funds of the resident not in excess of~~
 3095 ~~\$200 cash~~, and shall keep complete and accurate records of all
 3096 such funds and personal effects received. If a resident is
 3097 absent from a residence facility for 24 hours or more, the
 3098 residence facility may provide for the safekeeping of the
 3099 resident's personal effects, including funds, in excess of \$500.

3100 (4) Any funds or other property belonging to or due to a
 3101 resident, or expendable for his or her account, which is
 3102 received by the administrator ~~a facility~~ shall be trust funds
 3103 which shall be kept separate from the funds and property of the
 3104 residence facility and other residents or shall be specifically
 3105 credited to such resident. Such trust funds shall be used or
 3106 otherwise expended only for the account of the resident. Upon
 3107 written request, at least once every 3 months, unless upon order
 3108 of a court of competent jurisdiction, the administrator facility

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3109 shall furnish the resident and his or her guardian, trustee, or
3110 conservator, if any, a complete and verified statement of all
3111 funds and other property to which this subsection applies,
3112 detailing the amount and items received, together with their
3113 sources and disposition. In any event, the administrator
3114 ~~facility~~ shall furnish such statement annually and upon the
3115 discharge or transfer of a resident. ~~Any governmental agency or~~
3116 ~~private charitable agency contributing funds or other property~~
3117 ~~to the account of a resident shall also be entitled to receive~~
3118 ~~such statement annually and upon the discharge or transfer of~~
3119 ~~the resident.~~

3120 (5) Any personal funds available to residence facility
3121 residents may be used by residents as they choose to obtain
3122 clothing, personal items, leisure activities, and other supplies
3123 and services for their personal use. An administrator ~~A facility~~
3124 may not demand, require, or contract for payment of all or any
3125 part of the personal funds in satisfaction of the residence
3126 ~~facility~~ rate for supplies and services beyond that amount
3127 agreed to in writing and ~~may not levy an additional charge to~~
3128 ~~the individual or the account for any supplies or services that~~
3129 ~~the facility has agreed by contract to provide as part of the~~
3130 ~~standard monthly rate.~~ Any service or supplies provided by the
3131 residence facility which are charged separately to the
3132 individual or the account may be provided only with the specific
3133 written consent of the individual, who shall be furnished in
3134 advance of the provision of the services or supplies with an
3135 itemized written statement to be attached to the contract
3136 setting forth the charges for the services or supplies.

3137 (6) (a) In addition to any damages or civil penalties to
 3138 which a person is subject, any person who:

3139 1. Intentionally withholds a resident's personal funds,
 3140 personal property, or personal needs allowance, or who demands,
 3141 beneficially receives, or contracts for payment of all or any
 3142 part of a resident's personal property or personal needs
 3143 allowance in satisfaction of the residence ~~facility~~ rate for
 3144 supplies and services; or

3145 2. Borrows from or pledges any personal funds of a
 3146 resident, other than the amount agreed to by written contract
 3147 under s. 429.24,
 3148
 3149 commits a misdemeanor of the first degree, punishable as
 3150 provided in s. 775.082 or s. 775.083.

3151 (b) Any residence, licensee, ~~facility~~ owner,
 3152 administrator, or staff, or representative thereof, who is
 3153 granted power of attorney for any resident of the residence
 3154 ~~facility~~ and who misuses or misappropriates funds obtained
 3155 through this power commits a felony of the third degree,
 3156 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3157 (7) In the event of the death of a resident, a licensee
 3158 shall return all refunds, funds, and property held in trust to
 3159 the resident's personal representative, if one has been
 3160 appointed at the time the residence ~~facility~~ disburses such
 3161 funds, and, if not, to the resident's spouse or adult next of
 3162 kin named in a beneficiary designation form provided by the
 3163 licensee ~~facility~~ to the resident. If the resident has no spouse
 3164 or adult next of kin or such person cannot be located, funds due

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3165 the resident shall be placed in an interest-bearing account, and
 3166 all property held in trust by the licensee ~~facility~~ shall be
 3167 safeguarded until such time as the funds and property are
 3168 disbursed pursuant to the Florida Probate Code. Such funds shall
 3169 be kept separate from the funds and property of the residence
 3170 ~~facility~~ and other residents of the residence ~~facility~~. If the
 3171 funds of the deceased resident are not disbursed pursuant to the
 3172 Florida Probate Code within 2 years after the resident's death,
 3173 the funds shall be deposited in the Health Care Trust Fund
 3174 administered by the agency.

3175 (8) The department may by rule clarify terms and specify
 3176 procedures and documentation necessary to administer the
 3177 provisions of this section relating to the proper management of
 3178 residents' funds and personal property and the execution of
 3179 surety bonds.

3180 Section 35. Section 429.275, Florida Statutes, is amended
 3181 to read:

3182 429.275 Business practice; personnel records; liability
 3183 insurance.—The assisted living residence ~~facility~~ shall be
 3184 administered on a sound financial basis that is consistent with
 3185 good business practices.

3186 (1) The licensee, administrator, or owner of a residence
 3187 ~~facility~~ shall maintain accurate business records that identify,
 3188 summarize, and classify funds received and expenses disbursed
 3189 and shall use written accounting procedures and a recognized
 3190 accounting system.

3191 (2) The licensee, administrator, or owner of a residence
 3192 ~~facility~~ shall maintain personnel records for each staff member

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3193 | which contain, at a minimum, documentation of background
 3194 | screening, if applicable, documentation of compliance with all
 3195 | training requirements of this part or applicable rule, and a
 3196 | copy of all licenses or certification held by each staff who
 3197 | performs services for which licensure or certification is
 3198 | required under this part or rule.

3199 | (3) The licensee, administrator, or owner of a residence
 3200 | ~~facility~~ shall maintain liability insurance coverage that is in
 3201 | force at all times.

3202 | ~~(4) The department may by rule clarify terms, establish~~
 3203 | ~~requirements for financial records, accounting procedures,~~
 3204 | ~~personnel procedures, insurance coverage, and reporting~~
 3205 | ~~procedures, and specify documentation as necessary to implement~~
 3206 | ~~the requirements of this section.~~

3207 | Section 36. Section 429.28, Florida Statutes, is amended
 3208 | to read:

3209 | 429.28 Resident bill of rights.—

3210 | (1) No resident of a residence ~~facility~~ shall be deprived
 3211 | of any civil or legal rights, benefits, or privileges guaranteed
 3212 | by law, the Constitution of the State of Florida, or the
 3213 | Constitution of the United States as a resident of an assisted
 3214 | living residence ~~a facility~~. Every resident of a residence
 3215 | ~~facility~~ shall have the right to:

3216 | (a) Live in a safe and decent living environment, free
 3217 | from abuse and neglect.

3218 | (b) Be treated with consideration and respect and with due
 3219 | recognition of personal dignity, individuality, and the need for
 3220 | privacy.

3221 (c) Retain and use his or her own clothes and other
 3222 personal property in his or her immediate living quarters, so as
 3223 to maintain individuality and personal dignity, except when the
 3224 residence ~~facility~~ can demonstrate that such would be unsafe,
 3225 impractical, or an infringement upon the rights of other
 3226 residents.

3227 (d) Unrestricted private communication, including
 3228 receiving and sending unopened correspondence, access to a
 3229 telephone, and visiting with any person of his or her choice, at
 3230 any time between the hours of 9 a.m. and 9 p.m. at a minimum.
 3231 Upon request, the administrator ~~facility~~ shall make provisions
 3232 to extend visiting hours for caregivers and out-of-town guests,
 3233 and in other similar situations.

3234 (e) Freedom to participate in and benefit from community
 3235 services and activities and to achieve the highest possible
 3236 level of independence, autonomy, and interaction within the
 3237 community.

3238 (f) Manage his or her financial affairs unless the
 3239 resident or, if applicable, the resident's representative,
 3240 designee, surrogate, guardian, or attorney in fact authorizes
 3241 the administrator of the residence ~~facility~~ to provide
 3242 safekeeping for funds as provided in s. 429.27.

3243 (g) Share a room with his or her spouse if both are
 3244 residents of the residence ~~facility~~.

3245 (h) Reasonable opportunity for regular exercise several
 3246 times a week and to be outdoors at regular and frequent
 3247 intervals except when prevented by inclement weather.

3248 (i) Exercise civil and religious liberties, including the

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3249 right to independent personal decisions. No religious beliefs or
 3250 practices, nor any attendance at religious services, shall be
 3251 imposed upon any resident.

3252 (j) Access to adequate and appropriate health care
 3253 consistent with established and recognized standards within the
 3254 community.

3255 (k) At least 30 ~~45~~ days' notice of relocation or
 3256 termination of residency from the residence facility unless, for
 3257 medical reasons, the resident is certified by a physician to
 3258 require an emergency relocation to a facility providing a more
 3259 skilled level of care or the resident engages in a pattern of
 3260 conduct that is harmful or offensive to other residents. In the
 3261 case of a resident who has been adjudicated mentally
 3262 incapacitated, the guardian shall be given at least 30 ~~45~~ days'
 3263 notice of a nonemergency relocation or residency termination.
 3264 Reasons for relocation shall be set forth in writing. ~~In order~~
 3265 ~~for a facility to terminate the residency of an individual~~
 3266 ~~without notice as provided herein, the facility shall show good~~
 3267 ~~cause in a court of competent jurisdiction.~~

3268 (l) Present grievances and recommend changes in policies,
 3269 procedures, and services to the staff of the residence facility,
 3270 governing officials, or any other person without restraint,
 3271 interference, coercion, discrimination, or reprisal. The
 3272 administrator of each residence ~~Each facility~~ shall establish a
 3273 grievance procedure to facilitate the residents' exercise of
 3274 this right. This right includes access to ombudsman volunteers
 3275 and advocates and the right to be a member of, to be active in,
 3276 and to associate with advocacy or special interest groups.

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3277 (2) The administrator of a residence facility shall ensure
3278 that a written notice of the rights, obligations, and
3279 prohibitions set forth in this part is posted in a prominent
3280 place in each residence facility and read or explained to
3281 residents who cannot read. This notice shall include the name,
3282 address, and telephone numbers of the local ombudsman council
3283 and central abuse hotline and, when applicable, the Advocacy
3284 Center for Persons with Disabilities, Inc., and the Florida
3285 local advocacy council, where complaints may be lodged. The
3286 administrator facility must ensure a resident's access to a
3287 telephone to call the local ombudsman council, central abuse
3288 hotline, Advocacy Center for Persons with Disabilities, Inc.,
3289 and the Florida local advocacy council.

3290 ~~(3) (a) The agency shall conduct a survey to determine~~
3291 ~~general compliance with facility standards and compliance with~~
3292 ~~residents' rights as a prerequisite to initial licensure or~~
3293 ~~licensure renewal.~~

3294 ~~(b) In order to determine whether the facility is~~
3295 ~~adequately protecting residents' rights, the biennial survey~~
3296 ~~shall include private informal conversations with a sample of~~
3297 ~~residents and consultation with the ombudsman council in the~~
3298 ~~planning and service area in which the facility is located to~~
3299 ~~discuss residents' experiences within the facility.~~

3300 ~~(c) During any calendar year in which no survey is~~
3301 ~~conducted, the agency shall conduct at least one monitoring~~
3302 ~~visit of each facility cited in the previous year for a class I~~
3303 ~~or class II violation, or more than three uncorrected class III~~
3304 ~~violations.~~

3305 ~~(d) The agency may conduct periodic followup inspections~~
 3306 ~~as necessary to monitor the compliance of facilities with a~~
 3307 ~~history of any class I, class II, or class III violations that~~
 3308 ~~threaten the health, safety, or security of residents.~~

3309 ~~(e) The agency may conduct complaint investigations as~~
 3310 ~~warranted to investigate any allegations of noncompliance with~~
 3311 ~~requirements required under this part or rules adopted under~~
 3312 ~~this part.~~

3313 (3)~~(4)~~ The administrator shall ensure that facility shall
 3314 ~~not hamper or prevent residents~~ are not hampered or prevented
 3315 from exercising their rights as specified in this section.

3316 (4)~~(5)~~ No staff member facility or employee of a residence
 3317 ~~facility~~ may serve notice upon a resident to leave the premises
 3318 or take any other retaliatory action against any person who:

- 3319 (a) Exercises any right set forth in this section.
- 3320 (b) Appears as a witness in any hearing, inside or outside
- 3321 the residence facility.

3322 (c) Files a civil action alleging a violation of the
 3323 provisions of this part ~~or notifies a state attorney or the~~
 3324 ~~Attorney General of a possible violation of such provisions.~~

3325 (5)~~(6)~~ An administrator shall not terminate Any facility
 3326 ~~which terminates~~ the residency of an individual who participated
 3327 in activities specified in subsection (4)~~(5)~~ ~~shall show good~~
 3328 ~~cause in a court of competent jurisdiction.~~

3329 (6)~~(7)~~ Any person who submits or reports a complaint
 3330 concerning a suspected violation of the provisions of this part
 3331 or concerning services and conditions in residences facilities,
 3332 or who testifies in any administrative or judicial proceeding

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3333 arising from such a complaint, shall have immunity from any
 3334 civil or criminal liability therefor, unless such person has
 3335 acted in bad faith or with malicious purpose or the court finds
 3336 that there was a complete absence of a justiciable issue of
 3337 either law or fact raised by the losing party.

3338 Section 37. Section 429.293, Florida Statutes, is amended
 3339 to read:

3340 429.293 Presuit notice; investigation; notification of
 3341 violation of residents' rights or alleged negligence; claims
 3342 evaluation procedure; informal discovery; review; settlement
 3343 offer; mediation.—

3344 (1) As used in this section, the term:

3345 (a) "Claim for residents' rights violation or negligence"
 3346 means a negligence claim alleging injury to or the death of a
 3347 resident arising out of an asserted violation of the rights of a
 3348 resident under s. 429.28 or an asserted deviation from the
 3349 applicable standard of care.

3350 (b) "Insurer" means any self-insurer authorized under s.
 3351 627.357, liability insurance carrier, joint underwriting
 3352 association, or uninsured prospective defendant.

3353 (2) Prior to filing a claim for a violation of a
 3354 resident's rights or a claim for negligence, a claimant alleging
 3355 injury to or the death of a resident shall notify each
 3356 prospective defendant by certified mail, return receipt
 3357 requested, of an asserted violation of a resident's rights
 3358 provided in s. 429.28 or deviation from the standard of care.
 3359 Such notification shall include an identification of the rights
 3360 the prospective defendant has violated and the negligence

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3361 | alleged to have caused the incident or incidents and a brief
 3362 | description of the injuries sustained by the resident which are
 3363 | reasonably identifiable at the time of notice. The notice shall
 3364 | contain a certificate of counsel that counsel's reasonable
 3365 | investigation gave rise to a good faith belief that grounds
 3366 | exist for an action against each prospective defendant.

3367 | (3) (a) No suit may be filed for a period of 75 days after
 3368 | notice is mailed to any prospective defendant. During the 75-day
 3369 | period, the prospective defendants or their insurers shall
 3370 | conduct an evaluation of the claim to determine the liability of
 3371 | each defendant and to evaluate the damages of the claimants.
 3372 | Each defendant or insurer of the defendant shall have a
 3373 | procedure for the prompt evaluation of claims during the 75-day
 3374 | period. The procedure shall include one or more of the
 3375 | following:

3376 | 1. Internal review by a duly qualified ~~facility~~ risk
 3377 | manager or claims adjuster;

3378 | 2. Internal review by counsel for each prospective
 3379 | defendant;

3380 | 3. A quality assurance committee authorized under any
 3381 | applicable state or federal statutes or regulations; or

3382 | 4. Any other similar procedure that fairly and promptly
 3383 | evaluates the claims.

3384 |
 3385 | Each defendant or insurer of the defendant shall evaluate the
 3386 | claim in good faith.

3387 | (b) At or before the end of the 75 days, the defendant or
 3388 | insurer of the defendant shall provide the claimant with a

3389 written response:

- 3390 1. Rejecting the claim; or
- 3391 2. Making a settlement offer.

3392 (c) The response shall be delivered to the claimant if not
 3393 represented by counsel or to the claimant's attorney, by
 3394 certified mail, return receipt requested. Failure of the
 3395 prospective defendant or insurer of the defendant to reply to
 3396 the notice within 75 days after receipt shall be deemed a
 3397 rejection of the claim for purposes of this section.

3398 (4) The notification of a violation of a resident's rights
 3399 or alleged negligence shall be served within the applicable
 3400 statute of limitations period; however, during the 75-day
 3401 period, the statute of limitations is tolled as to all
 3402 prospective defendants. Upon written stipulation by the parties,
 3403 the 75-day period may be extended and the statute of limitations
 3404 is tolled during any such extension. Upon receiving written
 3405 notice by certified mail, return receipt requested, of
 3406 termination of negotiations in an extended period, the claimant
 3407 shall have 30 ~~60~~ days or the remainder of the period of the
 3408 statute of limitations, whichever is greater, within which to
 3409 file suit.

3410 (5) No statement, discussion, written document, report, or
 3411 other work product generated by presuit claims evaluation
 3412 procedures under this section is discoverable or admissible in
 3413 any civil action for any purpose by the opposing party. All
 3414 participants, including, but not limited to, physicians,
 3415 investigators, witnesses, and employees or associates of the
 3416 defendant, are immune from civil liability arising from

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3417 participation in the presuit claims evaluation procedure. Any
3418 licensed physician or registered nurse may be retained by either
3419 party to provide an opinion regarding the reasonable basis of
3420 the claim. The presuit opinions of the expert are not
3421 discoverable or admissible in any civil action for any purpose
3422 by the opposing party.

3423 (6) Upon receipt by a prospective defendant of a notice of
3424 claim, the parties shall make discoverable information available
3425 without formal discovery as provided in subsection (7).

3426 (7) Informal discovery may be used by a party to obtain
3427 unsworn statements and the production of documents or things, as
3428 follows:

3429 (a) *Unsworn statements.*—Any party may require other
3430 parties to appear for the taking of an unsworn statement. Such
3431 statements may be used only for the purpose of claims evaluation
3432 and are not discoverable or admissible in any civil action for
3433 any purpose by any party. A party seeking to take the unsworn
3434 statement of any party must give reasonable notice in writing to
3435 all parties. The notice must state the time and place for taking
3436 the statement and the name and address of the party to be
3437 examined. Unless otherwise impractical, the examination of any
3438 party must be done at the same time by all other parties. Any
3439 party may be represented by counsel at the taking of an unsworn
3440 statement. An unsworn statement may be recorded electronically,
3441 stenographically, or on videotape. The taking of unsworn
3442 statements is subject to the provisions of the Florida Rules of
3443 Civil Procedure and may be terminated for abuses.

3444 (b) *Documents or things.*—Any party may request discovery

3445 of relevant documents or things relevant to evaluating the
 3446 merits of the claim. The documents or things must be produced,
 3447 at the expense of the requesting party, within 20 days after the
 3448 date of receipt of the request. A party is required to produce
 3449 relevant and discoverable documents or things within that
 3450 party's possession or control, if in good faith it can
 3451 reasonably be done within the timeframe of the claims evaluation
 3452 process.

3453 (8) Each request for and notice concerning informal
 3454 discovery pursuant to this section must be in writing, and a
 3455 copy thereof must be sent to all parties. Such a request or
 3456 notice must bear a certificate of service identifying the name
 3457 and address of the person to whom the request or notice is
 3458 served, the date of the request or notice, and the manner of
 3459 service thereof.

3460 (9) If a prospective defendant makes a written settlement
 3461 offer, the claimant shall have 15 days from the date of receipt
 3462 to accept the offer. An offer shall be deemed rejected unless
 3463 accepted by delivery of a written notice of acceptance.

3464 (10) To the extent not inconsistent with this part, the
 3465 provisions of the Florida Mediation Code, Florida Rules of Civil
 3466 Procedure, shall be applicable to such proceedings.

3467 (11) An arbitration process as provided for in chapter 44
 3468 may be used to resolve a claim filed pursuant to this section.

3469 (12)~~(11)~~ Within 30 days after the claimant's receipt of
 3470 defendant's response to the claim, the parties or their
 3471 designated representatives shall meet in mediation to discuss
 3472 the issues of liability and damages in accordance with the

3473 mediation rules of practice and procedures adopted by the
 3474 Supreme Court. Upon written stipulation of the parties, this 30-
 3475 day period may be extended and the statute of limitations is
 3476 tolled during the mediation and any such extension. At the
 3477 conclusion of mediation, the claimant shall have 30 ~~60~~ days or
 3478 the remainder of the period of the statute of limitations,
 3479 whichever is greater, within which to file suit.

3480 Section 38. Section 429.294, Florida Statutes, is amended
 3481 to read:

3482 429.294 Availability of residence facility records for
 3483 investigation of resident's rights violations and defenses;
 3484 penalty.—

3485 (1) Unless expressly prohibited by a legally competent
 3486 resident, an assisted living residence licensed under this part
 3487 shall furnish to the spouse, guardian, surrogate, proxy, or
 3488 attorney in fact, as provided in chapters 744 and 765, of a
 3489 current resident, within 7 working days after receipt of a
 3490 written request, or of a former resident, within 10 working days
 3491 after receipt of a written request, a copy of that resident's
 3492 records that are in the possession of the residence. Such
 3493 records shall include medical and psychiatric records and any
 3494 records concerning the care and treatment of the resident
 3495 performed by the residence, except progress notes and
 3496 consultation report sections of a psychiatric nature. Copies of
 3497 such records shall not be considered part of a deceased
 3498 resident's estate and may be made available before the
 3499 administration of an estate, upon request, to the spouse,
 3500 guardian, surrogate, proxy, or attorney in fact, as provided in

3501 chapters 744 and 765. A residence may charge a reasonable fee
 3502 for the copying of resident records. Such fee shall not exceed
 3503 \$1 per page for the first 25 pages and 25 cents per page for
 3504 each additional page in excess of 25 pages. The residence shall
 3505 further allow any such spouse, guardian, surrogate, proxy, or
 3506 attorney in fact, as provided in chapters 744 and 765, to
 3507 examine the original records in its possession, or microfilms or
 3508 other suitable reproductions of the records, upon such
 3509 reasonable terms as shall be imposed, to help ensure that the
 3510 records are not damaged, destroyed, or altered.

3511 (2) No person shall be allowed to obtain copies of
 3512 residents' records pursuant to this section more often than once
 3513 per month, except that physician's reports in the residents'
 3514 records may be obtained as often as necessary to effectively
 3515 monitor the residents' condition.

3516 (3)-(1) Failure to provide complete copies of a resident's
 3517 records, including, but not limited to, all medical records and
 3518 the resident's chart, within the control or possession of the
 3519 residence facility within 10 days, in accordance with the
 3520 provisions of this section ~~s. 400.145~~, shall constitute evidence
 3521 of failure of that party to comply with good faith discovery
 3522 requirements and shall waive the good faith certificate and
 3523 presuit notice requirements under this part by the requesting
 3524 party.

3525 (4)-(2) No licensee facility shall be held liable for any
 3526 civil damages as a result of complying with this section.

3527 Section 39. Section 429.298, Florida Statutes, is amended
 3528 to read:

3529 | 429.298 Punitive damages; limitation.—

3530 | (1) (a) ~~Except as provided in paragraphs (b) and (c),~~ An

3531 | award of punitive damages may not exceed the greater of:

3532 | 1. Three times the amount of compensatory damages awarded

3533 | to each claimant entitled thereto, consistent with the remaining

3534 | provisions of this section; or

3535 | 2. The sum of \$250,000 ~~\$1 million.~~

3536 | ~~(b) Where the fact finder determines that the wrongful~~

3537 | ~~conduct proven under this section was motivated primarily by~~

3538 | ~~unreasonable financial gain and determines that the unreasonably~~

3539 | ~~dangerous nature of the conduct, together with the high~~

3540 | ~~likelihood of injury resulting from the conduct, was actually~~

3541 | ~~known by the managing agent, director, officer, or other person~~

3542 | ~~responsible for making policy decisions on behalf of the~~

3543 | ~~defendant, it may award an amount of punitive damages not to~~

3544 | ~~exceed the greater of:~~

3545 | 1. ~~Four times the amount of compensatory damages awarded~~

3546 | ~~to each claimant entitled thereto, consistent with the remaining~~

3547 | ~~provisions of this section; or~~

3548 | 2. ~~The sum of \$4 million.~~

3549 | ~~(c) Where the fact finder determines that at the time of~~

3550 | ~~injury the defendant had a specific intent to harm the claimant~~

3551 | ~~and determines that the defendant's conduct did in fact harm the~~

3552 | ~~claimant, there shall be no cap on punitive damages.~~

3553 | (b)(d) This subsection is not intended to prohibit an

3554 | appropriate court from exercising its jurisdiction under s.

3555 | 768.74 in determining the reasonableness of an award of punitive

3556 | damages that is less than three times the amount of compensatory

3557 damages.

3558 ~~(c) In any case in which the findings of fact support an~~
 3559 ~~award of punitive damages pursuant to paragraph (b) or paragraph~~
 3560 ~~(c), the clerk of the court shall refer the case to the~~
 3561 ~~appropriate law enforcement agencies, to the state attorney in~~
 3562 ~~the circuit where the long-term care facility that is the~~
 3563 ~~subject of the underlying civil cause of action is located, and,~~
 3564 ~~for multijurisdictional facility owners, to the Office of the~~
 3565 ~~Statewide Prosecutor; and such agencies, state attorney, or~~
 3566 ~~Office of the Statewide Prosecutor shall initiate a criminal~~
 3567 ~~investigation into the conduct giving rise to the award of~~
 3568 ~~punitive damages. All findings by the trier of fact which~~
 3569 ~~support an award of punitive damages under this paragraph shall~~
 3570 ~~be admissible as evidence in any subsequent civil or criminal~~
 3571 ~~proceeding relating to the acts giving rise to the award of~~
 3572 ~~punitive damages under this paragraph.~~

3573 (2) The claimant's attorney's fees, if payable from the
 3574 judgment, are, to the extent that the fees are based on the
 3575 punitive damages, calculated based on the final judgment for
 3576 punitive damages. This subsection does not limit the payment of
 3577 attorney's fees based upon an award of damages other than
 3578 punitive damages.

3579 (3) The jury may neither be instructed nor informed as to
 3580 the provisions of this section.

3581 (4) Notwithstanding any other law to the contrary, the
 3582 amount of punitive damages awarded pursuant to this section
 3583 shall be equally divided between the claimant and the Health
 3584 Care Quality of Long-Term Care Facility Improvement Trust Fund,

3585 in accordance with the following provisions:

3586 (a) The clerk of the court shall transmit a copy of the
 3587 jury verdict to the Chief Financial Officer by certified mail.
 3588 In the final judgment, the court shall order the percentages of
 3589 the award, payable as provided herein.

3590 (b) A settlement agreement entered into between the
 3591 original parties to the action after a verdict has been returned
 3592 must provide a ~~proportionate~~ share payable to the Health Care
 3593 ~~Quality of Long-Term Care Facility Improvement~~ Trust Fund
 3594 specified herein. For purposes of this paragraph, the a
 3595 ~~proportionate~~ share payable to the Health Care Trust Fund must
 3596 be is a 75 percent ~~50-percent~~ share of that percentage of the
 3597 settlement amount which the punitive damages portion of the
 3598 verdict bore to the total of the compensatory and punitive
 3599 damages in the verdict.

3600 (c) The Department of Financial Services shall collect or
 3601 cause to be collected all payments due the state under this
 3602 section. Such payments are made to the Chief Financial Officer
 3603 and deposited in the appropriate fund specified in this
 3604 subsection.

3605 (d) If the full amount of punitive damages awarded cannot
 3606 be collected, the claimant and the other recipient designated
 3607 pursuant to this subsection are each entitled to a proportionate
 3608 share of the punitive damages collected.

3609 (5) This section is remedial in nature and shall take
 3610 effect upon becoming a law.

3611 Section 40. Section 429.31, Florida Statutes, is amended
 3612 to read:

3613 429.31 Closing of residence facility; notice; penalty.-
 3614 (1) In addition to the requirements of part I ~~part II~~ of
 3615 ~~chapter 408~~, the administrator of the residence facility shall
 3616 inform each resident or the next of kin, legal representative,
 3617 or agency acting on each resident's behalf, of the fact and the
 3618 proposed time of discontinuance of operation, after ~~following~~
 3619 the notification requirements provided in s. 429.28(1)(k). In
 3620 the event a resident has no person to represent him or her, the
 3621 administrator of the residence facility shall be responsible for
 3622 referral to an appropriate social service agency for placement.
 3623 (2) Immediately upon the notice by the agency of the
 3624 voluntary or involuntary termination of such operation, the
 3625 agency or its receiver shall monitor the transfer of residents
 3626 to other facilities and ensure that residents' rights are being
 3627 protected. The agency ~~department~~, in consultation with the
 3628 Department of Children and Family Services, shall specify
 3629 procedures for ensuring that all residents who receive services
 3630 are appropriately relocated.
 3631 (3) All charges shall be prorated as of the date on which
 3632 the residence facility discontinues operation, and if any
 3633 payments have been made in advance, the payments for services
 3634 not received shall be refunded to the resident or the resident's
 3635 guardian within 10 working days after ~~of~~ voluntary or
 3636 involuntary closure of the residence facility, whether or not
 3637 such refund is requested by the resident or guardian.
 3638 (4) The agency may levy a fine in an amount no greater
 3639 than \$5,000 upon the licensee and each person or business entity
 3640 that owns any interest in a residence facility that terminates

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3641 operation without providing notice to the agency and the
 3642 residents of the residence facility at least 30 days before
 3643 operation ceases. This fine shall not be levied against any
 3644 licensee of a residence facility involuntarily closed at the
 3645 initiation of the agency. The agency shall use the proceeds of
 3646 the fines to operate the residence facility until all residents
 3647 of the residence facility are relocated.

3648 Section 41. Section 429.34, Florida Statutes, is amended
 3649 to read:

3650 429.34 Right of entry and inspection.—In addition to the
 3651 requirements of s. 429.0105 ~~s. 408.811~~, any duly designated
 3652 officer or employee of the department, the Department of
 3653 Children and Family Services, the Medicaid Fraud Control Unit of
 3654 the Office of the Attorney General, or the state or local fire
 3655 marshal, ~~or a member of the state or local long-term care~~
 3656 ~~ombudsman council~~ shall have the right to enter unannounced upon
 3657 and into the premises of any licensed residence facility
 3658 ~~licensed pursuant to this part~~ in order to determine the state
 3659 of compliance with the provisions of this part, part I ~~part II~~
 3660 ~~of chapter 408~~, and applicable rules. ~~Data collected by the~~
 3661 ~~state or local long-term care ombudsman councils or the state or~~
 3662 ~~local advocacy councils may be used by the agency in~~
 3663 ~~investigations involving violations of regulatory standards.~~

3664 Section 42. Section 429.35, Florida Statutes, is amended
 3665 to read:

3666 429.35 Maintenance of records; reports.—

3667 (1) Every administrator facility shall maintain, as public
 3668 information available for public inspection under such

3669 conditions as the agency shall prescribe, records containing
 3670 copies of all inspection reports pertaining to the residence
 3671 ~~facility~~ that have been issued by the agency to the residence
 3672 ~~facility~~. Copies of inspection reports shall be retained in the
 3673 records for 5 years from the date the reports are filed or
 3674 issued.

3675 ~~(2) Within 60 days after the date of the biennial~~
 3676 ~~inspection visit required under s. 408.811 or within 30 days~~
 3677 ~~after the date of any interim visit, the agency shall forward~~
 3678 ~~the results of the inspection to the local ombudsman council in~~
 3679 ~~whose planning and service area, as defined in part II of~~
 3680 ~~chapter 400, the facility is located; to at least one public~~
 3681 ~~library or, in the absence of a public library, the county seat~~
 3682 ~~in the county in which the inspected assisted living facility is~~
 3683 ~~located; and, when appropriate, to the district Adult Services~~
 3684 ~~and Mental Health Program Offices.~~

3685 (2)(3) The administrator of a residence ~~Every facility~~
 3686 shall post a copy of the last inspection report of the agency
 3687 for that residence ~~facility~~ in a prominent location within the
 3688 residence ~~facility~~ so as to be accessible to all residents and
 3689 to the public. Upon request, the administrator ~~facility~~ shall
 3690 also provide a copy of the report to any resident of the
 3691 residence ~~facility~~ or to an applicant for admission to the
 3692 residence ~~facility~~.

3693 Section 43. Section 429.41, Florida Statutes, is amended
 3694 to read:

3695 429.41 Rules establishing standards.—

3696 (1) It is the intent of the Legislature that rules

3697 published and enforced pursuant to this section shall include
 3698 criteria by which a reasonable and consistent quality of
 3699 resident care and quality of life may be ensured and the results
 3700 of such resident care may be demonstrated. Such rules shall also
 3701 ensure a safe and sanitary environment that is residential and
 3702 noninstitutional in design or nature. It is further intended
 3703 that reasonable efforts be made to accommodate the needs and
 3704 preferences of residents to enhance the quality of life in a
 3705 residence facility. ~~The agency, in consultation with the~~
 3706 ~~department, may adopt rules to administer the requirements of~~
 3707 ~~part II of chapter 408.~~ In order to provide safe and sanitary
 3708 residences facilities and the highest quality of resident care
 3709 accommodating the needs and preferences of residents, the
 3710 department, in consultation with the agency, the Department of
 3711 Children and Family Services, and the Department of Health,
 3712 shall adopt rules, policies, and procedures to administer this
 3713 section part, which must include reasonable and fair minimum
 3714 standards in relation to:

3715 (a) The requirements for and maintenance of residences
 3716 facilities, not in conflict with the provisions of chapter 553,
 3717 relating to plumbing, heating, cooling, lighting, ventilation,
 3718 living space, and other housing conditions, which will ensure
 3719 the health, safety, and comfort of residents and protection from
 3720 fire hazard, including adequate provisions for fire alarm and
 3721 other fire protection suitable to the size of the structure.
 3722 Uniform firesafety standards shall be ~~established and enforced~~
 3723 by the State Fire Marshal in cooperation with the agency, ~~the~~
 3724 ~~department, and the Department of Health.~~

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3725 1. Evacuation capability determination.—
 3726 a. The provisions of the National Fire Protection
 3727 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used
 3728 for determining the ability of the residents, with or without
 3729 staff assistance, to relocate from or within a licensed
 3730 residence facility to a point of safety as provided in the fire
 3731 codes adopted herein. An evacuation capability evaluation for
 3732 initial licensure shall be conducted within 6 months after the
 3733 date of licensure. For existing licensed residences facilities
 3734 that are not equipped with an automatic fire sprinkler system,
 3735 the administrator shall evaluate the evacuation capability of
 3736 residents at least annually. The evacuation capability
 3737 evaluation for each residence facility not equipped with an
 3738 automatic fire sprinkler system shall be validated, without
 3739 liability, by the State Fire Marshal, by the local fire marshal,
 3740 or by the local authority having jurisdiction over firesafety,
 3741 before the license renewal date. If the State Fire Marshal,
 3742 local fire marshal, or local authority having jurisdiction over
 3743 firesafety has reason to believe that the evacuation capability
 3744 of a residence facility as reported by the administrator may
 3745 have changed, it may, with assistance from the residence
 3746 facility administrator, reevaluate the evacuation capability
 3747 through timed exiting drills. Translation of timed fire exiting
 3748 drills to evacuation capability may be determined:
 3749 (I) Three minutes or less: prompt.
 3750 (II) More than 3 minutes, but not more than 13 minutes:
 3751 slow.
 3752 (III) More than 13 minutes: impractical.

3753 ~~b. The Office of the State Fire Marshal shall provide or~~
 3754 ~~cause the provision of training and education on the proper~~
 3755 ~~application of Chapter 5, NFPA 101A, 1995 edition, to its~~
 3756 ~~employees, to staff of the Agency for Health Care Administration~~
 3757 ~~who are responsible for regulating facilities under this part,~~
 3758 ~~and to local governmental inspectors. The Office of the State~~
 3759 ~~Fire Marshal shall provide or cause the provision of this~~
 3760 ~~training within its existing budget, but may charge a fee for~~
 3761 ~~this training to offset its costs. The initial training must be~~
 3762 ~~delivered within 6 months after July 1, 1995, and as needed~~
 3763 ~~thereafter.~~

3764 ~~e. The Office of the State Fire Marshal, in cooperation~~
 3765 ~~with provider associations, shall provide or cause the provision~~
 3766 ~~of a training program designed to inform facility operators on~~
 3767 ~~how to properly review bid documents relating to the~~
 3768 ~~installation of automatic fire sprinklers. The Office of the~~
 3769 ~~State Fire Marshal shall provide or cause the provision of this~~
 3770 ~~training within its existing budget, but may charge a fee for~~
 3771 ~~this training to offset its costs. The initial training must be~~
 3772 ~~delivered within 6 months after July 1, 1995, and as needed~~
 3773 ~~thereafter.~~

3774 ~~b.d.~~ The administrator of a licensed residence ~~faeility~~
 3775 shall sign an affidavit verifying the number of residents
 3776 occupying the residence ~~faeility~~ at the time of the evacuation
 3777 capability evaluation.

3778 2. Firesafety requirements.-

3779 a. Except for the special applications provided herein,
 3780 effective January 1, 1996, the provisions of the National Fire

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3781 Protection Association, Life Safety Code, NFPA 101, 1994
3782 edition, Chapter 22 for new residences ~~facilities~~ and Chapter 23
3783 for existing residences ~~facilities~~ shall be the uniform fire
3784 code applied by the State Fire Marshal for assisted living
3785 residences ~~facilities~~, pursuant to s. 633.022.

3786 b. Any new residence ~~facility, regardless of size, that~~
3787 ~~applies for a license on or after January 1, 1996,~~ must be
3788 equipped with an automatic fire sprinkler system. The exceptions
3789 as provided in s. 22-2.3.5.1, NFPA 101, 1994 edition, as adopted
3790 herein, apply to any new residence ~~facility~~ housing eight or
3791 fewer residents. ~~On July 1, 1995, local governmental entities~~
3792 ~~responsible for the issuance of permits for construction shall~~
3793 ~~inform, without liability, any facility whose permit for~~
3794 ~~construction is obtained prior to January 1, 1996, of this~~
3795 ~~automatic fire sprinkler requirement.~~ As used in this part, the
3796 term "a new residence ~~facility~~" does not mean an existing
3797 residence ~~facility~~ that has undergone change of ownership.

3798 c. Notwithstanding any provision of s. 633.022 or of the
3799 National Fire Protection Association, NFPA 101A, Chapter 5, 1995
3800 edition, to the contrary, any existing residence ~~facility~~
3801 housing eight or fewer residents is not required to install an
3802 automatic fire sprinkler system, nor to comply with any other
3803 requirement in Chapter 23, NFPA 101, 1994 edition, that exceeds
3804 the firesafety requirements of NFPA 101, 1988 edition, that
3805 applies to this size residence ~~facility~~, unless the residence
3806 ~~facility~~ has been classified as impractical to evacuate. Any
3807 existing residence ~~facility~~ housing eight or fewer residents
3808 that is classified as impractical to evacuate must install an

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3809 automatic fire sprinkler system within the timeframes mutually
 3810 agreed to by the local fire marshal and the agency ~~granted in~~
 3811 ~~this section.~~

3812 ~~d. Any existing facility that is required to install an~~
 3813 ~~automatic fire sprinkler system under this paragraph need not~~
 3814 ~~meet other firesafety requirements of Chapter 23, NFPA 101, 1994~~
 3815 ~~edition, which exceed the provisions of NFPA 101, 1988 edition.~~
 3816 ~~The mandate contained in this paragraph which requires certain~~
 3817 ~~facilities to install an automatic fire sprinkler system~~
 3818 ~~supersedes any other requirement.~~

3819 ~~d.e.~~ This paragraph does not supersede the exceptions
 3820 granted in NFPA 101, 1988 edition or 1994 edition.

3821 ~~e.f.~~ This paragraph does not exempt residences ~~facilities~~
 3822 from other firesafety provisions adopted under s. 633.022 and
 3823 local building code requirements in effect before July 1, 1995.

3824 ~~g. A local government may charge fees only in an amount~~
 3825 ~~not to exceed the actual expenses incurred by local government~~
 3826 ~~relating to the installation and maintenance of an automatic~~
 3827 ~~fire sprinkler system in an existing and properly licensed~~
 3828 ~~assisted living facility structure as of January 1, 1996.~~

3829 ~~h. If a licensed facility undergoes major reconstruction~~
 3830 ~~or addition to an existing building on or after January 1, 1996,~~
 3831 ~~the entire building must be equipped with an automatic fire~~
 3832 ~~sprinkler system. Major reconstruction of a building means~~
 3833 ~~repair or restoration that costs in excess of 50 percent of the~~
 3834 ~~value of the building as reported on the tax rolls, excluding~~
 3835 ~~land, before reconstruction. Multiple reconstruction projects~~
 3836 ~~within a 5-year period the total costs of which exceed 50~~

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3837 ~~percent of the initial value of the building at the time the~~
3838 ~~first reconstruction project was permitted are to be considered~~
3839 ~~as major reconstruction. Application for a permit for an~~
3840 ~~automatic fire sprinkler system is required upon application for~~
3841 ~~a permit for a reconstruction project that creates costs that go~~
3842 ~~over the 50 percent threshold.~~

3843 ~~i. Any facility licensed before January 1, 1996, that is~~
3844 ~~required to install an automatic fire sprinkler system shall~~
3845 ~~ensure that the installation is completed within the following~~
3846 ~~timeframes based upon evacuation capability of the facility as~~
3847 ~~determined under subparagraph 1.:~~

3848 ~~(I) Impractical evacuation capability, 24 months.~~

3849 ~~(II) Slow evacuation capability, 48 months.~~

3850 ~~(III) Prompt evacuation capability, 60 months.~~

3851
3852 ~~The beginning date from which the deadline for the automatic~~
3853 ~~fire sprinkler installation requirement must be calculated is~~
3854 ~~upon receipt of written notice from the local fire official that~~
3855 ~~an automatic fire sprinkler system must be installed. The local~~
3856 ~~fire official shall send a copy of the document indicating the~~
3857 ~~requirement of a fire sprinkler system to the Agency for Health~~
3858 ~~Care Administration.~~

3859 ~~j. It is recognized that the installation of an automatic~~
3860 ~~fire sprinkler system may create financial hardship for some~~
3861 ~~facilities. The appropriate local fire official shall, without~~
3862 ~~liability, grant two 1-year extensions to the timeframes for~~
3863 ~~installation established herein, if an automatic fire sprinkler~~
3864 ~~installation cost estimate and proof of denial from two~~

3865 ~~financial institutions for a construction loan to install the~~
 3866 ~~automatic fire sprinkler system are submitted. However, for any~~
 3867 ~~facility with a class I or class II, or a history of uncorrected~~
 3868 ~~class III, firesafety deficiencies, an extension must not be~~
 3869 ~~granted. The local fire official shall send a copy of the~~
 3870 ~~document granting the time extension to the Agency for Health~~
 3871 ~~Care Administration.~~

3872 ~~k. A facility owner whose facility is required to be~~
 3873 ~~equipped with an automatic fire sprinkler system under Chapter~~
 3874 ~~23, NFPA 101, 1994 edition, as adopted herein, must disclose to~~
 3875 ~~any potential buyer of the facility that an installation of an~~
 3876 ~~automatic fire sprinkler requirement exists. The sale of the~~
 3877 ~~facility does not alter the timeframe for the installation of~~
 3878 ~~the automatic fire sprinkler system.~~

3879 ~~l. Existing facilities required to install an automatic~~
 3880 ~~fire sprinkler system as a result of construction-type~~
 3881 ~~restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted~~
 3882 ~~herein, or evacuation capability requirements shall be notified~~
 3883 ~~by the local fire official in writing of the automatic fire~~
 3884 ~~sprinkler requirement, as well as the appropriate date for final~~
 3885 ~~compliance as provided in this subparagraph. The local fire~~
 3886 ~~official shall send a copy of the document to the Agency for~~
 3887 ~~Health Care Administration.~~

3888 ~~f.m.~~ Except in cases of life-threatening fire hazards, if
 3889 an existing residence facility experiences a change in the
 3890 evacuation capability, or if the local authority having
 3891 jurisdiction identifies a construction-type restriction, such
 3892 that an automatic fire sprinkler system is required, it shall be

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3893 | afforded time for installation as provided in this subparagraph.

3894 |
 3895 | Residences ~~Facilities~~ that are fully sprinkled and in compliance
 3896 | with other firesafety standards are not required to conduct more
 3897 | than one of the required fire drills between the hours of 11
 3898 | p.m. and 7 a.m., per year. In lieu of the remaining drills,
 3899 | staff responsible for residents during such hours may be
 3900 | required to participate in a mock drill that includes a review
 3901 | of evacuation procedures. Such standards must be included or
 3902 | referenced in the rules adopted by the State Fire Marshal.
 3903 | Pursuant to s. 633.022(1)(b), the State Fire Marshal is the
 3904 | final administrative authority for firesafety standards
 3905 | established and enforced pursuant to this section. All licensed
 3906 | residences ~~facilities~~ must have an annual fire inspection
 3907 | conducted by the local fire marshal or authority having
 3908 | jurisdiction.

3909 | 3. Resident elopement requirements.—Residences ~~Facilities~~
 3910 | are required to conduct a minimum of two resident elopement
 3911 | ~~prevention and~~ response drills per year. All administrators and
 3912 | direct care staff must participate in the drills which shall
 3913 | include a review of procedures to address resident elopement.
 3914 | Residence administrators ~~Facilities~~ must document the
 3915 | implementation of the drills and ensure that the drills are
 3916 | conducted in a manner consistent with the residence's ~~facility's~~
 3917 | resident elopement policies and procedures.

3918 | (b) The preparation and annual update of a comprehensive
 3919 | emergency management plan. Such standards must be included in
 3920 | the rules adopted by the department after consultation with the

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3921 Department of Community Affairs. At a minimum, the rules must
3922 provide for plan components that address emergency evacuation
3923 transportation; adequate sheltering arrangements; postdisaster
3924 activities, including provision of emergency power, food, and
3925 water; postdisaster transportation; supplies; staffing;
3926 emergency equipment; individual identification of residents and
3927 transfer of records; communication with families; and responses
3928 to family inquiries. The comprehensive emergency management plan
3929 is subject to review and approval by the local emergency
3930 management agency. ~~During its review, the local emergency~~
3931 ~~management agency shall ensure that the following agencies, at a~~
3932 ~~minimum, are given the opportunity to review the plan: the~~
3933 ~~Department of Elderly Affairs, the Department of Health, the~~
3934 ~~Agency for Health Care Administration, and the Department of~~
3935 ~~Community Affairs. Also, appropriate volunteer organizations~~
3936 ~~must be given the opportunity to review the plan.~~ The local
3937 emergency management agency shall complete its review within 60
3938 days and either approve the plan or advise the residence
3939 administrator ~~faeility~~ of necessary revisions.

3940 (c) The number, training, and qualifications of all staff
3941 responsible ~~personnel having responsibility~~ for the care of
3942 residents. The rules must require adequate staff to provide for
3943 the safety of all residents. Residences ~~Facilities~~ licensed for
3944 17 or more residents are required to maintain an alert staff for
3945 24 hours per day.

3946 (d) All sanitary conditions within the residence ~~facility~~
3947 and its surroundings which will ensure the health and comfort of
3948 residents.

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3949 (e) To ensure that inspections are not duplicative, the
 3950 rules must clearly delineate the responsibilities of the agency
 3951 regarding agency's licensure and survey inspections ~~staff~~, the
 3952 county health departments regarding food safety and sanitary
 3953 inspections, and the local fire marshal regarding firesafety
 3954 inspections ~~authority having jurisdiction over firesafety and~~
 3955 ~~ensure that inspections are not duplicative. The agency may~~
 3956 ~~collect fees for food service inspections conducted by the~~
 3957 ~~county health departments and transfer such fees to the~~
 3958 ~~Department of Health.~~

3959 (f) ~~(e)~~ License application and license renewal, transfer
 3960 of ownership, proper management of resident funds and personal
 3961 property, surety bonds, resident contracts, refund policies,
 3962 financial ability to operate, and residence ~~facility~~ and staff
 3963 records.

3964 (g) ~~(f)~~ Inspections, complaint investigations, moratoriums,
 3965 classification of deficiencies, levying and enforcement of
 3966 penalties, and use of income from fees and fines.

3967 (h) ~~(g)~~ The enforcement of the resident bill of rights
 3968 specified in s. 429.28.

3969 (i) ~~(h)~~ The care ~~and maintenance~~ of residents, which must
 3970 include, but is not limited to:

- 3971 1. The supervision of residents;
- 3972 2. The provision of personal services;
- 3973 3. The provision of, or arrangement for, social and
 3974 leisure activities;
- 3975 4. The arrangement for appointments and transportation to
 3976 appropriate medical, dental, nursing, or mental health services,

3977 as needed by residents;

3978 5. The management of medication;

3979 6. The food service ~~nutritional~~ needs of residents; and

3980 7. Resident records, ~~and~~

3981 ~~8. Internal risk management and quality assurance.~~

3982 (j)-(i) Residences ~~Facilities~~ holding an a ~~limited nursing,~~

3983 extended congregate care, ~~or limited mental health license.~~

3984 (k)-(j) The establishment of specific criteria to define

3985 appropriateness of resident admission and continued residency in

3986 a resident ~~facility~~ holding a standard, ~~limited nursing,~~

3987 extended congregate care, and limited mental health license.

3988 (l)-(k) The use of physical or chemical restraints. The use

3989 of physical restraints is limited to half-bed rails as

3990 prescribed and documented by the resident's physician with the

3991 consent of the resident or, if applicable, the resident's

3992 representative or designee or the resident's surrogate,

3993 guardian, or attorney in fact. The use of chemical restraints is

3994 limited to prescribed dosages of medications authorized by the

3995 resident's physician and must be consistent with the resident's

3996 diagnosis. Residents who are receiving medications that can

3997 serve as chemical restraints must be evaluated by their

3998 physician at least annually to assess:

3999 1. The continued need for the medication.

4000 2. The level of the medication in the resident's blood.

4001 3. The need for adjustments in the prescription.

4002 ~~(1) The establishment of specific policies and procedures~~

4003 ~~on resident elopement. Facilities shall conduct a minimum of two~~

4004 ~~resident elopement drills each year. All administrators and~~

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4005 ~~direct care staff shall participate in the drills. Facilities~~
4006 ~~shall document the drills.~~

4007 (2) In adopting any rules pursuant to this part, the
4008 department, in conjunction with the agency, shall make distinct
4009 standards for residences ~~facilities~~ based upon residence
4010 ~~facility~~ size; the types of care provided; the physical and
4011 mental capabilities and needs of residents; the type, frequency,
4012 and amount of services and care offered; and the staffing
4013 characteristics of the residence ~~facility~~. Rules developed
4014 pursuant to this section shall not restrict the use of shared
4015 staffing and shared programming in residences ~~facilities~~ that
4016 are part of retirement communities that provide multiple levels
4017 of care and otherwise meet the requirements of law and rule.
4018 Except for uniform firesafety standards, the department shall
4019 adopt by rule separate and distinct standards for residences
4020 ~~facilities~~ with 16 or fewer beds and for residences ~~facilities~~
4021 with 17 or more beds. The standards for residences ~~facilities~~
4022 with 16 or fewer beds shall be appropriate for a
4023 noninstitutional residential environment, provided that the
4024 structure is no more than two stories in height and all persons
4025 who cannot exit the residence ~~facility~~ unassisted in an
4026 emergency reside on the first floor. The department, in
4027 conjunction with the agency, may make other distinctions among
4028 types of residences ~~facilities~~ as necessary to enforce the
4029 provisions of this part. Where appropriate, the agency shall
4030 offer alternate solutions for complying with established
4031 standards, based on distinctions made by the department and the
4032 agency relative to the physical characteristics of residences

4033 ~~facilities~~ and the types of care offered therein.

4034 ~~(3) The department shall submit a copy of proposed rules~~
 4035 ~~to the Speaker of the House of Representatives, the President of~~
 4036 ~~the Senate, and appropriate committees of substance for review~~
 4037 ~~and comment prior to the promulgation thereof. Rules promulgated~~
 4038 ~~by the department shall encourage the development of homelike~~
 4039 ~~facilities which promote the dignity, individuality, personal~~
 4040 ~~strengths, and decisionmaking ability of residents.~~

4041 (3)~~(4)~~ The agency, in consultation with the department,
 4042 may waive rules promulgated pursuant to this part in order to
 4043 demonstrate and evaluate innovative or cost-effective congregate
 4044 care alternatives which enable individuals to age in place. Such
 4045 waivers may be granted only in instances where there is
 4046 reasonable assurance that the health, safety, or welfare of
 4047 residents will not be endangered. To apply for a waiver, the
 4048 licensee shall submit to the agency a written description of the
 4049 concept to be demonstrated, including goals, objectives, and
 4050 anticipated benefits; the number and types of residents who will
 4051 be affected, if applicable; a brief description of how the
 4052 demonstration will be evaluated; and any other information
 4053 deemed appropriate by the agency. Any residence ~~facility~~ granted
 4054 a waiver shall submit a report of findings to the agency and the
 4055 department within 12 months. At such time, the agency may renew
 4056 or revoke the waiver or pursue any regulatory or statutory
 4057 changes necessary to allow other residences ~~facilities~~ to adopt
 4058 the same practices. The department may by rule clarify terms and
 4059 establish waiver application procedures, criteria for reviewing
 4060 waiver proposals, and procedures for reporting findings, as

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4061 necessary to implement this subsection.

4062 (4)~~(5)~~ The agency shall ~~may~~ use an abbreviated biennial
 4063 standard licensure inspection that consists of a review of key
 4064 quality-of-care standards in lieu of a full inspection in a
 4065 residence facility that has a good record of past performance.
 4066 However, a full inspection must be conducted in a residence
 4067 facility that has a history of class I or class II violations,
 4068 uncorrected class III violations, ~~confirmed ombudsman council~~
 4069 ~~complaints~~, or confirmed licensure complaints, within the
 4070 previous licensure period immediately preceding the inspection
 4071 or if a potentially serious problem is identified during the
 4072 abbreviated inspection. The agency, in consultation with the
 4073 department, shall develop, maintain, and update the key quality-
 4074 of-care standards with input from ~~the State Long-Term Care~~
 4075 ~~Ombudsman Council~~ and representatives of associations and
 4076 organizations representing assisted living residences ~~provider~~
 4077 ~~groups~~ for incorporation into its rules.

4078 Section 44. Section 429.42, Florida Statutes, is amended
 4079 to read:

4080 429.42 Pharmacy and dietary services.—

4081 (1) Any assisted living residence for facility ~~in~~ which
 4082 the agency has documented a class I or class II violation
 4083 ~~deficiency~~ or uncorrected class III violations ~~deficiencies~~
 4084 regarding medicinal drugs or over-the-counter preparations,
 4085 including their storage, use, delivery, or administration, or
 4086 dietary services, or both, during a biennial survey or a
 4087 monitoring visit or an investigation in response to a complaint,
 4088 shall, in addition to or as an alternative to any penalties

4089 imposed under s. 429.19, be required to employ the consultant
 4090 services of a licensed pharmacist, a licensed registered nurse,
 4091 or a registered or licensed dietitian, as applicable. The
 4092 consultant shall, at a minimum, provide onsite quarterly
 4093 consultation until the inspection team from the agency
 4094 determines that such consultation services are no longer
 4095 required.

4096 ~~(2) A corrective action plan for deficiencies related to~~
 4097 ~~assistance with the self-administration of medication or the~~
 4098 ~~administration of medication must be developed and implemented~~
 4099 ~~by the facility within 48 hours after notification of such~~
 4100 ~~deficiency, or sooner if the deficiency is determined by the~~
 4101 ~~agency to be life-threatening.~~

4102 ~~(3) The agency shall employ at least two pharmacists~~
 4103 ~~licensed pursuant to chapter 465 among its personnel who~~
 4104 ~~biennially inspect assisted living facilities licensed under~~
 4105 ~~this part, to participate in biennial inspections or consult~~
 4106 ~~with the agency regarding deficiencies relating to medicinal~~
 4107 ~~drugs or over the counter preparations.~~

4108 (2)~~(4)~~ The department may by rule establish procedures and
 4109 specify documentation as necessary to implement this section.

4110 Section 45. Section 429.44, Florida Statutes, is amended
 4111 to read:

4112 429.44 Construction and renovation; requirements.—

4113 (1) The requirements for the construction and renovation
 4114 of a residence facility shall comply with the provisions of
 4115 chapter 553 which pertain to building construction standards,
 4116 including plumbing, electrical code, glass, manufactured

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4117 buildings, accessibility for persons with disabilities, and the
 4118 state minimum building code and with the provisions of s.
 4119 633.022, which pertain to uniform firesafety standards.

4120 (2) Upon notification by the local authority having
 4121 jurisdiction over life-threatening violations which seriously
 4122 threaten the health, safety, or welfare of a resident of a
 4123 residence facility, the agency shall take action as specified in
 4124 s. 429.14.

4125 (3) The department may adopt rules to establish procedures
 4126 and specify the documentation necessary to implement this
 4127 section.

4128 Section 46. Section 429.445, Florida Statutes, is amended
 4129 to read:

4130 429.445 Compliance with local zoning requirements.—~~No~~
 4131 ~~facility licensed under this part may commence any construction~~
 4132 ~~which will expand the size of the existing structure unless the~~
 4133 ~~licensee first submits to the agency proof that such~~
 4134 ~~construction will be in compliance with applicable local zoning~~
 4135 ~~requirements.~~ Residences Facilities with a licensed capacity of
 4136 less than 15 persons shall comply with the provisions of chapter
 4137 419.

4138 Section 47. Section 429.47, Florida Statutes, is amended
 4139 to read:

4140 429.47 Prohibited acts; penalties for violation.—

4141 (1) While an assisted living residence a facility is under
 4142 construction, the owner may advertise to the public prior to
 4143 obtaining a license. Facilities that are certified under chapter
 4144 651 shall comply with the advertising provisions of s. 651.095

4145 rather than those provided for in this subsection.

4146 (2) A freestanding residence ~~facility~~ shall not advertise
 4147 or imply that any part of it is a nursing home. For the purpose
 4148 of this subsection, "freestanding residence ~~facility~~" means a
 4149 residence ~~facility~~ that is not operated in conjunction with a
 4150 nursing home to which residents of the residence ~~facility~~ are
 4151 given priority when nursing care is required. A person who
 4152 violates this subsection is subject to fine as specified in s.
 4153 429.19.

4154 (3) Any residence ~~facility~~ which is affiliated with any
 4155 religious organization or which has a name implying religious
 4156 affiliation shall include in its advertising whether or not it
 4157 is affiliated with any religious organization and, if so, which
 4158 organization.

4159 (4) A licensed residence ~~facility licensed under this part~~
 4160 which is not part of a facility authorized under chapter 651
 4161 shall include the residence's ~~facility's~~ license number as given
 4162 by the agency in all advertising. A company or person owning
 4163 more than one residence ~~facility~~ shall include at least one
 4164 license number per advertisement. All advertising shall include
 4165 the term "assisted living residence" or "ALR ~~facility~~" before
 4166 the license number.

4167 Section 48. Section 429.49, Florida Statutes, is amended
 4168 to read:

4169 429.49 Resident records; penalties for alteration.—

4170 (1) Any person who fraudulently alters, defaces, or
 4171 falsifies any medical or other resident record of an assisted
 4172 living residence ~~facility~~, or causes or procures any such

4173 offense to be committed, commits a misdemeanor of the second
 4174 degree, punishable as provided in s. 775.082 or s. 775.083.

4175 (2) A conviction under subsection (1) is also grounds for
 4176 restriction, suspension, or termination of license privileges.

4177 Section 49. Section 429.52, Florida Statutes, is amended
 4178 to read:

4179 429.52 Staff training and educational programs; core
 4180 educational requirement.—

4181 (1) Administrators and other assisted living residence
 4182 ~~facility~~ staff must meet minimum training and education
 4183 requirements established by the Department of Elderly Affairs by
 4184 rule. This training and education is intended to assist
 4185 residences ~~facilities~~ to appropriately respond to the needs of
 4186 residents, to maintain resident care and residence ~~facility~~
 4187 standards, and to meet licensure requirements.

4188 (2) The department shall establish a competency test and a
 4189 minimum required score to indicate successful completion of the
 4190 training and educational requirements. The competency test must
 4191 be developed by the department in conjunction with the agency
 4192 and providers. The required training and education must cover at
 4193 least the following topics:

4194 (a) State law and rules relating to assisted living
 4195 residences ~~facilities~~.

4196 (b) Resident rights and identifying and reporting abuse,
 4197 neglect, and exploitation.

4198 (c) Special needs of elderly persons, persons with mental
 4199 illness, and persons with developmental disabilities and how to
 4200 meet those needs.

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4201 (d) Nutrition and food service, including acceptable
 4202 sanitation practices for preparing, storing, and serving food.

4203 (e) Medication management, recordkeeping, and proper
 4204 techniques for assisting residents with self-administered
 4205 medication.

4206 (f) Firesafety requirements, including fire evacuation
 4207 drill procedures and other emergency procedures.

4208 (g) Care of persons with Alzheimer's disease and related
 4209 disorders.

4210 (3) Effective January 1, 2004, a new residence facility
 4211 administrator must complete the required training and education,
 4212 including the competency test, within a reasonable time after
 4213 being employed as an administrator, as determined by the
 4214 department. Failure to do so is a violation of this part and
 4215 subjects the violator to an administrative fine as prescribed in
 4216 s. 429.19. ~~Administrators licensed in accordance with part II of~~
 4217 ~~chapter 468 are exempt from this requirement. Other licensed~~
 4218 ~~professionals may be exempted, as determined by the department~~
 4219 ~~by rule.~~

4220 (4) Administrators are required to participate in
 4221 continuing education for a minimum of 12 contact hours every 2
 4222 years.

4223 (5) Staff involved with the management of medications and
 4224 assisting with the self-administration of medications under s.
 4225 429.256 must complete a minimum of 4 additional hours of
 4226 training provided by a registered nurse, licensed pharmacist, or
 4227 department staff, and must complete 2 hours of continuing
 4228 education training annually. ~~The department shall establish by~~

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4229 ~~rule the minimum requirements of this additional training.~~

4230 (6) Other residence facility staff shall participate in
 4231 training relevant to their job duties as specified by rule of
 4232 the department.

4233 (7) If the ~~department or the~~ agency determines that there
 4234 are problems in a residence facility that could be reduced
 4235 through specific staff training or education beyond that already
 4236 required under this section, ~~the department or the~~ agency may
 4237 require, and provide, or cause to be provided, the training or
 4238 education of any direct personal care staff in the residence
 4239 facility.

4240 (8) The department shall adopt rules related to these
 4241 training requirements, the competency test, necessary
 4242 procedures, and competency test fees and shall adopt or contract
 4243 with another entity to develop a curriculum, which shall be used
 4244 as the minimum core training requirements. The department shall
 4245 consult with representatives of ~~stakeholder~~ associations and
 4246 organizations representing assisted living residences and
 4247 agencies in the development of the curriculum.

4248 (9) The training required by this section shall be
 4249 conducted by persons registered with the department as having
 4250 the requisite experience and credentials to conduct the
 4251 training. A person seeking to register as a trainer must provide
 4252 the department with proof of completion of the minimum core
 4253 training education requirements, successful passage of the
 4254 competency test established under this section, and proof of
 4255 compliance with the continuing education requirement in
 4256 subsection (4).

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4257 (10) A person seeking to register as a trainer must also:
 4258 (a) Provide proof of completion of a 4-year degree from an
 4259 accredited college or university and must have worked in a
 4260 management position in an assisted living residence ~~facility~~ for
 4261 3 years after being core certified;
 4262 (b) Have worked in a management position in an assisted
 4263 living residence ~~facility~~ for 5 years after being core certified
 4264 and have 1 year of teaching experience as an educator or staff
 4265 trainer for persons who work in assisted living residences
 4266 ~~facilities~~ or other long-term care settings;
 4267 (c) Have been previously employed as a core trainer for
 4268 the department; or
 4269 (d) Meet other qualification criteria as defined in rule,
 4270 which the department is authorized to adopt.
 4271 (11) A trainer certified by the department must continue
 4272 to meet continuing education requirements and other standards as
 4273 set forth in rules adopted by the department. Noncompliance with
 4274 the standards set forth in the rules may result in suspension or
 4275 revocation of a trainer's certificate.
 4276 (12)~~(11)~~ The department shall adopt rules to establish
 4277 trainer registration requirements.
 4278 Section 50. Section 429.53, Florida Statutes, is amended
 4279 to read:
 4280 429.53 Consultation by the agency.—
 4281 (1) ~~The area offices of licensure and certification of the~~
 4282 ~~agency shall provide consultation to the following upon request:~~
 4283 (a) A licensee of a residence ~~facility~~.
 4284 (b) A person interested in obtaining a license to operate

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4285 a residence ~~facility~~ under this part.

4286 (2) As used in this section, "consultation" includes:

4287 (a) An explanation of the requirements of this part and
4288 rules adopted pursuant thereto;

4289 (b) An explanation of the license application and renewal
4290 procedures;

4291 ~~(c) The provision of a checklist of general local and
4292 state approvals required prior to constructing or developing a
4293 facility and a listing of the types of agencies responsible for
4294 such approvals;~~

4295 ~~(d) An explanation of benefits and financial assistance
4296 available to a recipient of supplemental security income
4297 residing in a facility;~~

4298 (c) ~~(e)~~ Any other information which the agency deems
4299 necessary to promote compliance with the requirements of this
4300 part.; and

4301 ~~(f) A preconstruction review of a facility to ensure
4302 compliance with agency rules and this part.~~

4303 (3) The agency may charge a fee commensurate with the cost
4304 of providing consultation under this section.

4305 Section 51. Section 429.54, Florida Statutes, is repealed.

4306 Section 52. Section 429.65, Florida Statutes, is amended
4307 to read:

4308 429.65 Definitions.—As used in this part, the term:

4309 (1) "Activities of daily living" means functions and tasks
4310 for self-care, including eating, bathing, grooming, dressing,
4311 ambulating, and other similar tasks.

4312 (2) "Adult family-care home" means a full-time, family-

4313 type living arrangement, in a private home, under which a person
 4314 who owns or rents the home provides room, board, and personal
 4315 care, on a 24-hour basis, for no more than five disabled adults
 4316 or frail elders who are not relatives. The following family-type
 4317 living arrangements are not required to be licensed as an adult
 4318 family-care home:

4319 (a) An arrangement whereby the person who owns or rents
 4320 the home provides room, board, and personal services for not
 4321 more than two adults who do not receive optional state
 4322 supplementation under s. 409.212. The person who provides the
 4323 housing, meals, and personal care must own or rent the home and
 4324 reside therein.

4325 (b) An arrangement whereby the person who owns or rents
 4326 the home provides room, board, and personal services only to his
 4327 or her relatives.

4328 (c) An establishment that is licensed as an assisted
 4329 living residence ~~facility~~ under this chapter.

4330 ~~(3) "Agency" means the Agency for Health Care~~
 4331 ~~Administration.~~

4332 (3)~~(4)~~ "Aging in place" means remaining in a
 4333 noninstitutional living environment despite the physical or
 4334 mental changes that may occur in a person who is aging. For
 4335 aging in place to occur, needed services are added, increased,
 4336 or adjusted to compensate for a person's physical or mental
 4337 changes.

4338 (4)~~(5)~~ "Appropriate placement" means that the resident's
 4339 needs can be met by the adult family-care home or can be met by
 4340 services arranged by the adult family-care home or the resident.

4341 (5)~~(6)~~ "Chemical restraint" means a pharmacologic drug
 4342 that physically limits, restricts, or deprives an individual of
 4343 movement or mobility, and is used for discipline or convenience
 4344 and not required for the treatment of medical symptoms.

4345 (6)~~(7)~~ "Department" means the Department of Elderly
 4346 Affairs.

4347 (7)~~(8)~~ "Disabled adult" means any person between 18 and 59
 4348 years of age, inclusive, who is a resident of the state and who
 4349 has one or more permanent physical or mental limitations that
 4350 restrict the person's ability to perform the normal activities
 4351 of daily living.

4352 (8)~~(9)~~ "Frail elder" means a functionally impaired elderly
 4353 person who is 60 years of age or older and who has physical or
 4354 mental limitations that restrict the person's ability to perform
 4355 the normal activities of daily living and that impede the
 4356 person's capacity to live independently.

4357 (9)~~(10)~~ "Personal services" or "personal care" includes
 4358 individual assistance with or supervision of the activities of
 4359 daily living and the self-administration of medication, and
 4360 other similar services.

4361 ~~(11) "Provider" means a person who is licensed to operate
 4362 an adult family care home.~~

4363 (10)~~(12)~~ "Relative" means an individual who is the father,
 4364 mother, son, daughter, brother, sister, grandfather,
 4365 grandmother, great-grandfather, great-grandmother, uncle, aunt,
 4366 first cousin, nephew, niece, husband, wife, father-in-law,
 4367 mother-in-law, son-in-law, daughter-in-law, brother-in-law,
 4368 sister-in-law, stepfather, stepmother, stepson, stepdaughter,

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4369 stepbrother, stepsister, half brother, or half sister of a
 4370 licensee provider.

4371 (11)~~(13)~~ "Relief person" means an adult designated by the
 4372 licensee provider to supervise the residents during the
 4373 licensee's provider's absence.

4374 (12)~~(14)~~ "Resident" means a person receiving room, board,
 4375 and personal care in an adult family-care home.

4376 Section 53. Section 429.67, Florida Statutes, is amended
 4377 to read:

4378 429.67 Licensure.—

4379 (1) The requirements of part I ~~part II of chapter 408~~
 4380 apply to the provision of services that require licensure
 4381 pursuant to this chapter ~~part and part II of chapter 408~~ and to
 4382 entities licensed by or applying for such licensure from the
 4383 agency ~~for Health Care Administration~~ pursuant to this part. A
 4384 license issued by the agency is required in order to operate an
 4385 adult family-care home in this state.

4386 (2) A person who applies for licensure as ~~intends to be~~ an
 4387 adult family-care home ~~provider~~ must own or rent the adult
 4388 family-care home that is to be licensed and reside therein.

4389 (3) In accordance with s. 429.004 ~~s. 408.805~~, an applicant
 4390 or licensee shall pay a fee for each license application
 4391 submitted under this chapter ~~part, part II of chapter 408,~~ and
 4392 applicable rules. The amount of the fee shall be \$200 per
 4393 biennium.

4394 (4) The agency shall require level 2 background screening
 4395 for personnel as required in s. 429.008(1)(e) ~~s. 408.809(1)(e)~~,
 4396 including the adult family-care home licensee ~~provider~~, the

4397 designated relief person, and all adult household members,
 4398 pursuant to chapter 435 and s. 429.008 ~~s. 408.809~~.

4399 (5) Unless the adult family-care home is a community
 4400 residential home subject to chapter 419, the applicant must
 4401 provide documentation, signed by the appropriate governmental
 4402 official, that the home has met local zoning requirements for
 4403 the location for which the license is sought.

4404 (6) In addition to the requirements of s. 429.020 ~~s.~~
 4405 ~~408.811~~, access to a licensed adult family-care home must be
 4406 provided at reasonable times for the appropriate officials of
 4407 the department, the Department of Health, the Department of
 4408 Children and Family Services, the agency, and the State Fire
 4409 Marshal, who are responsible for the development and maintenance
 4410 of fire, health, sanitary, and safety standards, to inspect the
 4411 adult family-care home ~~facility~~ to assure compliance with these
 4412 standards. In addition, access to a licensed adult family-care
 4413 home must be provided at reasonable times for the local long-
 4414 term care ombudsman council.

4415 (7) The licensed maximum capacity of each adult family-
 4416 care home is based on the service needs of the residents and the
 4417 capability of the licensee ~~provider~~ to meet the needs of the
 4418 residents. Any relative who lives in the adult family-care home
 4419 and who is a disabled adult or frail elder must be included in
 4420 that limitation.

4421 (8) Each adult family-care home must designate at least
 4422 one licensed space for a resident receiving optional state
 4423 supplementation. The Department of Children and Family Services
 4424 shall specify by rule the procedures to be followed for

4425 referring residents who receive optional state supplementation
 4426 to adult family-care homes. Those homes licensed as adult foster
 4427 homes or assisted living residences ~~facilities~~ prior to January
 4428 1, 1994, that convert to adult family-care homes, are exempt
 4429 from this requirement.

4430 (9) In addition to the license categories available in s.
 4431 429.007 ~~s. 408.808~~, the agency may issue a conditional license
 4432 to a licensee ~~provider~~ for the purpose of bringing the adult
 4433 family-care home into compliance with licensure requirements. A
 4434 conditional license must be limited to a specific period, not
 4435 exceeding 6 months. The department shall, by rule, establish
 4436 criteria for issuing conditional licenses.

4437 (10) The department may adopt rules to establish
 4438 procedures, identify forms, specify documentation, and clarify
 4439 terms, as necessary, to administer this section.

4440 ~~(11) The agency may adopt rules to administer the~~
 4441 ~~requirements of part II of chapter 408.~~

4442 Section 54. Section 429.69, Florida Statutes, is amended
 4443 to read:

4444 429.69 Denial, revocation, and suspension of a license.—In
 4445 addition to the requirements of part I ~~part II of chapter 408~~,
 4446 the agency may deny, suspend, and revoke a license for any of
 4447 the following reasons:

4448 (1) Failure to comply with the background screening
 4449 standards of this part, s. 429.008 ~~s. 408.809(1)~~, or chapter
 4450 435.

4451 (2) Failure to correct cited fire code violations that
 4452 threaten the health, safety, or welfare of residents.

4453 Section 55. Section 429.71, Florida Statutes, is amended
 4454 to read:

4455 429.71 Classification of deficiencies; administrative
 4456 fines.—

4457 (1) In addition to the requirements of part I ~~part II~~ of
 4458 ~~chapter 408~~ and ~~in addition to~~ any other liability or penalty
 4459 provided by law, the agency may impose an administrative fine on
 4460 a licensee ~~provider~~ according to the following classification:

4461 (a) Class I violations are those conditions or practices
 4462 related to the operation and maintenance of an adult family-care
 4463 home or to the care of residents which the agency determines
 4464 present an imminent danger to the residents or guests of the
 4465 adult family-care home ~~facility~~ or a substantial probability
 4466 that death or serious physical or emotional harm would result
 4467 therefrom. The condition or practice that constitutes a class I
 4468 violation must be abated or eliminated within 24 hours, unless a
 4469 fixed period, as determined by the agency, is required for
 4470 correction. A class I violation ~~deficiency~~ is subject to an
 4471 administrative fine in an amount not less than \$500 and not
 4472 exceeding \$1,000 for each violation. A fine may be levied
 4473 notwithstanding the correction of the violation ~~deficiency~~.

4474 (b) Class II violations are those conditions or practices
 4475 related to the operation and maintenance of an adult family-care
 4476 home or to the care of residents which the agency determines
 4477 directly threaten the physical or emotional health, safety, or
 4478 security of the residents, other than class I violations. A
 4479 class II violation is subject to an administrative fine in an
 4480 amount not less than \$250 and not exceeding \$500 for each

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4481 violation. A citation for a class II violation must specify the
4482 time within which the violation is required to be corrected. If
4483 a class II violation is corrected within the time specified, no
4484 civil penalty shall be imposed, unless it is a repeated offense.

4485 (c) Class III violations are those conditions or practices
4486 related to the operation and maintenance of an adult family-care
4487 home or to the care of residents which the agency determines
4488 indirectly or potentially threaten the physical or emotional
4489 health, safety, or security of residents, other than class I or
4490 class II violations. A class III violation is subject to an
4491 administrative fine in an amount not less than \$100 and not
4492 exceeding \$250 for each violation. A citation for a class III
4493 violation shall specify the time within which the violation is
4494 required to be corrected. If a class III violation is corrected
4495 within the time specified, no civil penalty shall be imposed,
4496 unless it is a repeated offense.

4497 (d) Class IV violations are those conditions or
4498 occurrences related to the operation and maintenance of an adult
4499 family-care home, or related to the required reports, forms, or
4500 documents, which do not have the potential of negatively
4501 affecting the residents. A licensee ~~provider~~ that does not
4502 correct a class IV violation within the time limit specified by
4503 the agency is subject to an administrative fine in an amount not
4504 less than \$50 and not exceeding \$100 for each violation. Any
4505 class IV violation that is corrected during the time the agency
4506 survey is conducted will be identified as an agency finding and
4507 not as a violation.

4508 (2) The agency may impose an administrative fine for

4509 | violations which do not qualify as class I, class II, class III,
 4510 | or class IV violations. The amount of the fine shall not exceed
 4511 | \$250 for each violation or \$2,000 in the aggregate. Unclassified
 4512 | violations may include:

- 4513 | (a) Violating any term or condition of a license.
- 4514 | (b) Violating any provision of this chapter ~~part, part II~~
 4515 | ~~of chapter 408,~~ or applicable rules.
- 4516 | (c) Failure to follow the criteria and procedures provided
 4517 | under part I of chapter 394 relating to the transportation,
 4518 | voluntary admission, and involuntary examination of adult
 4519 | family-care home residents.
- 4520 | (d) Exceeding licensed capacity.
- 4521 | (e) Providing services beyond the scope of the license.
- 4522 | (f) Violating a moratorium.

4523 | (3) Each day during which a violation occurs constitutes a
 4524 | separate offense.

4525 | (4) In determining whether a penalty is to be imposed, and
 4526 | in fixing the amount of any penalty to be imposed, the agency
 4527 | must consider:

- 4528 | (a) The gravity of the violation.
- 4529 | (b) Actions taken by the licensee ~~provider~~ to correct a
 4530 | violation.
- 4531 | (c) Any previous violation by the licensee ~~provider~~.
- 4532 | (d) The financial benefit to the licensee ~~provider~~ of
 4533 | committing or continuing the violation.

4534 | ~~(5) As an alternative to or in conjunction with an~~
 4535 | ~~administrative action against a provider, the agency may request~~
 4536 | ~~a plan of corrective action that demonstrates a good faith~~

4537 ~~effort to remedy each violation by a specific date, subject to~~
 4538 ~~the approval of the agency.~~

4539 (5)~~(6)~~ The department shall set forth, by rule, notice
 4540 requirements and procedures for correction of violations
 4541 deficiencies.

4542 Section 56. Section 429.73, Florida Statutes, is amended
 4543 to read:

4544 429.73 Rules and standards relating to adult family-care
 4545 homes.—

4546 ~~(1) The agency, in consultation with the department, may~~
 4547 ~~adopt rules to administer the requirements of part II of chapter~~
 4548 ~~408.~~ The department, in consultation with the Department of
 4549 Health, the Department of Children and Family Services, and the
 4550 agency shall, by rule, establish minimum standards to ensure the
 4551 health, safety, and well-being of each resident in the adult
 4552 family-care home pursuant to this part. The rules must address:

4553 (a) Requirements for the physical site and maintenance of
 4554 the adult family-care home ~~facility and facility maintenance.~~

4555 (b) Services that must be provided to all residents of an
 4556 adult family-care home and standards for such services, which
 4557 must include, but need not be limited to:

- 4558 1. Room and board.
- 4559 2. Assistance necessary to perform the activities of daily
 4560 living.
- 4561 3. Assistance necessary to administer medication.
- 4562 4. Supervision of residents.
- 4563 5. Health monitoring.
- 4564 6. Social and leisure activities.

4565 (c) Standards and procedures for license application and
 4566 annual license renewal, advertising, proper management of each
 4567 resident's funds and personal property and personal affairs,
 4568 financial ability to operate, medication management,
 4569 inspections, complaint investigations, and adult family-care
 4570 home facility, staff, and resident records.

4571 (d) Qualifications, training, standards, and
 4572 responsibilities for licensees ~~providers~~ and staff.

4573 (e) Compliance with chapter 419, relating to community
 4574 residential homes.

4575 (f) Criteria and procedures for determining the
 4576 appropriateness of a resident's placement and continued
 4577 residency in an adult family-care home. A resident who requires
 4578 24-hour nursing supervision may not be retained in an adult
 4579 family-care home unless such resident is an enrolled hospice
 4580 patient and the resident's continued residency is mutually
 4581 agreeable to the resident and the licensee ~~provider~~.

4582 (g) Procedures for providing notice and assuring the least
 4583 possible disruption of residents' lives when residents are
 4584 relocated, an adult family-care home is closed, or the ownership
 4585 of an adult family-care home is transferred.

4586 (h) Procedures to protect the residents' rights as
 4587 provided in s. 429.85.

4588 (i) Procedures to promote the growth of adult family-care
 4589 homes as a component of a long-term care system.

4590 (j) Procedures to promote the goal of aging in place for
 4591 residents of adult family-care homes.

4592 (2) The department shall by rule provide minimum standards

4593 and procedures for emergencies. Pursuant to s. 633.022, the
 4594 State Fire Marshal, in consultation with the department and the
 4595 agency, shall adopt uniform firesafety standards for adult
 4596 family-care homes.

4597 (3) The department shall adopt rules providing for the
 4598 implementation of orders not to resuscitate. The licensee
 4599 ~~provider~~ may withhold or withdraw cardiopulmonary resuscitation
 4600 if presented with an order not to resuscitate executed pursuant
 4601 to s. 401.45. The licensee ~~provider~~ shall not be subject to
 4602 criminal prosecution or civil liability, nor be considered to
 4603 have engaged in negligent or unprofessional conduct, for
 4604 withholding or withdrawing cardiopulmonary resuscitation
 4605 pursuant to such an order and applicable rules.

4606 Section 57. Section 429.75, Florida Statutes, is amended
 4607 to read:

4608 429.75 Training and education programs.—

4609 (1) Each adult family-care home licensee ~~provider~~ shall
 4610 complete training and education programs.

4611 (2) Training and education programs must include
 4612 information relating to:

4613 (a) State law and rules governing adult family-care homes,
 4614 with emphasis on appropriateness of placement of residents in an
 4615 adult family-care home.

4616 (b) Identifying and reporting abuse, neglect, and
 4617 exploitation.

4618 (c) Identifying and meeting the special needs of disabled
 4619 adults and frail elders.

4620 (d) Monitoring the health of residents, including

4621 guidelines for prevention and care of pressure ulcers.

4622 (3) Licensees ~~Effective January 1, 2004, providers~~ must
 4623 complete the training and education program within a reasonable
 4624 time determined by the department. Failure to complete the
 4625 training and education program within the time set by the
 4626 department is a violation of this part and subjects the licensee
 4627 ~~provider~~ to revocation of the license.

4628 (4) If the Department of Children and Family Services, the
 4629 agency, or the department determines that there are problems in
 4630 an adult family-care home which could be reduced through
 4631 specific training or education beyond that required under this
 4632 section, the agency may require the licensee ~~provider~~ or staff
 4633 to complete such training or education.

4634 (5) The department may adopt rules as necessary to
 4635 administer this section.

4636 Section 58. Section 429.81, Florida Statutes, is amended
 4637 to read:

4638 429.81 Residency agreements.—

4639 (1) Each resident must be covered by a residency
 4640 agreement, executed before or at the time of admission, between
 4641 the licensee ~~provider~~ and the resident or the resident's
 4642 designee or legal representative. Each party to the contract
 4643 must be provided a duplicate copy or the original agreement, and
 4644 the licensee ~~provider~~ must keep the residency agreement on file
 4645 for 5 years after expiration of the agreement.

4646 (2) Each residency agreement must specify the personal
 4647 care and accommodations to be provided by the adult family-care
 4648 home, the rates or charges, a requirement of at least 30 days'

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4649 notice before a rate increase, and any other provisions required
 4650 by rule of the department.

4651 (3) Each residency agreement must specify that the
 4652 resident must give the provider a 30 days' written notice of
 4653 intent to terminate his or her residency from the adult family-
 4654 care home.

4655 Section 59. Section 429.83, Florida Statutes, is amended
 4656 to read:

4657 429.83 Residents with Alzheimer's disease or other related
 4658 disorders; certain disclosures.—An adult family-care home
 4659 licensed under this part which claims that it provides special
 4660 care for persons who have Alzheimer's disease or other related
 4661 disorders must disclose in its advertisements or in a separate
 4662 document those services that distinguish the care as being
 4663 especially applicable to, or suitable for, such persons. The
 4664 adult family-care home must give a copy of all such
 4665 advertisements or a copy of the document to each person who
 4666 requests information about programs and services for persons
 4667 with Alzheimer's disease or other related disorders offered by
 4668 the adult family-care home and must maintain a copy of all such
 4669 advertisements and documents in its records. The agency shall
 4670 examine all such advertisements and documents in the adult
 4671 family-care home's records as part of the license renewal
 4672 procedure.

4673 Section 60. Section 429.85, Florida Statutes, is amended
 4674 to read:

4675 429.85 Residents' bill of rights.—

4676 (1) A resident of an adult family-care home may not be

4677 | deprived of any civil or legal rights, benefits, or privileges
 4678 | guaranteed by law, the State Constitution, or the Constitution
 4679 | of the United States solely by reason of status as a resident of
 4680 | the adult family-care home. Each resident has the right to:

4681 | (a) Live in a safe and decent living environment, free
 4682 | from abuse and neglect.

4683 | (b) Be treated with consideration and respect and with due
 4684 | recognition of personal dignity, individuality, and privacy.

4685 | (c) Keep and use the resident's own clothes and other
 4686 | personal property in the resident's immediate living quarters,
 4687 | so as to maintain individuality and personal dignity, except
 4688 | when the licensee ~~provider~~ can demonstrate that to do so would
 4689 | be unsafe or an infringement upon the rights of other residents.

4690 | (d) Have unrestricted private communication, including
 4691 | receiving and sending unopened correspondence, having access to
 4692 | a telephone, and visiting with any person of his or her choice,
 4693 | at any time between the hours of 9 a.m. and 9 p.m. at a minimum.

4694 | (e) Be free to participate in and benefit from community
 4695 | services and activities and to achieve the highest possible
 4696 | level of independence, autonomy, and interaction within the
 4697 | community.

4698 | (f) Manage the resident's own financial affairs unless the
 4699 | resident or the resident's guardian authorizes the licensee
 4700 | ~~provider~~ to provide safekeeping for funds in accordance with
 4701 | procedures equivalent to those provided in s. 429.27.

4702 | (g) Share a room with the resident's spouse if both are
 4703 | residents of the adult family-care home.

4704 | (h) Have reasonable opportunity for regular exercise

4705 several times a week and to be outdoors at regular and frequent
 4706 intervals.

4707 (i) Exercise civil and religious liberties, including the
 4708 right to independent personal decisions. Religious beliefs or
 4709 practices and attendance at religious services may not be
 4710 imposed upon a resident.

4711 (j) Have access to adequate and appropriate health care.

4712 (k) Be free from chemical and physical restraints.

4713 (l) Have at least 30 days' notice of relocation or
 4714 termination of residency from the adult family-care home
 4715 unless, for medical reasons, the resident is certified by a
 4716 physician to require an emergency relocation to a facility
 4717 providing a more skilled level of care or the resident engages
 4718 in a pattern of conduct that is harmful or offensive to other
 4719 residents. If a resident has been adjudicated mentally
 4720 incompetent, the resident's guardian must be given at least 30
 4721 days' notice, except in an emergency, of the relocation of a
 4722 resident or of the termination of a residency. The reasons for
 4723 relocating a resident must be set forth in writing.

4724 (m) Present grievances and recommend changes to the
 4725 licensee ~~provider~~, to staff, or to any other person without
 4726 restraint, interference, coercion, discrimination, or reprisal.
 4727 This right includes the right to have access to ombudsman
 4728 volunteers and advocates and the right to be a member of, to be
 4729 active in, and to associate with advocacy or special interest
 4730 groups.

4731 (2) The licensee ~~provider~~ shall ensure that residents and
 4732 their legal representatives are made aware of the rights,

4733 obligations, and prohibitions set forth in this part. Residents
 4734 must also be given the names, addresses, and telephone numbers
 4735 of the local ombudsman council and the central abuse hotline
 4736 where they may lodge complaints.

4737 (3) The adult family-care home may not hamper or prevent
 4738 residents from exercising the rights specified in this section.

4739 (4) A licensee ~~provider~~ or staff of an adult family-care
 4740 home may not serve notice upon a resident to leave the premises
 4741 or take any other retaliatory action against any person who:

4742 (a) Exercises any right set forth in this section.

4743 (b) Appears as a witness in any hearing, in or out of the
 4744 adult family-care home.

4745 (c) Files a civil action alleging a violation of this part
 4746 or notifies a state attorney or the Attorney General of a
 4747 possible violation of this part.

4748 (5) Any adult family-care home that terminates the
 4749 residency of an individual who has participated in activities
 4750 specified in subsection (4) must show good cause for the
 4751 termination in a court of competent jurisdiction.

4752 (6) Any person who reports a complaint concerning a
 4753 suspected violation of this part or the services and conditions
 4754 in an adult family-care home, or who testifies in any
 4755 administrative or judicial proceeding arising from such a
 4756 complaint, is immune from any civil or criminal liability
 4757 therefor, unless the person acted in bad faith or with malicious
 4758 purpose or the court finds that there was a complete absence of
 4759 a justiciable issue of either law or fact raised by the losing
 4760 party.

4761 Section 61. Section 429.87, Florida Statutes, is amended
 4762 to read:

4763 429.87 Civil actions to enforce rights.—

4764 (1) Any person or resident whose rights as specified in
 4765 this part are violated has a cause of action against any adult
 4766 family-care home, licensee ~~provider~~, or staff responsible for
 4767 the violation. The action may be brought by the resident or the
 4768 resident's guardian, or by a person or organization acting on
 4769 behalf of a resident with the consent of the resident or the
 4770 resident's guardian, to enforce the right. The action may be
 4771 brought in any court of competent jurisdiction to enforce such
 4772 rights and to recover actual damages, and punitive damages when
 4773 malicious, wanton, or willful disregard of the rights of others
 4774 can be shown. Any plaintiff who prevails in any such action is
 4775 entitled to recover reasonable attorney's fees, costs of the
 4776 action, and damages, unless the court finds that the plaintiff
 4777 has acted in bad faith or with malicious purpose or that there
 4778 was a complete absence of a justiciable issue of either law or
 4779 fact. A prevailing defendant is entitled to recover reasonable
 4780 attorney's fees pursuant to s. 57.105. The remedies provided in
 4781 this section are in addition to other legal and administrative
 4782 remedies available to a resident or to the agency.

4783 (2) To recover attorney's fees under this section, the
 4784 following conditions precedent must be met:

4785 (a) Within 120 days after the filing of a responsive
 4786 pleading or defensive motion to a complaint brought under this
 4787 section and before trial, the parties or their designated
 4788 representatives shall meet in mediation to discuss the issues of

4789 liability and damages in accordance with this paragraph for the
 4790 purpose of an early resolution of the matter.

4791 1. Within 60 days after the filing of the responsive
 4792 pleading or defensive motion, the parties shall:

4793 a. Agree on a mediator. If the parties cannot agree on a
 4794 mediator, the defendant shall immediately notify the court,
 4795 which shall appoint a mediator within 10 days after such notice.

4796 b. Set a date for mediation.

4797 c. Prepare an order for the court that identifies the
 4798 mediator, the scheduled date of the mediation, and other terms
 4799 of the mediation. Absent any disagreement between the parties,
 4800 the court may issue the order for the mediation submitted by the
 4801 parties without a hearing.

4802 2. The mediation must be concluded within 120 days after
 4803 the filing of a responsive pleading or defensive motion. The
 4804 date may be extended only by agreement of all parties subject to
 4805 mediation under this subsection.

4806 3. The mediation shall be conducted in the following
 4807 manner:

4808 a. Each party shall ensure that all persons necessary for
 4809 complete settlement authority are present at the mediation.

4810 b. Each party shall mediate in good faith.

4811 4. All aspects of the mediation which are not specifically
 4812 established by this subsection must be conducted according to
 4813 the rules of practice and procedure adopted by the Supreme Court
 4814 of this state.

4815 (b) If the parties do not settle the case pursuant to
 4816 mediation, the last offer of the defendant made at mediation

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4817 shall be recorded by the mediator in a written report that
 4818 states the amount of the offer, the date the offer was made in
 4819 writing, and the date the offer was rejected. If the matter
 4820 subsequently proceeds to trial under this section and the
 4821 plaintiff prevails but is awarded an amount in damages,
 4822 exclusive of attorney's fees, which is equal to or less than the
 4823 last offer made by the defendant at mediation, the plaintiff is
 4824 not entitled to recover any attorney's fees.

4825 (c) This subsection applies only to claims for liability
 4826 and damages and does not apply to actions for injunctive relief.

4827 (d) This subsection applies to all causes of action that
 4828 accrue on or after October 1, 1999.

4829 (3) Discovery of financial information for the purpose of
 4830 determining the value of punitive damages may not be had unless
 4831 the plaintiff shows the court by proffer or evidence in the
 4832 record that a reasonable basis exists to support a claim for
 4833 punitive damages.

4834 (4) In addition to any other standards for punitive
 4835 damages, any award of punitive damages must be reasonable in
 4836 light of the actual harm suffered by the resident and the
 4837 egregiousness of the conduct that caused the actual harm to the
 4838 resident.

4839 Section 62. Section 429.901, Florida Statutes, is amended
 4840 to read:

4841 429.901 Definitions.—As used in this part, the term:

4842 (1) "Adult day care center" or "center" means any
 4843 building, buildings, or part of a building, whether operated for
 4844 profit or not, in which is provided through its ownership or

4845 management, for a part of a day, basic services to three or more
 4846 persons who are 18 years of age or older, who are not related to
 4847 the owner or operator by blood or marriage, and who require such
 4848 services.

4849 ~~(2) "Agency" means the Agency for Health Care~~
 4850 ~~Administration.~~

4851 (2)~~(3)~~ "Basic services" include, but are not limited to,
 4852 providing a protective setting that is as noninstitutional as
 4853 possible; therapeutic programs of social and health activities
 4854 and services; leisure activities; self-care training; rest;
 4855 nutritional services; and respite care.

4856 (3)~~(4)~~ "Department" means the Department of Elderly
 4857 Affairs.

4858 (4)~~(5)~~ "Multiple or repeated violations" means 2 or more
 4859 violations that present an imminent danger to the health,
 4860 safety, or welfare of participants or 10 or more violations
 4861 within a 5-year period that threaten the health, safety, or
 4862 welfare of the participants.

4863 ~~(6) "Operator" means the licensee or person having general~~
 4864 ~~administrative charge of an adult day care center.~~

4865 ~~(7) "Owner" means the licensee of an adult day care~~
 4866 ~~center.~~

4867 (5)~~(8)~~ "Participant" means a recipient of basic services
 4868 or of supportive and optional services provided by an adult day
 4869 care center.

4870 (6)~~(9)~~ "Supportive and optional services" include, but are
 4871 not limited to, speech, occupational, and physical therapy;
 4872 direct transportation; legal consultation; consumer education;

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4873 and referrals for followup services.

4874 Section 63. Section 429.905, Florida Statutes, is amended
4875 to read:

4876 429.905 Exemptions; monitoring of adult day care center
4877 programs colocated with assisted living residences ~~facilities~~ or
4878 licensed nursing home facilities.-

4879 (1) The following are exempt from this part:

4880 (a) Any facility, institution, or other place that is
4881 operated by the Federal Government or any agency thereof.

4882 (b) Any freestanding inpatient hospice facility that is
4883 licensed by the state and which provides day care services to
4884 hospice patients only.

4885 (2) A licensed assisted living residence ~~facility~~, a
4886 licensed hospital, or a licensed nursing home facility may
4887 provide services during the day which include, but are not
4888 limited to, social, health, therapeutic, recreational,
4889 nutritional, and respite services, to adults who are not
4890 residents. Such a residence or facility need not be licensed as
4891 an adult day care center; however, the agency must monitor the
4892 residence or facility during the regular inspection and at least
4893 biennially to ensure adequate space and sufficient staff. If an
4894 assisted living residence ~~facility~~, a hospital, or a nursing
4895 home holds itself out to the public as an adult day care center,
4896 it must be licensed as such and meet all standards prescribed by
4897 statute and rule.

4898 Section 64. Section 429.907, Florida Statutes, is amended
4899 to read:

4900 429.907 License requirement; fee; exemption; display.-

4901 (1) The requirements of part I ~~part II of chapter 408~~
 4902 apply to the provision of services that require licensure
 4903 pursuant to this chapter ~~part and part II of chapter 408~~ and to
 4904 entities licensed by or applying for such licensure from the
 4905 agency ~~for Health Care Administration~~ pursuant to this part. A
 4906 license issued by the agency is required in order to operate an
 4907 adult day care center in this state.

4908 (2) (a) Except as otherwise provided in this subsection,
 4909 separate licenses are required for centers operated on separate
 4910 premises, even though operated under the same management.
 4911 Separate licenses are not required for separate buildings on the
 4912 same premises.

4913 (b) In the event a licensed center becomes wholly or
 4914 substantially unusable due to a disaster as defined in s.
 4915 252.34(1) or due to an emergency as defined in s. 252.34(3):

4916 1. The licensee may continue to operate under its current
 4917 license in a premise or premises separate from that authorized
 4918 under the license if the licensee has:

4919 a. Specified the location of the premise or premises in
 4920 its comprehensive emergency management plan submitted to and
 4921 approved by the applicable county emergency management
 4922 authority; and

4923 b. Notified the agency and the county emergency management
 4924 authority within 24 hours of operating in the separate premise
 4925 or premises.

4926 2. The licensee shall operate the separate premise or
 4927 premises only while the licensed center's original location is
 4928 substantially unusable and for no longer than 180 days. The

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4929 agency may extend use of the alternate premise or premises
 4930 beyond the initial 180 days. The agency may also review the
 4931 operation of the disaster premise or premises quarterly.

4932 (3) In accordance with s. 429.004 ~~s. 408.805~~, an applicant
 4933 or licensee shall pay a fee for each license application
 4934 submitted under this part and part I ~~II~~ of ~~chapter 408~~. The
 4935 amount of the fee shall be established by rule and may not
 4936 exceed \$150.

4937 (4) County-operated or municipally operated centers
 4938 applying for licensure under this part are exempt from the
 4939 payment of license fees.

4940 Section 65. Section 429.909, Florida Statutes, is amended
 4941 to read:

4942 429.909 Application for license.—In addition to all
 4943 provisions of part I ~~part II~~ of ~~chapter 408~~, the applicant for
 4944 licensure must furnish a description of the physical and mental
 4945 capabilities and needs of the participants to be served and the
 4946 availability, frequency, and intensity of basic services and of
 4947 supportive and optional services to be provided and proof of
 4948 adequate liability insurance coverage.

4949 Section 66. Section 429.911, Florida Statutes, is amended
 4950 to read:

4951 429.911 Denial, suspension, revocation of license;
 4952 emergency action; administrative fines; investigations and
 4953 inspections.—

4954 (1) The agency may deny, revoke, and suspend a license
 4955 under this part, impose an action under s. 429.013 ~~s. 408.814~~,
 4956 and impose an administrative fine against the licensee ~~owner~~ of

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4957 | an adult day care center or its ~~operator or~~ employee in the
 4958 | manner provided in chapter 120 for the violation of any
 4959 | provision of this chapter part, ~~part II of chapter 408~~, or
 4960 | applicable rules.

4961 | (2) Each of the following actions by the licensee ~~owner~~ of
 4962 | an adult day care center or by its ~~operator or~~ employee is a
 4963 | ground for action by the agency against the licensee ~~owner of~~
 4964 | ~~the center~~ or its ~~operator or~~ employee:

4965 | (a) An intentional or negligent act materially affecting
 4966 | the health or safety of center participants.

4967 | (b) A violation of this part or of any standard or rule
 4968 | under this chapter part ~~or part II of chapter 408~~.

4969 | (c) Failure to comply with the background screening
 4970 | standards of this part, s. 429.008 ~~s. 408.809(1)~~, or chapter
 4971 | 435.

4972 | (d) Failure to follow the criteria and procedures provided
 4973 | under part I of chapter 394 relating to the transportation,
 4974 | voluntary admission, and involuntary examination of center
 4975 | participants.

4976 | (e) Multiple or repeated violations of this part or of any
 4977 | standard or rule adopted under this chapter part ~~or part II of~~
 4978 | ~~chapter 408~~.

4979 | (3) The agency is responsible for all investigations and
 4980 | inspections conducted pursuant to this part and s. 429.0105 ~~s.~~
 4981 | ~~408.811~~.

4982 | Section 67. Section 429.913, Florida Statutes, is amended
 4983 | to read:

4984 | 429.913 Administrative fines.—

4985 (1) (a) In addition to the requirements of part I ~~part II~~
 4986 ~~of chapter 408~~, if the agency determines that an adult day care
 4987 center is not operated in compliance with this part or with
 4988 rules adopted under this part, the agency, notwithstanding any
 4989 other administrative action it takes, shall make a reasonable
 4990 attempt to discuss with the licensee ~~owner~~ each violation and
 4991 recommended corrective action prior to providing the licensee
 4992 ~~owner~~ with written notification. The agency may request the
 4993 submission of a corrective action plan for the center which
 4994 demonstrates a good faith effort to remedy each violation by a
 4995 specific date, subject to the approval of the agency.

4996 (b) The licensee ~~owner~~ of a center or its ~~operator or~~
 4997 employee found in violation of this chapter ~~part, part II of~~
 4998 ~~chapter 408~~, or applicable rules may be fined by the agency. A
 4999 fine may not exceed \$500 for each violation. In no event,
 5000 however, may such fines in the aggregate exceed \$5,000.

5001 (c) The failure to correct a violation by the date set by
 5002 the agency, or the failure to comply with an approved corrective
 5003 action plan, is a separate violation for each day such failure
 5004 continues, unless the agency approves an extension to a specific
 5005 date.

5006 (2) In determining whether to impose a fine and in fixing
 5007 the amount of any fine, the agency shall consider the following
 5008 factors:

5009 (a) The gravity of the violation, including the
 5010 probability that death or serious physical or emotional harm to
 5011 a participant will result or has resulted, the severity of the
 5012 actual or potential harm, and the extent to which the provisions

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5013 of the applicable statutes or rules were violated.

5014 (b) Actions taken by the licensee ~~owner or operator~~ to
 5015 correct violations.

5016 (c) Any previous violations.

5017 (d) The financial benefit to the center of committing or
 5018 continuing the violation.

5019 Section 68. Section 429.915, Florida Statutes, is amended
 5020 to read:

5021 429.915 Conditional license.—In addition to the license
 5022 categories available in part I ~~part II of chapter 408~~, the
 5023 agency may issue a conditional license to an applicant for
 5024 license renewal or change of ownership if the applicant fails to
 5025 meet all standards and requirements for licensure. A conditional
 5026 license issued under this subsection must be limited to a
 5027 specific period not exceeding 6 months, as determined by the
 5028 agency, ~~and must be accompanied by an approved plan of~~
 5029 ~~correction.~~

5030 Section 69. Section 429.917, Florida Statutes, is amended
 5031 to read:

5032 429.917 Patients with Alzheimer's disease or other related
 5033 disorders; staff training requirements; certain disclosures.—

5034 (1) An adult day care center licensed under this part must
 5035 provide the following staff training:

5036 (a) Upon beginning employment with the adult day care
 5037 center facility, each employee must receive basic written
 5038 information about interacting with participants who have
 5039 Alzheimer's disease or dementia-related disorders.

5040 (b) In addition to the information provided under

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5041 paragraph (a), newly hired adult day care center personnel who
5042 are expected to, or whose responsibilities require them to, have
5043 direct contact with participants who have Alzheimer's disease or
5044 dementia-related disorders must complete initial training of at
5045 least 1 hour within the first 3 months after beginning
5046 employment. The training must include an overview of dementias
5047 and must provide instruction in basic skills for communicating
5048 with persons who have dementia.

5049 (c) In addition to the requirements of paragraphs (a) and
5050 (b), an employee who will be providing direct care to a
5051 participant who has Alzheimer's disease or a dementia-related
5052 disorder must complete an additional 3 hours of training within
5053 9 months after beginning employment. This training must include,
5054 but is not limited to, the management of problem behaviors,
5055 information about promoting the participant's independence in
5056 activities of daily living, and instruction in skills for
5057 working with families and caregivers.

5058 (d) For certified nursing assistants, the required 4 hours
5059 of training shall be part of the total hours of training
5060 required annually.

5061 (e) For a health care practitioner as defined in s.
5062 456.001, continuing education hours taken as required by that
5063 practitioner's licensing board shall be counted toward the total
5064 of 4 hours.

5065 (f) For an employee who is a licensed health care
5066 practitioner as defined in s. 456.001, training that is
5067 sanctioned by that practitioner's licensing board shall be
5068 considered to be approved by the department ~~of Elderly Affairs~~.

5069 (g) The department of ~~Elderly Affairs~~ or its designee must
 5070 approve the 1-hour and 3-hour training provided to employees and
 5071 direct caregivers under this section. The department must
 5072 consider for approval training offered in a variety of formats.
 5073 The department shall keep a list of current providers who are
 5074 approved to provide the 1-hour and 3-hour training. The
 5075 department shall adopt rules to establish standards for the
 5076 employees who are subject to this training, for the trainers,
 5077 and for the training required in this section.

5078 (h) Upon completing any training described in this
 5079 section, the employee or direct caregiver shall be issued a
 5080 certificate that includes the name of the training provider, the
 5081 topic covered, and the date and signature of the training
 5082 provider. The certificate is evidence of completion of training
 5083 in the identified topic, and the employee or direct caregiver is
 5084 not required to repeat training in that topic if the employee or
 5085 direct caregiver changes employment to a different adult day
 5086 care center or to an assisted living residence facility, nursing
 5087 home, home health agency, or hospice. The direct caregiver must
 5088 comply with other applicable continuing education requirements.

5089 ~~(i) An employee who is hired on or after July 1, 2004,~~
 5090 ~~must complete the training required by this section.~~

5091 (2) A center licensed under this part which claims that it
 5092 provides special care for persons who have Alzheimer's disease
 5093 or other related disorders must disclose in its advertisements
 5094 or in a separate document those services that distinguish the
 5095 care as being especially applicable to, or suitable for, such
 5096 persons. The center must give a copy of all such advertisements

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5097 or a copy of the document to each person who requests
 5098 information about the center and must maintain a copy of all
 5099 such advertisements and documents in its records. The agency
 5100 shall examine all such advertisements and documents in the
 5101 center's records as part of the license renewal procedure.

5102 Section 70. Section 429.919, Florida Statutes, is amended
 5103 to read:

5104 429.919 Background screening.—The agency shall require
 5105 level 2 background screening for personnel as required in s.
 5106 429.008(1)(e) ~~s. 408.809(1)(e)~~ pursuant to chapter 435 and ~~s.~~
 5107 ~~408.809~~.

5108 Section 71. Section 429.925, Florida Statutes, is amended
 5109 to read:

5110 429.925 Discontinuance of operation of adult day care
 5111 centers.—In addition to the requirements of part I ~~part II~~ of
 5112 ~~chapter 408~~, before operation of an adult day care center may be
 5113 voluntarily discontinued, the licensee ~~operator~~ must, at least
 5114 60 days before the discontinuance of operation, inform each
 5115 participant of the fact and the proposed date of discontinuance
 5116 of operation.

5117 Section 72. Section 429.926, Florida Statutes, is created
 5118 to read:

5119 429.926 Minimum licensure requirements; exemption.—The
 5120 provisions of s. 429.009(7)-(9), relating to minimum licensure
 5121 requirements, do not apply to adult day care centers licensed
 5122 under this part.

5123 Section 73. Section 429.927, Florida Statutes, is amended
 5124 to read:

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5125 429.927 Right of entry and inspection.—In accordance with
 5126 429.0105 ~~s. 408.811~~, the agency or department has the right to
 5127 enter the premises of any adult day care center licensed
 5128 pursuant to this part, at any reasonable time, in order to
 5129 determine the state of compliance with this chapter ~~part, part~~
 5130 ~~II of chapter 408~~, and applicable rules.

5131 Section 74. Section 429.929, Florida Statutes, is amended
 5132 to read:

5133 429.929 Rules establishing standards.—

5134 (1) ~~The agency, in consultation with the department, may~~
 5135 ~~adopt rules to administer the requirements of part II of chapter~~
 5136 ~~408.~~ The department of Elderly Affairs, in conjunction with the
 5137 agency, shall adopt rules to implement the provisions of this
 5138 part. The rules must include reasonable and fair standards. Any
 5139 conflict between these standards and those that may be set forth
 5140 in local, county, or municipal ordinances shall be resolved in
 5141 favor of those having statewide effect. Such standards must
 5142 relate to:

5143 (a) The maintenance of adult day care centers with respect
 5144 to plumbing, heating, lighting, ventilation, and other building
 5145 conditions, including adequate meeting space, to ensure the
 5146 health, safety, and comfort of participants and protection from
 5147 fire hazard. Such standards may not conflict with chapter 553
 5148 and must be based upon the size of the structure and the number
 5149 of participants.

5150 (b) The number and qualifications of all personnel
 5151 employed by adult day care centers who have responsibilities for
 5152 the care of participants.

5153 (c) All sanitary conditions within adult day care centers
 5154 and their surroundings, including water supply, sewage disposal,
 5155 food handling, and general hygiene, and maintenance of sanitary
 5156 conditions, to ensure the health and comfort of participants.

5157 (d) Basic services provided by adult day care centers.

5158 (e) Supportive and optional services provided by adult day
 5159 care centers.

5160 (f) Data and information relative to participants and
 5161 programs of adult day care centers, including, but not limited
 5162 to, the physical and mental capabilities and needs of the
 5163 participants, the availability, frequency, and intensity of
 5164 basic services and of supportive and optional services provided,
 5165 the frequency of participation, the distances traveled by
 5166 participants, the hours of operation, the number of referrals to
 5167 other centers or elsewhere, and the incidence of illness.

5168 (g) Components of a comprehensive emergency management
 5169 plan, developed in consultation with the Department of Health,
 5170 the agency ~~for Health Care Administration~~, and the Department of
 5171 Community Affairs.

5172 (2) Pursuant to this part, s. 429.0105 ~~s. 408.811~~, and
 5173 applicable rules, the agency may conduct an abbreviated biennial
 5174 inspection of key quality-of-care standards, in lieu of a full
 5175 inspection, of a center that has a record of good performance.
 5176 However, the agency must conduct a full inspection of a center
 5177 that has had one or more confirmed complaints within the
 5178 licensure period immediately preceding the inspection or which
 5179 has a serious problem identified during the abbreviated
 5180 inspection. The agency shall develop the key quality-of-care

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5181 standards, taking into consideration the comments and
 5182 recommendations of the department ~~of Elderly Affairs~~ and of
 5183 associations and organizations representing adult day care
 5184 centers ~~provider groups~~. These standards shall be included in
 5185 rules adopted by the department ~~of Elderly Affairs~~.

5186 Section 75. Paragraph (b) of subsection (4) of section
 5187 101.62, Florida Statutes, is amended to read:

5188 101.62 Request for absentee ballots.-

5189 (4)

5190 (b) The supervisor shall provide an absentee ballot to
 5191 each elector by whom a request for that ballot has been made by
 5192 one of the following means:

5193 1. By nonforwardable, return-if-undeliverable mail to the
 5194 elector's current mailing address on file with the supervisor,
 5195 unless the elector specifies in the request that:

5196 a. The elector is absent from the county and does not plan
 5197 to return before the day of the election;

5198 b. The elector is temporarily unable to occupy the
 5199 residence because of hurricane, tornado, flood, fire, or other
 5200 emergency or natural disaster; or

5201 c. The elector is in a hospital, assisted living residence
 5202 ~~facility~~, nursing home, short-term medical or rehabilitation
 5203 facility, or correctional facility,

5204

5205 in which case the supervisor shall mail the ballot by
 5206 nonforwardable, return-if-undeliverable mail to any other
 5207 address the elector specifies in the request.

5208 2. By forwardable mail, e-mail, or facsimile machine

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5209 transmission to absent uniformed services voters and overseas
5210 voters. The absent uniformed services voter or overseas voter
5211 may designate in the absentee ballot request the preferred
5212 method of transmission. If the voter does not designate the
5213 method of transmission, the absentee ballot shall be mailed.

5214 3. By personal delivery before 7 p.m. on election day to
5215 the elector, upon presentation of the identification required in
5216 s. 101.043.

5217 4. By delivery to a designee on election day or up to 5
5218 days prior to the day of an election. Any elector may designate
5219 in writing a person to pick up the ballot for the elector;
5220 however, the person designated may not pick up more than two
5221 absentee ballots per election, other than the designee's own
5222 ballot, except that additional ballots may be picked up for
5223 members of the designee's immediate family. For purposes of this
5224 section, "immediate family" means the designee's spouse or the
5225 parent, child, grandparent, or sibling of the designee or of the
5226 designee's spouse. The designee shall provide to the supervisor
5227 the written authorization by the elector and a picture
5228 identification of the designee and must complete an affidavit.
5229 The designee shall state in the affidavit that the designee is
5230 authorized by the elector to pick up that ballot and shall
5231 indicate if the elector is a member of the designee's immediate
5232 family and, if so, the relationship. The department shall
5233 prescribe the form of the affidavit. If the supervisor is
5234 satisfied that the designee is authorized to pick up the ballot
5235 and that the signature of the elector on the written
5236 authorization matches the signature of the elector on file, the

5237 supervisor shall give the ballot to that designee for delivery
 5238 to the elector.

5239 Section 76. Subsection (1) of section 101.655, Florida
 5240 Statutes, is amended to read:

5241 101.655 Supervised voting by absent electors in certain
 5242 facilities.—

5243 (1) The supervisor of elections of a county shall provide
 5244 supervised voting for absent electors residing in any assisted
 5245 living residence ~~facility~~, as defined in s. 429.02, or nursing
 5246 home facility, as defined in s. 400.021, within that county at
 5247 the request of any administrator of such a facility. Such
 5248 request for supervised voting in the facility shall be made by
 5249 submitting a written request to the supervisor of elections no
 5250 later than 21 days prior to the election for which that request
 5251 is submitted. The request shall specify the name and address of
 5252 the facility and the name of the electors who wish to vote
 5253 absentee in that election. If the request contains the names of
 5254 fewer than five voters, the supervisor of elections is not
 5255 required to provide supervised voting.

5256 Section 77. Subsection (16) of section 159.27, Florida
 5257 Statutes, is amended to read:

5258 159.27 Definitions.—The following words and terms, unless
 5259 the context clearly indicates a different meaning, shall have
 5260 the following meanings:

5261 (16) "Health care facility" means property operated in the
 5262 private sector, whether operated for profit or not, used for or
 5263 useful in connection with the diagnosis, treatment, therapy,
 5264 rehabilitation, housing, or care of or for aged, sick, ill,

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5265 injured, infirm, impaired, disabled, or handicapped persons,
 5266 without discrimination among such persons due to race, religion,
 5267 or national origin; or for the prevention, detection, and
 5268 control of disease, including, without limitation thereto,
 5269 hospital, clinic, emergency, outpatient, and intermediate care,
 5270 including, but not limited to, facilities for the elderly such
 5271 as assisted living residences ~~facilities~~, facilities defined in
 5272 s. 154.205(8), day care and share-a-home facilities, nursing
 5273 homes, and the following related property when used for or in
 5274 connection with the foregoing: laboratory; research; pharmacy;
 5275 laundry; health personnel training and lodging; patient, guest,
 5276 and health personnel food service facilities; and offices and
 5277 office buildings for persons engaged in health care professions
 5278 or services; provided, if required by ss. 400.601-400.611 and
 5279 ss. 408.031-408.045, a certificate of need therefor is obtained
 5280 prior to the issuance of the bonds.

5281 Section 78. Paragraph (b) of subsection (2) of section
 5282 196.1975, Florida Statutes, is amended to read:

5283 196.1975 Exemption for property used by nonprofit homes
 5284 for the aged.—Nonprofit homes for the aged are exempt to the
 5285 extent that they meet the following criteria:

5286 (2) A facility will not qualify as a "home for the aged"
 5287 unless at least 75 percent of the occupants are over the age of
 5288 62 years or totally and permanently disabled. For homes for the
 5289 aged which are exempt from paying income taxes to the United
 5290 States as specified in subsection (1), licensing by the Agency
 5291 for Health Care Administration is required for ad valorem tax
 5292 exemption hereunder only if the home:

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5293 (b) Qualifies as an assisted living residence ~~facility~~
 5294 under chapter 429.

5295 Section 79. Paragraph (c) of subsection (4) of section
 5296 202.125, Florida Statutes, is amended to read:

5297 202.125 Sales of communications services; specified
 5298 exemptions.—

5299 (4) The sale of communications services to a home for the
 5300 aged, religious institution or educational institution that is
 5301 exempt from federal income tax under s. 501(c)(3) of the
 5302 Internal Revenue Code, or by a religious institution that is
 5303 exempt from federal income tax under s. 501(c)(3) of the
 5304 Internal Revenue Code having an established physical place for
 5305 worship at which nonprofit religious services and activities are
 5306 regularly conducted and carried on, is exempt from the taxes
 5307 imposed or administered pursuant to ss. 202.12 and 202.19. As
 5308 used in this subsection, the term:

5309 (c) "Home for the aged" includes any nonprofit
 5310 corporation:

5311 1. In which at least 75 percent of the occupants are 62
 5312 years of age or older or totally and permanently disabled; which
 5313 qualifies for an ad valorem property tax exemption under s.
 5314 196.196, s. 196.197, or s. 196.1975; and which is exempt from
 5315 the sales tax imposed under chapter 212.

5316 2. Licensed as a nursing home under chapter 400 or an
 5317 assisted living residence ~~facility~~ under chapter 429 and which
 5318 is exempt from the sales tax imposed under chapter 212.

5319 Section 80. Section 205.1965, Florida Statutes, is amended
 5320 to read:

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5321 205.1965 Assisted living residences ~~facilities~~.—A county
 5322 or municipality may not issue a business tax receipt for the
 5323 operation of an assisted living residence ~~facility~~ pursuant to
 5324 chapter 429 without first ascertaining that the applicant has
 5325 been licensed by the Agency for Health Care Administration to
 5326 operate such facility at the specified location or locations.
 5327 The Agency for Health Care Administration shall furnish to local
 5328 agencies responsible for issuing business tax receipts
 5329 sufficient instructions for making the required determinations.

5330 Section 81. Section 252.357, Florida Statutes, is amended
 5331 to read:

5332 252.357 Monitoring of nursing homes and assisted living
 5333 residences ~~facilities~~ during disaster.—The Florida Comprehensive
 5334 Emergency Management Plan shall permit the Agency for Health
 5335 Care Administration, working from the agency's offices or in the
 5336 Emergency Operations Center, ESF-8, to make initial contact with
 5337 each nursing home and assisted living residence ~~facility~~ in the
 5338 disaster area. The agency, by July 15, 2006, and annually
 5339 thereafter, shall publish on the Internet an emergency telephone
 5340 number that may be used by nursing homes and assisted living
 5341 residences ~~facilities~~ to contact the agency on a schedule
 5342 established by the agency to report requests for assistance. The
 5343 agency may also provide the telephone number to each facility
 5344 when it makes the initial facility call.

5345 Section 82. Subsection (4) of section 252.385, Florida
 5346 Statutes, is amended to read:

5347 252.385 Public shelter space.—

5348 (4) (a) Public facilities, including schools, postsecondary

5349 education facilities, and other facilities owned or leased by
 5350 the state or local governments, but excluding hospitals, hospice
 5351 care facilities, assisted living residences ~~facilities~~, and
 5352 nursing homes, which are suitable for use as public hurricane
 5353 evacuation shelters shall be made available at the request of
 5354 the local emergency management agencies. The local emergency
 5355 management agency shall coordinate with these entities to ensure
 5356 that designated facilities are ready to activate prior to a
 5357 specific hurricane or disaster. Such agencies shall coordinate
 5358 with the appropriate school board, university, community
 5359 college, state agency, or local governing board when requesting
 5360 the use of such facilities as public hurricane evacuation
 5361 shelters.

5362 (b) The Department of Management Services shall
 5363 incorporate provisions for the use of suitable leased public
 5364 facilities as public hurricane evacuation shelters into lease
 5365 agreements for state agencies. Suitable leased public facilities
 5366 include leased public facilities that are solely occupied by
 5367 state agencies and have at least 2,000 square feet of net floor
 5368 area in a single room or in a combination of rooms having a
 5369 minimum of 400 square feet in each room. The net square footage
 5370 of floor area shall be determined by subtracting from the gross
 5371 square footage the square footage of spaces such as mechanical
 5372 and electrical rooms, storage rooms, open corridors, restrooms,
 5373 kitchens, science or computer laboratories, shop or mechanical
 5374 areas, administrative offices, records vaults, and crawl spaces.

5375 (c) The Department of Management Services shall, in
 5376 consultation with local and state emergency management agencies,

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5377 | assess Department of Management Services facilities to identify
 5378 | the extent to which each facility has public hurricane
 5379 | evacuation shelter space. The Department of Management Services
 5380 | shall submit proposed facility retrofit projects that
 5381 | incorporate hurricane protection enhancements to the department
 5382 | for assessment and inclusion in the annual report prepared in
 5383 | accordance with subsection (3).

5384 | (d) The Department of Management Services shall include in
 5385 | the annual state facilities inventory report required under ss.
 5386 | 216.015-216.016 a separate list of state-owned facilities,
 5387 | including, but not limited to, meeting halls, auditoriums,
 5388 | conference centers, and training centers that have unoccupied
 5389 | space suitable for use as an emergency shelter during a storm or
 5390 | other catastrophic event. Facilities must be listed by the
 5391 | county and municipality where the facility is located and must
 5392 | be made available in accordance with paragraph (a). As used in
 5393 | this paragraph, the term "suitable for use as an emergency
 5394 | shelter" means meeting the standards set by the American Red
 5395 | Cross for a hurricane evacuation shelter, and the term
 5396 | "unoccupied" means vacant due to suspended operation or nonuse.
 5397 | The list must be updated by May 31 of each year.

5398 | Section 83. Paragraph (p) of subsection (24) of section
 5399 | 380.06, Florida Statutes, is amended to read:

5400 | 380.06 Developments of regional impact.—

5401 | (24) STATUTORY EXEMPTIONS.—

5402 | (p) Any proposed nursing home or assisted living residence
 5403 | ~~facility~~ is exempt from this section.

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5405 If a use is exempt from review as a development of regional
 5406 impact under paragraphs (a)-(s), but will be part of a larger
 5407 project that is subject to review as a development of regional
 5408 impact, the impact of the exempt use must be included in the
 5409 review of the larger project, unless such exempt use involves a
 5410 development of regional impact that includes a landowner,
 5411 tenant, or user that has entered into a funding agreement with
 5412 the Office of Tourism, Trade, and Economic Development under the
 5413 Innovation Incentive Program and the agreement contemplates a
 5414 state award of at least \$50 million.

5415 Section 84. Subsection (16) of section 381.006, Florida
 5416 Statutes, is amended to read:

5417 381.006 Environmental health.—The department shall conduct
 5418 an environmental health program as part of fulfilling the
 5419 state's public health mission. The purpose of this program is to
 5420 detect and prevent disease caused by natural and manmade factors
 5421 in the environment. The environmental health program shall
 5422 include, but not be limited to:

5423 (16) A group-care-facilities function. As used in this
 5424 subsection, the term "group care facility" means any public or
 5425 private school, assisted living residence facility, adult
 5426 family-care home, adult day care center, short-term residential
 5427 treatment center, residential treatment facility, home for
 5428 special services, transitional living facility, crisis
 5429 stabilization unit, hospice, prescribed pediatric extended care
 5430 center, intermediate care facility for persons with
 5431 developmental disabilities, or boarding school. The department
 5432 may adopt rules necessary to protect the health and safety of

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5433 residents, staff, and patrons of group care facilities. Rules
 5434 related to public and private schools shall be developed by the
 5435 Department of Education in consultation with the department.
 5436 Rules adopted under this subsection may include definitions of
 5437 terms; provisions relating to operation and maintenance of
 5438 facilities, buildings, grounds, equipment, furnishings, and
 5439 occupant-space requirements; lighting; heating, cooling, and
 5440 ventilation; food service; water supply and plumbing; sewage;
 5441 sanitary facilities; insect and rodent control; garbage; safety;
 5442 personnel health, hygiene, and work practices; and other matters
 5443 the department finds are appropriate or necessary to protect the
 5444 safety and health of the residents, staff, students, faculty, or
 5445 patrons. The department may not adopt rules that conflict with
 5446 rules adopted by the licensing or certifying agency. The
 5447 department may enter and inspect at reasonable hours to
 5448 determine compliance with applicable statutes or rules. In
 5449 addition to any sanctions that the department may impose for
 5450 violations of rules adopted under this section, the department
 5451 shall also report such violations to any agency responsible for
 5452 licensing or certifying the group care facility. The licensing
 5453 or certifying agency may also impose any sanction based solely
 5454 on the findings of the department.

5455
 5456 The department may adopt rules to carry out the provisions of
 5457 this section.

5458 Section 85. Paragraph (b) of subsection (1) of section
 5459 381.0072, Florida Statutes, is amended to read:

5460 381.0072 Food service protection.—It shall be the duty of

5461 the Department of Health to adopt and enforce sanitation rules
 5462 consistent with law to ensure the protection of the public from
 5463 food-borne illness. These rules shall provide the standards and
 5464 requirements for the storage, preparation, serving, or display
 5465 of food in food service establishments as defined in this
 5466 section and which are not permitted or licensed under chapter
 5467 500 or chapter 509.

5468 (1) DEFINITIONS.—As used in this section, the term:
 5469 (b) "Food service establishment" means detention
 5470 facilities, public or private schools, migrant labor camps,
 5471 assisted living residences ~~facilities~~, adult family-care homes,
 5472 adult day care centers, short-term residential treatment
 5473 centers, residential treatment facilities, homes for special
 5474 services, transitional living facilities, crisis stabilization
 5475 units, hospices, prescribed pediatric extended care centers,
 5476 intermediate care facilities for persons with developmental
 5477 disabilities, boarding schools, civic or fraternal
 5478 organizations, bars and lounges, vending machines that dispense
 5479 potentially hazardous foods at facilities expressly named in
 5480 this paragraph, and facilities used as temporary food events or
 5481 mobile food units at any facility expressly named in this
 5482 paragraph, where food is prepared and intended for individual
 5483 portion service, including the site at which individual portions
 5484 are provided, regardless of whether consumption is on or off the
 5485 premises and regardless of whether there is a charge for the
 5486 food. The term does not include any entity not expressly named
 5487 in this paragraph; nor does the term include a domestic violence
 5488 center certified and monitored by the Department of Children and

5489 Family Services under part XIII of chapter 39 if the center does
 5490 not prepare and serve food to its residents and does not
 5491 advertise food or drink for public consumption.

5492 Section 86. Paragraph (a) of subsection (3) and paragraph
 5493 (g) of subsection (6) of section 381.0303, Florida Statutes, are
 5494 amended to read:

5495 381.0303 Special needs shelters.—

5496 (3) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS AND
 5497 FACILITIES.—

5498 (a) The department shall, upon request, reimburse in
 5499 accordance with paragraph (b):

5500 1. Health care practitioners, as defined in s. 456.001,
 5501 provided the practitioner is not providing care to a patient
 5502 under an existing contract, and emergency medical technicians
 5503 and paramedics licensed under chapter 401 for medical care
 5504 provided at the request of the department in special needs
 5505 shelters or at other locations during times of emergency or a
 5506 declared disaster. Reimbursement for health care practitioners,
 5507 except for physicians licensed under chapter 458 or chapter 459,
 5508 shall be based on the average hourly rate that such
 5509 practitioners were paid according to the most recent survey of
 5510 Florida hospitals conducted by the Florida Hospital Association
 5511 or other nationally recognized or state-recognized data source.

5512 2. Health care facilities, such as hospitals, nursing
 5513 homes, assisted living residences ~~facilities~~, and community
 5514 residential homes, if, upon closure of a special needs shelter,
 5515 a multiagency special needs shelter discharge planning team
 5516 determines that it is necessary to discharge persons with

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5517 special needs to other health care facilities. The receiving
 5518 facilities are eligible for reimbursement for services provided
 5519 to the individuals for up to 90 days. A facility must show proof
 5520 of a written request from a representative of an agency serving
 5521 on the multiagency special needs shelter discharge planning team
 5522 that the individual for whom the facility is seeking
 5523 reimbursement for services rendered was referred to that
 5524 facility from a special needs shelter. The department shall
 5525 specify by rule which expenses are reimbursable and the rate of
 5526 reimbursement for each service.

5527 (6) RULES.—The department has the authority to adopt rules
 5528 necessary to implement this section. Rules shall include:

5529 (g) The requirement of the county health departments to
 5530 seek the participation of hospitals, nursing homes, assisted
 5531 living residences ~~facilities~~, home health agencies, hospice
 5532 providers, nurse registries, home medical equipment providers,
 5533 dialysis centers, and other health and medical emergency
 5534 preparedness stakeholders in pre-event planning activities.

5535 Section 87. Subsection (17) of section 394.455, Florida
 5536 Statutes, is amended to read:

5537 394.455 Definitions.—As used in this part, unless the
 5538 context clearly requires otherwise, the term:

5539 (17) "Mental health overlay program" means a mobile
 5540 service which provides an independent examination for voluntary
 5541 admissions and a range of supplemental onsite services to
 5542 persons with a mental illness in a residential setting such as a
 5543 nursing home, assisted living residence ~~facility~~, adult family-
 5544 care home, or nonresidential setting such as an adult day care

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5545 center. Independent examinations provided pursuant to this part
5546 through a mental health overlay program must only be provided
5547 under contract with the department for this service or be
5548 attached to a public receiving facility that is also a community
5549 mental health center.

5550 Section 88. Section 394.4574, Florida Statutes, is amended
5551 to read:

5552 394.4574 Department responsibilities for a mental health
5553 resident who resides in an assisted living residence facility
5554 that holds a limited mental health license.—

5555 (1) The term "mental health resident," for purposes of
5556 this section, means an individual who receives social security
5557 disability income due to a mental disorder as determined by the
5558 Social Security Administration or receives supplemental security
5559 income due to a mental disorder as determined by the Social
5560 Security Administration and receives optional state
5561 supplementation.

5562 (2) The department must ensure that:

5563 (a) A mental health resident has been assessed by a
5564 psychiatrist, clinical psychologist, clinical social worker, or
5565 psychiatric nurse, or an individual who is supervised by one of
5566 these professionals, and determined to be appropriate to reside
5567 in an assisted living residence facility. The documentation must
5568 be provided to the administrator of the facility within 30 days
5569 after the mental health resident has been admitted to the
5570 facility. An evaluation completed upon discharge from a state
5571 mental hospital meets the requirements of this subsection
5572 related to appropriateness for placement as a mental health

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5573 resident if it was completed within 90 days prior to admission
5574 to the facility.

5575 (b) A cooperative agreement, as required in s. 429.075, is
5576 developed between the mental health care services provider that
5577 serves a mental health resident and the administrator of the
5578 assisted living residence ~~facility~~ with a limited mental health
5579 license in which the mental health resident is living. Any
5580 entity that provides Medicaid prepaid health plan services shall
5581 ensure the appropriate coordination of health care services with
5582 an assisted living residence ~~facility~~ in cases where a Medicaid
5583 recipient is both a member of the entity's prepaid health plan
5584 and a resident of the assisted living residence ~~facility~~. If the
5585 entity is at risk for Medicaid targeted case management and
5586 behavioral health services, the entity shall inform the assisted
5587 living residence ~~facility~~ of the procedures to follow should an
5588 emergent condition arise.

5589 (c) The community living support plan, as defined in s.
5590 429.02, has been prepared by a mental health resident and a
5591 mental health case manager of that resident in consultation with
5592 the administrator of the facility or the administrator's
5593 designee. The plan must be provided to the administrator of the
5594 assisted living residence ~~facility~~ with a limited mental health
5595 license in which the mental health resident lives. The support
5596 plan and the agreement may be in one document.

5597 (d) The assisted living residence ~~facility~~ with a limited
5598 mental health license is provided with documentation that the
5599 individual meets the definition of a mental health resident.

5600 (e) The mental health services provider assigns a case

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5601 manager to each mental health resident who lives in an assisted
 5602 living residence ~~facility~~ with a limited mental health license.
 5603 The case manager is responsible for coordinating the development
 5604 of and implementation of the community living support plan
 5605 defined in s. 429.02. The plan must be updated at least
 5606 annually.

5607 (3) The Secretary of Children and Family Services, in
 5608 consultation with the Agency for Health Care Administration,
 5609 shall annually require each district administrator to develop,
 5610 with community input, detailed plans that demonstrate how the
 5611 district will ensure the provision of state-funded mental health
 5612 and substance abuse treatment services to residents of assisted
 5613 living residences ~~facilities~~ that hold a limited mental health
 5614 license. These plans must be consistent with the substance abuse
 5615 and mental health district plan developed pursuant to s. 394.75
 5616 and must address case management services; access to consumer-
 5617 operated drop-in centers; access to services during evenings,
 5618 weekends, and holidays; supervision of the clinical needs of the
 5619 residents; and access to emergency psychiatric care.

5620 Section 89. Paragraph (1) of subsection (1) of section
 5621 394.462, Florida Statutes, is amended to read:

5622 394.462 Transportation.—

5623 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

5624 (1) When a jurisdiction has entered into a contract with
 5625 an emergency medical transport service or a private transport
 5626 company for transportation of persons to receiving facilities,
 5627 such service or company shall be given preference for
 5628 transportation of persons from nursing homes, assisted living

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5629 residences ~~facilities~~, adult day care centers, or adult family-
 5630 care homes, unless the behavior of the person being transported
 5631 is such that transportation by a law enforcement officer is
 5632 necessary.

5633 Section 90. Paragraph (b) of subsection (1) of section
 5634 394.4625, Florida Statutes, is amended to read:

5635 394.4625 Voluntary admissions.—

5636 (1) AUTHORITY TO RECEIVE PATIENTS.—

5637 (b) A mental health overlay program or a mobile crisis
 5638 response service or a licensed professional who is authorized to
 5639 initiate an involuntary examination pursuant to s. 394.463 and
 5640 is employed by a community mental health center or clinic must,
 5641 pursuant to district procedure approved by the respective
 5642 district administrator, conduct an initial assessment of the
 5643 ability of the following persons to give express and informed
 5644 consent to treatment before such persons may be admitted
 5645 voluntarily:

5646 1. A person 60 years of age or older for whom transfer is
 5647 being sought from a nursing home, assisted living residence
 5648 ~~facility~~, adult day care center, or adult family-care home, when
 5649 such person has been diagnosed as suffering from dementia.

5650 2. A person 60 years of age or older for whom transfer is
 5651 being sought from a nursing home pursuant to s. 400.0255(12).

5652 3. A person for whom all decisions concerning medical
 5653 treatment are currently being lawfully made by the health care
 5654 surrogate or proxy designated under chapter 765.

5655 Section 91. Subsection (5) of section 394.75, Florida
 5656 Statutes, is amended to read:

5657 | 394.75 State and district substance abuse and mental
5658 | health plans.—

5659 | (5) The district plan shall address how substance abuse
5660 | and mental health services will be provided and how a system of
5661 | care for target populations will be provided given the resources
5662 | available in the service district. The plan must include
5663 | provisions for maximizing client access to the most recently
5664 | developed psychiatric medications approved by the United States
5665 | Food and Drug Administration, for developing independent housing
5666 | units through participation in the Section 811 program operated
5667 | by the United States Department of Housing and Urban
5668 | Development, for developing supported employment services
5669 | through the Division of Vocational Rehabilitation of the
5670 | Department of Education, for providing treatment services to
5671 | persons with co-occurring mental illness and substance abuse
5672 | problems which are integrated across treatment systems, and for
5673 | providing services to adults who have a serious mental illness,
5674 | as defined in s. 394.67, and who reside in assisted living
5675 | residences ~~facilities~~.

5676 | Section 92. Paragraph (1) of subsection (5) of section
5677 | 394.9082, Florida Statutes, is amended to read:

5678 | 394.9082 Behavioral health managing entities.—

5679 | (5) GOALS.—The goal of the service delivery strategies is
5680 | to provide a design for an effective coordination, integration,
5681 | and management approach for delivering effective behavioral
5682 | health services to persons who are experiencing a mental health
5683 | or substance abuse crisis, who have a disabling mental illness
5684 | or a substance use or co-occurring disorder, and require

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5685 extended services in order to recover from their illness, or who
 5686 need brief treatment or longer-term supportive interventions to
 5687 avoid a crisis or disability. Other goals include:

5688 (1) Promoting specialized behavioral health services to
 5689 residents of assisted living residences ~~facilities~~.

5690 Section 93. Subsection (5) of section 400.0060, Florida
 5691 Statutes, is amended to read:

5692 400.0060 Definitions.—When used in this part, unless the
 5693 context clearly dictates otherwise, the term:

5694 (5) "Long-term care facility" means a nursing home
 5695 facility, assisted living residence ~~facility~~, adult family-care
 5696 home, board and care facility, or any other similar residential
 5697 adult care facility.

5698 Section 94. Paragraph (a) of subsection (4) of section
 5699 400.0069, Florida Statutes, is amended to read:

5700 400.0069 Local long-term care ombudsman councils; duties;
 5701 membership.—

5702 (4) Each local council shall be composed of members whose
 5703 primary residence is located within the boundaries of the local
 5704 council's jurisdiction.

5705 (a) The ombudsman shall strive to ensure that each local
 5706 council include the following persons as members:

5707 1. At least one medical or osteopathic physician whose
 5708 practice includes or has included a substantial number of
 5709 geriatric patients and who may practice in a long-term care
 5710 facility;

5711 2. At least one registered nurse who has geriatric
 5712 experience;

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- 5713 | 3. At least one licensed pharmacist;
- 5714 | 4. At least one registered dietitian;
- 5715 | 5. At least six nursing home residents or representative
- 5716 | consumer advocates for nursing home residents;
- 5717 | 6. At least three residents of assisted living residences
- 5718 | ~~facilities~~ or adult family-care homes or three representative
- 5719 | consumer advocates for alternative long-term care facility
- 5720 | residents;
- 5721 | 7. At least one attorney; and
- 5722 | 8. At least one professional social worker.

5723 | Section 95. Subsection (1) and paragraph (a) of subsection

5724 | (2) of section 400.0074, Florida Statutes, are amended to read:

5725 | 400.0074 Local ombudsman council onsite administrative

5726 | assessments.—

5727 | (1) In addition to any specific investigation conducted

5728 | pursuant to a complaint, the local council shall conduct, at

5729 | least annually, an onsite administrative assessment of each

5730 | nursing home, assisted living residence ~~facility~~, and adult

5731 | family-care home within its jurisdiction. This administrative

5732 | assessment shall focus on factors affecting the rights, health,

5733 | safety, and welfare of the residents. Each local council is

5734 | encouraged to conduct a similar onsite administrative assessment

5735 | of each additional long-term care facility within its

5736 | jurisdiction.

5737 | (2) An onsite administrative assessment conducted by a

5738 | local council shall be subject to the following conditions:

5739 | (a) To the extent possible and reasonable, the

5740 | administrative assessments shall not duplicate the efforts of

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5741 the agency surveys and inspections conducted under part II of
 5742 this chapter and parts I, ~~and II,~~ and III of chapter 429.

5743 Section 96. Subsection (1) of section 400.0239, Florida
 5744 Statutes, is amended to read:

5745 400.0239 Quality of Long-Term Care Facility Improvement
 5746 Trust Fund.—

5747 (1) There is created within the Agency for Health Care
 5748 Administration a Quality of Long-Term Care Facility Improvement
 5749 Trust Fund to support activities and programs directly related
 5750 to improvement of the care of nursing home and assisted living
 5751 residence facility residents. The trust fund shall be funded
 5752 through proceeds generated pursuant to ss. 400.0238 and 429.298,
 5753 through funds specifically appropriated by the Legislature,
 5754 through gifts, endowments, and other charitable contributions
 5755 allowed under federal and state law, and through federal nursing
 5756 home civil monetary penalties collected by the Centers for
 5757 Medicare and Medicaid Services and returned to the state. These
 5758 funds must be utilized in accordance with federal requirements.

5759 Section 97. Subsections (1) and (5) of section 400.148,
 5760 Florida Statutes, are amended to read:

5761 400.148 Medicaid "Up-or-Out" Quality of Care Contract
 5762 Management Program.—

5763 (1) The Legislature finds that the federal Medicare
 5764 program has implemented successful models of managing the
 5765 medical and supportive-care needs of long-term nursing home
 5766 residents. These programs have maintained the highest
 5767 practicable level of good health and have the potential to
 5768 reduce the incidence of preventable illnesses among long-stay

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5769 residents of nursing homes, thereby increasing the quality of
 5770 care for residents and reducing the number of lawsuits against
 5771 nursing homes. Such models are operated at no cost to the state.
 5772 It is the intent of the Legislature that the Agency for Health
 5773 Care Administration replicate such oversight for Medicaid
 5774 recipients in poor-performing nursing homes and in assisted
 5775 living residences ~~facilities~~ and nursing homes that are
 5776 experiencing disproportionate numbers of lawsuits, with the goal
 5777 of improving the quality of care in such homes or facilitating
 5778 the revocation of licensure.

5779 (5) The agency shall, jointly with the Statewide Public
 5780 Guardianship Office, develop a system in the pilot project areas
 5781 to identify Medicaid recipients who are residents of a
 5782 participating nursing home or assisted living residence ~~facility~~
 5783 who have diminished ability to make their own decisions and who
 5784 do not have relatives or family available to act as guardians in
 5785 nursing homes listed on the Nursing Home Guide Watch List. The
 5786 agency and the Statewide Public Guardianship Office shall give
 5787 such residents priority for publicly funded guardianship
 5788 services.

5789 Section 98. Subsection (6) of section 400.1755, Florida
 5790 Statutes, is amended to read:

5791 400.1755 Care for persons with Alzheimer's disease or
 5792 related disorders.—

5793 (6) Upon completing any training listed in this section,
 5794 the employee or direct caregiver shall be issued a certificate
 5795 that includes the name of the training provider, the topic
 5796 covered, and the date and signature of the training provider.

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5797 The certificate is evidence of completion of training in the
 5798 identified topic, and the employee or direct caregiver is not
 5799 required to repeat training in that topic if the employee or
 5800 direct caregiver changes employment to a different facility or
 5801 to an assisted living residence facility, home health agency,
 5802 adult day care center, or adult family-care home. The direct
 5803 caregiver must comply with other applicable continuing education
 5804 requirements.

5805 Section 99. Paragraph (h) of subsection (5) of section
 5806 400.464, Florida Statutes, is amended to read:

5807 400.464 Home health agencies to be licensed; expiration of
 5808 license; exemptions; unlawful acts; penalties.—

5809 (5) The following are exempt from the licensure
 5810 requirements of this part:

5811 (h) The delivery of assisted living residence facility
 5812 services for which the assisted living residence facility is
 5813 licensed under part I of chapter 429, to serve its residents in
 5814 its facility.

5815 Section 100. Paragraphs (b), (k), and (l) of subsection
 5816 (10) of section 400.471, Florida Statutes, are amended to read:

5817 400.471 Application for license; fee.—

5818 (10) The agency may not issue a renewal license for a home
 5819 health agency in any county having at least one licensed home
 5820 health agency and that has more than one home health agency per
 5821 5,000 persons, as indicated by the most recent population
 5822 estimates published by the Legislature's Office of Economic and
 5823 Demographic Research, if the applicant or any controlling
 5824 interest has been administratively sanctioned by the agency

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5825 during the 2 years prior to the submission of the licensure
 5826 renewal application for one or more of the following acts:

5827 (b) Knowingly providing home health services in an
 5828 unlicensed assisted living residence ~~facility~~ or unlicensed
 5829 adult family-care home, unless the home health agency or
 5830 employee reports the unlicensed facility or home to the agency
 5831 within 72 hours after providing the services;

5832 (k) Providing services to residents in an assisted living
 5833 residence ~~facility~~ for which the home health agency does not
 5834 receive fair market value remuneration; or

5835 (l) Providing staffing to an assisted living residence
 5836 ~~facility~~ for which the home health agency does not receive fair
 5837 market value remuneration.

5838 Section 101. Paragraph (c) of subsection (2) and
 5839 paragraphs (b), (c), and (d) of subsection (6) of section
 5840 400.474, Florida Statutes, are amended to read:

5841 400.474 Administrative penalties.—

5842 (2) Any of the following actions by a home health agency
 5843 or its employee is grounds for disciplinary action by the
 5844 agency:

5845 (c) Knowingly providing home health services in an
 5846 unlicensed assisted living residence ~~facility~~ or unlicensed
 5847 adult family-care home, unless the home health agency or
 5848 employee reports the unlicensed facility or home to the agency
 5849 within 72 hours after providing the services.

5850 (6) The agency may deny, revoke, or suspend the license of
 5851 a home health agency and shall impose a fine of \$5,000 against a
 5852 home health agency that:

5853 (b) Provides services to residents in an assisted living
 5854 residence ~~facility~~ for which the home health agency does not
 5855 receive fair market value remuneration.

5856 (c) Provides staffing to an assisted living residence
 5857 ~~facility~~ for which the home health agency does not receive fair
 5858 market value remuneration.

5859 (d) Fails to provide the agency, upon request, with copies
 5860 of all contracts with assisted living residences ~~facilities~~
 5861 which were executed within 5 years before the request.

5862
 5863 Nothing in paragraph (e) or paragraph (j) shall be interpreted
 5864 as applying to or precluding any discount, compensation, waiver
 5865 of payment, or payment practice permitted by 42 U.S.C. s. 1320a-
 5866 7(b) or regulations adopted thereunder, including 42 C.F.R. s.
 5867 1001.952 or s. 1395nn or regulations adopted thereunder.

5868 Section 102. Paragraph (e) of subsection (10) of section
 5869 400.497, Florida Statutes, is amended to read:

5870 400.497 Rules establishing minimum standards.—The agency
 5871 shall adopt, publish, and enforce rules to implement part II of
 5872 chapter 408 and this part, including, as applicable, ss. 400.506
 5873 and 400.509, which must provide reasonable and fair minimum
 5874 standards relating to:

5875 (10) Preparation of a comprehensive emergency management
 5876 plan pursuant to s. 400.492.

5877 (e) The requirements in this subsection do not apply to:

5878 1. A facility that is certified under chapter 651 and has
 5879 a licensed home health agency used exclusively by residents of
 5880 the facility; or

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5881 2. A retirement community that consists of residential
5882 units for independent living and either a licensed nursing home
5883 or an assisted living residence ~~facility~~, and has a licensed
5884 home health agency used exclusively by the residents of the
5885 retirement community, provided the comprehensive emergency
5886 management plan for the facility or retirement community
5887 provides for continuous care of all residents with special needs
5888 during an emergency.

5889 Section 103. Paragraph (a) of subsection (15) of section
5890 400.506, Florida Statutes, is amended to read:

5891 400.506 Licensure of nurse registries; requirements;
5892 penalties.—

5893 (15) (a) The agency may deny, suspend, or revoke the
5894 license of a nurse registry and shall impose a fine of \$5,000
5895 against a nurse registry that:

5896 1. Provides services to residents in an assisted living
5897 residence ~~facility~~ for which the nurse registry does not receive
5898 fair market value remuneration.

5899 2. Provides staffing to an assisted living residence
5900 ~~facility~~ for which the nurse registry does not receive fair
5901 market value remuneration.

5902 3. Fails to provide the agency, upon request, with copies
5903 of all contracts with assisted living residences ~~facilities~~
5904 which were executed within the last 5 years.

5905 4. Gives remuneration to a case manager, discharge
5906 planner, facility-based staff member, or third-party vendor who
5907 is involved in the discharge planning process of a facility
5908 licensed under chapter 395 or this chapter and from whom the

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5909 nurse registry receives referrals. A nurse registry is exempt
 5910 from this subparagraph if it does not bill the Florida Medicaid
 5911 program or the Medicare program or share a controlling interest
 5912 with any entity licensed, registered, or certified under part II
 5913 of chapter 408 that bills the Florida Medicaid program or the
 5914 Medicare program.

5915 5. Gives remuneration to a physician, a member of the
 5916 physician's office staff, or an immediate family member of the
 5917 physician, and the nurse registry received a patient referral in
 5918 the last 12 months from that physician or the physician's office
 5919 staff. A nurse registry is exempt from this subparagraph if it
 5920 does not bill the Florida Medicaid program or the Medicare
 5921 program or share a controlling interest with any entity
 5922 licensed, registered, or certified under part II of chapter 408
 5923 that bills the Florida Medicaid program or the Medicare program.

5924 Section 104. Paragraph (h) of subsection (1) of section
 5925 400.6045, Florida Statutes, is amended to read:

5926 400.6045 Patients with Alzheimer's disease or other
 5927 related disorders; staff training requirements; certain
 5928 disclosures.—

5929 (1) A hospice licensed under this part must provide the
 5930 following staff training:

5931 (h) Upon completing any training described in this
 5932 section, the employee or direct caregiver shall be issued a
 5933 certificate that includes the name of the training provider, the
 5934 topic covered, and the date and signature of the training
 5935 provider. The certificate is evidence of completion of training
 5936 in the identified topic, and the employee or direct caregiver is

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5937 not required to repeat training in that topic if the employee or
 5938 direct caregiver changes employment to a different hospice or to
 5939 a home health agency, assisted living residence ~~facility~~,
 5940 nursing home, or adult day care center.

5941 Section 105. Paragraph (g) of subsection (1) of section
 5942 400.605, Florida Statutes, is amended to read:

5943 400.605 Administration; forms; fees; rules; inspections;
 5944 fines.—

5945 (1) The agency, in consultation with the department, may
 5946 adopt rules to administer the requirements of part II of chapter
 5947 408. The department, in consultation with the agency, shall by
 5948 rule establish minimum standards and procedures for a hospice
 5949 pursuant to this part. The rules must include:

5950 (g) Standards for hospice care provided in freestanding
 5951 inpatient facilities that are not otherwise licensed medical
 5952 facilities and in residential care facilities such as nursing
 5953 homes, assisted living residences ~~facilities~~, adult family-care
 5954 homes, and hospice residential units and facilities.

5955 Section 106. Subsection (3) of section 400.609, Florida
 5956 Statutes, is amended to read:

5957 400.609 Hospice services.—Each hospice shall provide a
 5958 continuum of hospice services which afford the patient and the
 5959 family of the patient a range of service delivery which can be
 5960 tailored to specific needs and preferences of the patient and
 5961 family at any point in time throughout the length of care for
 5962 the terminally ill patient and during the bereavement period.
 5963 These services must be available 24 hours a day, 7 days a week,
 5964 and must include:

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5965 (3) HOSPICE RESIDENTIAL CARE.—Hospice care and services,
 5966 to the extent practicable and compatible with the needs and
 5967 preferences of the patient, may be provided by the hospice care
 5968 team to a patient living in an assisted living residence
 5969 ~~facility~~, adult family-care home, nursing home, hospice
 5970 residential unit or facility, or other nondomestic place of
 5971 permanent or temporary residence. A resident or patient living
 5972 in an assisted living residence ~~facility~~, adult family-care
 5973 home, nursing home, or other facility subject to state licensing
 5974 who has been admitted to a hospice program shall be considered a
 5975 hospice patient, and the hospice program shall be responsible
 5976 for coordinating and ensuring the delivery of hospice care and
 5977 services to such person pursuant to the standards and
 5978 requirements of this part and rules adopted under this part.

5979 Section 107. Section 400.701, Florida Statutes, is amended
 5980 to read:

5981 400.701 Intermediate care facilities; intent.—The
 5982 Legislature recognizes the need to develop a continuum of long-
 5983 term care in this state to meet the needs of the elderly and
 5984 disabled persons. The Legislature finds that there is a gap
 5985 between the level of care provided in assisted living residences
 5986 ~~facilities~~ and in nursing homes. The Legislature finds that
 5987 exploration of intermediate-level care facilities which would
 5988 fill the gap between assisted living residences ~~facilities~~ and
 5989 nursing homes, where both the federal and state government share
 5990 the cost of providing care, is an appropriate option to explore
 5991 in the continuum of care.

5992 Section 108. Subsection (13) of section 400.925, Florida

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5993 Statutes, is amended to read:

5994 400.925 Definitions.—As used in this part, the term:

5995 (13) "Residence" means the consumer's home or place of
 5996 residence, which may include nursing homes, assisted living
 5997 residences ~~facilities~~, transitional living facilities, adult
 5998 family-care homes, or other congregate residential facilities.

5999 Section 109. Paragraph (c) of subsection (5) of section
 6000 400.93, Florida Statutes, is amended to read:

6001 400.93 Licensure required; exemptions; unlawful acts;
 6002 penalties.—

6003 (5) The following are exempt from home medical equipment
 6004 provider licensure, unless they have a separate company,
 6005 corporation, or division that is in the business of providing
 6006 home medical equipment and services for sale or rent to
 6007 consumers at their regular or temporary place of residence
 6008 pursuant to the provisions of this part:

6009 (c) Assisted living residences ~~facilities~~ licensed under
 6010 chapter 429, when serving their residents.

6011 Section 110. Section 405.01, Florida Statutes, is amended
 6012 to read:

6013 405.01 Release of medical information to certain study
 6014 groups; exemption from liability.—Any person, hospital, assisted
 6015 living residence ~~facility~~, hospice, sanatorium, nursing or rest
 6016 home or other organization may provide information, interviews,
 6017 reports, statements, memoranda, or other data relating to the
 6018 condition and treatment of any person to research groups,
 6019 governmental health agencies, medical associations and
 6020 societies, and in-hospital medical staff committees, to be used

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6021 in the course of any study for the purpose of reducing morbidity
 6022 or mortality. No liability of any kind or character for damages
 6023 or other relief shall arise or be enforced against any person or
 6024 organization by reason of having provided such information or
 6025 material, or by reason of having released or published the
 6026 findings and conclusions of such groups to advance medical
 6027 research and medical education, or by reason of having released
 6028 or published generally a summary of such studies.

6029 Section 111. Paragraphs (a), (b), and (c) of subsection
 6030 (2) of section 408.033, Florida Statutes, are amended to read:

6031 408.033 Local and state health planning.—

6032 (2) FUNDING.—

6033 (a) The Legislature intends that the cost of local health
 6034 councils be borne by assessments on selected health care
 6035 facilities subject to facility licensure by the Agency for
 6036 Health Care Administration, including abortion clinics, assisted
 6037 living residences ~~facilities~~, ambulatory surgical centers,
 6038 birthing centers, clinical laboratories except community
 6039 nonprofit blood banks and clinical laboratories operated by
 6040 practitioners for exclusive use regulated under s. 483.035, home
 6041 health agencies, hospices, hospitals, intermediate care
 6042 facilities for the developmentally disabled, nursing homes,
 6043 health care clinics, and multiphasic testing centers and by
 6044 assessments on organizations subject to certification by the
 6045 agency pursuant to chapter 641, part III, including health
 6046 maintenance organizations and prepaid health clinics.

6047 (b)1. A hospital licensed under chapter 395, a nursing
 6048 home licensed under chapter 400, and an assisted living

6049 residence facility licensed under chapter 429 shall be assessed
 6050 an annual fee based on number of beds.

6051 2. All other facilities and organizations listed in
 6052 paragraph (a) shall each be assessed an annual fee of \$150.

6053 3. Facilities operated by the Department of Children and
 6054 Family Services, the Department of Health, or the Department of
 6055 Corrections and any hospital which meets the definition of rural
 6056 hospital pursuant to s. 395.602 are exempt from the assessment
 6057 required in this subsection.

6058 (c)1. The agency shall, by rule, establish fees for
 6059 hospitals and nursing homes based on an assessment of \$2 per
 6060 bed. However, no such facility shall be assessed more than a
 6061 total of \$500 under this subsection.

6062 2. The agency shall, by rule, establish fees for assisted
 6063 living residences ~~facilities~~ based on an assessment of \$1 per
 6064 bed. However, no such facility shall be assessed more than a
 6065 total of \$150 under this subsection.

6066 3. The agency shall, by rule, establish an annual fee of
 6067 \$150 for all other facilities and organizations listed in
 6068 paragraph (a).

6069 Section 112. Paragraph (a) of subsection (1), subsection
 6070 (3), and paragraph (a) of subsection (4) of section 409.212,
 6071 Florida Statutes, are amended to read:

6072 409.212 Optional supplementation.—

6073 (1) There may be monthly optional supplementation
 6074 payments, made in such amount as determined by the department,
 6075 to any person who:

6076 (a) Meets all the program eligibility criteria for an

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6077 assisted living residence ~~facility~~ or for adult foster care,
 6078 family placement, or other specialized living arrangement; and

6079 (3) Assisted living residences ~~facilities~~, adult family-
 6080 care homes, family placement, or any other specialized living
 6081 arrangement accepting residents who receive optional
 6082 supplementation payments must comply with the requirements of 42
 6083 U.S.C. s. 1382e(e).

6084 (4) In addition to the amount of optional supplementation
 6085 provided by the state, a person may receive additional
 6086 supplementation from third parties to contribute to his or her
 6087 cost of care. Additional supplementation may be provided under
 6088 the following conditions:

6089 (a) Payments shall be made to the assisted living
 6090 residence ~~facility~~, or to the operator of an adult family-care
 6091 home, family placement, or other special living arrangement, on
 6092 behalf of the person and not directly to the optional state
 6093 supplementation recipient.

6094 Section 113. Paragraph (e) of subsection (4) of section
 6095 409.221, Florida Statutes, is amended to read:

6096 409.221 Consumer-directed care program.—

6097 (4) CONSUMER-DIRECTED CARE.—

6098 (e) *Services*.—Consumers shall use the budget allowance
 6099 only to pay for home and community-based services that meet the
 6100 consumer's long-term care needs and are a cost-efficient use of
 6101 funds. Such services may include, but are not limited to, the
 6102 following:

- 6103 1. Personal care.
- 6104 2. Homemaking and chores, including housework, meals,

6105 shopping, and transportation.

6106 3. Home modifications and assistive devices which may
6107 increase the consumer's independence or make it possible to
6108 avoid institutional placement.

6109 4. Assistance in taking self-administered medication.

6110 5. Day care and respite care services, including those
6111 provided by nursing home facilities pursuant to s. 400.141(1)(f)
6112 or by adult day care facilities licensed pursuant to s. 429.907.

6113 6. Personal care and support services provided in an
6114 assisted living residence ~~facility~~.

6115 Section 114. Subsection (25) of section 409.906, Florida
6116 Statutes, is amended to read:

6117 409.906 Optional Medicaid services.—Subject to specific
6118 appropriations, the agency may make payments for services which
6119 are optional to the state under Title XIX of the Social Security
6120 Act and are furnished by Medicaid providers to recipients who
6121 are determined to be eligible on the dates on which the services
6122 were provided. Any optional service that is provided shall be
6123 provided only when medically necessary and in accordance with
6124 state and federal law. Optional services rendered by providers
6125 in mobile units to Medicaid recipients may be restricted or
6126 prohibited by the agency. Nothing in this section shall be
6127 construed to prevent or limit the agency from adjusting fees,
6128 reimbursement rates, lengths of stay, number of visits, or
6129 number of services, or making any other adjustments necessary to
6130 comply with the availability of moneys and any limitations or
6131 directions provided for in the General Appropriations Act or
6132 chapter 216. If necessary to safeguard the state's systems of

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6133 providing services to elderly and disabled persons and subject
 6134 to the notice and review provisions of s. 216.177, the Governor
 6135 may direct the Agency for Health Care Administration to amend
 6136 the Medicaid state plan to delete the optional Medicaid service
 6137 known as "Intermediate Care Facilities for the Developmentally
 6138 Disabled." Optional services may include:

6139 (25) ASSISTIVE-CARE SERVICES.—The agency may pay for
 6140 assistive-care services provided to recipients with functional
 6141 or cognitive impairments residing in assisted living residences
 6142 ~~facilities~~, adult family-care homes, or residential treatment
 6143 facilities. These services may include health support,
 6144 assistance with the activities of daily living and the
 6145 instrumental acts of daily living, assistance with medication
 6146 administration, and arrangements for health care.

6147 Section 115. Subsection (7) and paragraph (a) of
 6148 subsection (8) of section 409.907, Florida Statutes, are amended
 6149 to read:

6150 409.907 Medicaid provider agreements.—The agency may make
 6151 payments for medical assistance and related services rendered to
 6152 Medicaid recipients only to an individual or entity who has a
 6153 provider agreement in effect with the agency, who is performing
 6154 services or supplying goods in accordance with federal, state,
 6155 and local law, and who agrees that no person shall, on the
 6156 grounds of handicap, race, color, or national origin, or for any
 6157 other reason, be subjected to discrimination under any program
 6158 or activity for which the provider receives payment from the
 6159 agency.

6160 (7) The agency may require, as a condition of

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6161 participating in the Medicaid program and before entering into
6162 the provider agreement, that the provider submit information, in
6163 an initial and any required renewal applications, concerning the
6164 professional, business, and personal background of the provider
6165 and permit an onsite inspection of the provider's service
6166 location by agency staff or other personnel designated by the
6167 agency to perform this function. The agency shall perform a
6168 random onsite inspection, within 60 days after receipt of a
6169 fully complete new provider's application, of the provider's
6170 service location prior to making its first payment to the
6171 provider for Medicaid services to determine the applicant's
6172 ability to provide the services that the applicant is proposing
6173 to provide for Medicaid reimbursement. The agency is not
6174 required to perform an onsite inspection of a provider or
6175 program that is licensed by the agency, that provides services
6176 under waiver programs for home and community-based services, or
6177 that is licensed as a medical foster home by the Department of
6178 Children and Family Services. As a continuing condition of
6179 participation in the Medicaid program, a provider shall
6180 immediately notify the agency of any current or pending
6181 bankruptcy filing. Before entering into the provider agreement,
6182 or as a condition of continuing participation in the Medicaid
6183 program, the agency may also require that Medicaid providers
6184 reimbursed on a fee-for-services basis or fee schedule basis
6185 which is not cost-based, post a surety bond not to exceed
6186 \$50,000 or the total amount billed by the provider to the
6187 program during the current or most recent calendar year,
6188 whichever is greater. For new providers, the amount of the

6189 | surety bond shall be determined by the agency based on the
 6190 | provider's estimate of its first year's billing. If the
 6191 | provider's billing during the first year exceeds the bond
 6192 | amount, the agency may require the provider to acquire an
 6193 | additional bond equal to the actual billing level of the
 6194 | provider. A provider's bond shall not exceed \$50,000 if a
 6195 | physician or group of physicians licensed under chapter 458,
 6196 | chapter 459, or chapter 460 has a 50 percent or greater
 6197 | ownership interest in the provider or if the provider is an
 6198 | assisted living residence ~~facility~~ licensed under chapter 429.
 6199 | The bonds permitted by this section are in addition to the bonds
 6200 | referenced in s. 400.179(2)(d). If the provider is a
 6201 | corporation, partnership, association, or other entity, the
 6202 | agency may require the provider to submit information concerning
 6203 | the background of that entity and of any principal of the
 6204 | entity, including any partner or shareholder having an ownership
 6205 | interest in the entity equal to 5 percent or greater, and any
 6206 | treating provider who participates in or intends to participate
 6207 | in Medicaid through the entity. The information must include:
 6208 | (a) Proof of holding a valid license or operating
 6209 | certificate, as applicable, if required by the state or local
 6210 | jurisdiction in which the provider is located or if required by
 6211 | the Federal Government.
 6212 | (b) Information concerning any prior violation, fine,
 6213 | suspension, termination, or other administrative action taken
 6214 | under the Medicaid laws, rules, or regulations of this state or
 6215 | of any other state or the Federal Government; any prior
 6216 | violation of the laws, rules, or regulations relating to the

6217 Medicare program; any prior violation of the rules or
 6218 regulations of any other public or private insurer; and any
 6219 prior violation of the laws, rules, or regulations of any
 6220 regulatory body of this or any other state.

6221 (c) Full and accurate disclosure of any financial or
 6222 ownership interest that the provider, or any principal, partner,
 6223 or major shareholder thereof, may hold in any other Medicaid
 6224 provider or health care related entity or any other entity that
 6225 is licensed by the state to provide health or residential care
 6226 and treatment to persons.

6227 (d) If a group provider, identification of all members of
 6228 the group and attestation that all members of the group are
 6229 enrolled in or have applied to enroll in the Medicaid program.

6230 (8) (a) Each provider, or each principal of the provider if
 6231 the provider is a corporation, partnership, association, or
 6232 other entity, seeking to participate in the Medicaid program
 6233 must submit a complete set of his or her fingerprints to the
 6234 agency for the purpose of conducting a criminal history record
 6235 check. Principals of the provider include any officer, director,
 6236 billing agent, managing employee, or affiliated person, or any
 6237 partner or shareholder who has an ownership interest equal to 5
 6238 percent or more in the provider. However, a director of a not-
 6239 for-profit corporation or organization is not a principal for
 6240 purposes of a background investigation as required by this
 6241 section if the director: serves solely in a voluntary capacity
 6242 for the corporation or organization, does not regularly take
 6243 part in the day-to-day operational decisions of the corporation
 6244 or organization, receives no remuneration from the not-for-

6245 | profit corporation or organization for his or her service on the
 6246 | board of directors, has no financial interest in the not-for-
 6247 | profit corporation or organization, and has no family members
 6248 | with a financial interest in the not-for-profit corporation or
 6249 | organization; and if the director submits an affidavit, under
 6250 | penalty of perjury, to this effect to the agency and the not-
 6251 | for-profit corporation or organization submits an affidavit,
 6252 | under penalty of perjury, to this effect to the agency as part
 6253 | of the corporation's or organization's Medicaid provider
 6254 | agreement application. Notwithstanding the above, the agency may
 6255 | require a background check for any person reasonably suspected
 6256 | by the agency to have been convicted of a crime. This subsection
 6257 | does not apply to:

- 6258 | 1. A hospital licensed under chapter 395;
- 6259 | 2. A nursing home licensed under chapter 400;
- 6260 | 3. A hospice licensed under chapter 400;
- 6261 | 4. An assisted living residence ~~facility~~ licensed under
 6262 | chapter 429;
- 6263 | 5. A unit of local government, except that requirements of
 6264 | this subsection apply to nongovernmental providers and entities
 6265 | contracting with the local government to provide Medicaid
 6266 | services. The actual cost of the state and national criminal
 6267 | history record checks must be borne by the nongovernmental
 6268 | provider or entity; or
- 6269 | 6. Any business that derives more than 50 percent of its
 6270 | revenue from the sale of goods to the final consumer, and the
 6271 | business or its controlling parent is required to file a form
 6272 | 10-K or other similar statement with the Securities and Exchange

6273 Commission or has a net worth of \$50 million or more.
 6274 Section 116. Paragraph (b) of subsection (4) and
 6275 subsection (36) of section 409.912, Florida Statutes, are
 6276 amended to read:
 6277 409.912 Cost-effective purchasing of health care.—The
 6278 agency shall purchase goods and services for Medicaid recipients
 6279 in the most cost-effective manner consistent with the delivery
 6280 of quality medical care. To ensure that medical services are
 6281 effectively utilized, the agency may, in any case, require a
 6282 confirmation or second physician's opinion of the correct
 6283 diagnosis for purposes of authorizing future services under the
 6284 Medicaid program. This section does not restrict access to
 6285 emergency services or poststabilization care services as defined
 6286 in 42 C.F.R. part 438.114. Such confirmation or second opinion
 6287 shall be rendered in a manner approved by the agency. The agency
 6288 shall maximize the use of prepaid per capita and prepaid
 6289 aggregate fixed-sum basis services when appropriate and other
 6290 alternative service delivery and reimbursement methodologies,
 6291 including competitive bidding pursuant to s. 287.057, designed
 6292 to facilitate the cost-effective purchase of a case-managed
 6293 continuum of care. The agency shall also require providers to
 6294 minimize the exposure of recipients to the need for acute
 6295 inpatient, custodial, and other institutional care and the
 6296 inappropriate or unnecessary use of high-cost services. The
 6297 agency shall contract with a vendor to monitor and evaluate the
 6298 clinical practice patterns of providers in order to identify
 6299 trends that are outside the normal practice patterns of a
 6300 provider's professional peers or the national guidelines of a

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6301 provider's professional association. The vendor must be able to
6302 provide information and counseling to a provider whose practice
6303 patterns are outside the norms, in consultation with the agency,
6304 to improve patient care and reduce inappropriate utilization.
6305 The agency may mandate prior authorization, drug therapy
6306 management, or disease management participation for certain
6307 populations of Medicaid beneficiaries, certain drug classes, or
6308 particular drugs to prevent fraud, abuse, overuse, and possible
6309 dangerous drug interactions. The Pharmaceutical and Therapeutics
6310 Committee shall make recommendations to the agency on drugs for
6311 which prior authorization is required. The agency shall inform
6312 the Pharmaceutical and Therapeutics Committee of its decisions
6313 regarding drugs subject to prior authorization. The agency is
6314 authorized to limit the entities it contracts with or enrolls as
6315 Medicaid providers by developing a provider network through
6316 provider credentialing. The agency may competitively bid single-
6317 source-provider contracts if procurement of goods or services
6318 results in demonstrated cost savings to the state without
6319 limiting access to care. The agency may limit its network based
6320 on the assessment of beneficiary access to care, provider
6321 availability, provider quality standards, time and distance
6322 standards for access to care, the cultural competence of the
6323 provider network, demographic characteristics of Medicaid
6324 beneficiaries, practice and provider-to-beneficiary standards,
6325 appointment wait times, beneficiary use of services, provider
6326 turnover, provider profiling, provider licensure history,
6327 previous program integrity investigations and findings, peer
6328 review, provider Medicaid policy and billing compliance records,

6329 clinical and medical record audits, and other factors. Providers
 6330 shall not be entitled to enrollment in the Medicaid provider
 6331 network. The agency shall determine instances in which allowing
 6332 Medicaid beneficiaries to purchase durable medical equipment and
 6333 other goods is less expensive to the Medicaid program than long-
 6334 term rental of the equipment or goods. The agency may establish
 6335 rules to facilitate purchases in lieu of long-term rentals in
 6336 order to protect against fraud and abuse in the Medicaid program
 6337 as defined in s. 409.913. The agency may seek federal waivers
 6338 necessary to administer these policies.

6339 (4) The agency may contract with:

6340 (b) An entity that is providing comprehensive behavioral
 6341 health care services to certain Medicaid recipients through a
 6342 capitated, prepaid arrangement pursuant to the federal waiver
 6343 provided for by s. 409.905(5). Such entity must be licensed
 6344 under chapter 624, chapter 636, or chapter 641, or authorized
 6345 under paragraph (c) or paragraph (d), and must possess the
 6346 clinical systems and operational competence to manage risk and
 6347 provide comprehensive behavioral health care to Medicaid
 6348 recipients. As used in this paragraph, the term "comprehensive
 6349 behavioral health care services" means covered mental health and
 6350 substance abuse treatment services that are available to
 6351 Medicaid recipients. The secretary of the Department of Children
 6352 and Family Services shall approve provisions of procurements
 6353 related to children in the department's care or custody before
 6354 enrolling such children in a prepaid behavioral health plan. Any
 6355 contract awarded under this paragraph must be competitively
 6356 procured. In developing the behavioral health care prepaid plan

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6357 procurement document, the agency shall ensure that the
 6358 procurement document requires the contractor to develop and
 6359 implement a plan to ensure compliance with s. 394.4574 related
 6360 to services provided to residents of licensed assisted living
 6361 residences ~~facilities~~ that hold a limited mental health license.
 6362 Except as provided in subparagraph 8., and except in counties
 6363 where the Medicaid managed care pilot program is authorized
 6364 pursuant to s. 409.91211, the agency shall seek federal approval
 6365 to contract with a single entity meeting these requirements to
 6366 provide comprehensive behavioral health care services to all
 6367 Medicaid recipients not enrolled in a Medicaid managed care plan
 6368 authorized under s. 409.91211, a provider service network
 6369 authorized under paragraph (d), or a Medicaid health maintenance
 6370 organization in an AHCA area. In an AHCA area where the Medicaid
 6371 managed care pilot program is authorized pursuant to s.
 6372 409.91211 in one or more counties, the agency may procure a
 6373 contract with a single entity to serve the remaining counties as
 6374 an AHCA area or the remaining counties may be included with an
 6375 adjacent AHCA area and are subject to this paragraph. Each
 6376 entity must offer a sufficient choice of providers in its
 6377 network to ensure recipient access to care and the opportunity
 6378 to select a provider with whom they are satisfied. The network
 6379 shall include all public mental health hospitals. To ensure
 6380 unimpaired access to behavioral health care services by Medicaid
 6381 recipients, all contracts issued pursuant to this paragraph must
 6382 require 80 percent of the capitation paid to the managed care
 6383 plan, including health maintenance organizations and capitated
 6384 provider service networks, to be expended for the provision of

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6385 behavioral health care services. If the managed care plan
6386 expends less than 80 percent of the capitation paid for the
6387 provision of behavioral health care services, the difference
6388 shall be returned to the agency. The agency shall provide the
6389 plan with a certification letter indicating the amount of
6390 capitation paid during each calendar year for behavioral health
6391 care services pursuant to this section. The agency may reimburse
6392 for substance abuse treatment services on a fee-for-service
6393 basis until the agency finds that adequate funds are available
6394 for capitated, prepaid arrangements.

6395 1. By January 1, 2001, the agency shall modify the
6396 contracts with the entities providing comprehensive inpatient
6397 and outpatient mental health care services to Medicaid
6398 recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk
6399 Counties, to include substance abuse treatment services.

6400 2. By July 1, 2003, the agency and the Department of
6401 Children and Family Services shall execute a written agreement
6402 that requires collaboration and joint development of all policy,
6403 budgets, procurement documents, contracts, and monitoring plans
6404 that have an impact on the state and Medicaid community mental
6405 health and targeted case management programs.

6406 3. Except as provided in subparagraph 8., by July 1, 2006,
6407 the agency and the Department of Children and Family Services
6408 shall contract with managed care entities in each AHCA area
6409 except area 6 or arrange to provide comprehensive inpatient and
6410 outpatient mental health and substance abuse services through
6411 capitated prepaid arrangements to all Medicaid recipients who
6412 are eligible to participate in such plans under federal law and

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6413 regulation. In AHCA areas where eligible individuals number less
6414 than 150,000, the agency shall contract with a single managed
6415 care plan to provide comprehensive behavioral health services to
6416 all recipients who are not enrolled in a Medicaid health
6417 maintenance organization, a provider service network authorized
6418 under paragraph (d), or a Medicaid capitated managed care plan
6419 authorized under s. 409.91211. The agency may contract with more
6420 than one comprehensive behavioral health provider to provide
6421 care to recipients who are not enrolled in a Medicaid capitated
6422 managed care plan authorized under s. 409.91211, a provider
6423 service network authorized under paragraph (d), or a Medicaid
6424 health maintenance organization in AHCA areas where the eligible
6425 population exceeds 150,000. In an AHCA area where the Medicaid
6426 managed care pilot program is authorized pursuant to s.
6427 409.91211 in one or more counties, the agency may procure a
6428 contract with a single entity to serve the remaining counties as
6429 an AHCA area or the remaining counties may be included with an
6430 adjacent AHCA area and shall be subject to this paragraph.
6431 Contracts for comprehensive behavioral health providers awarded
6432 pursuant to this section shall be competitively procured. Both
6433 for-profit and not-for-profit corporations are eligible to
6434 compete. Managed care plans contracting with the agency under
6435 subsection (3) or paragraph (d), shall provide and receive
6436 payment for the same comprehensive behavioral health benefits as
6437 provided in AHCA rules, including handbooks incorporated by
6438 reference. In AHCA area 11, the agency shall contract with at
6439 least two comprehensive behavioral health care providers to
6440 provide behavioral health care to recipients in that area who

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6441 are enrolled in, or assigned to, the MediPass program. One of
6442 the behavioral health care contracts must be with the existing
6443 provider service network pilot project, as described in
6444 paragraph (d), for the purpose of demonstrating the cost-
6445 effectiveness of the provision of quality mental health services
6446 through a public hospital-operated managed care model. Payment
6447 shall be at an agreed-upon capitated rate to ensure cost
6448 savings. Of the recipients in area 11 who are assigned to
6449 MediPass under s. 409.9122(2)(k), a minimum of 50,000 of those
6450 MediPass-enrolled recipients shall be assigned to the existing
6451 provider service network in area 11 for their behavioral care.

6452 4. By October 1, 2003, the agency and the department shall
6453 submit a plan to the Governor, the President of the Senate, and
6454 the Speaker of the House of Representatives which provides for
6455 the full implementation of capitated prepaid behavioral health
6456 care in all areas of the state.

6457 a. Implementation shall begin in 2003 in those AHCA areas
6458 of the state where the agency is able to establish sufficient
6459 capitation rates.

6460 b. If the agency determines that the proposed capitation
6461 rate in any area is insufficient to provide appropriate
6462 services, the agency may adjust the capitation rate to ensure
6463 that care will be available. The agency and the department may
6464 use existing general revenue to address any additional required
6465 match but may not over-obligate existing funds on an annualized
6466 basis.

6467 c. Subject to any limitations provided in the General
6468 Appropriations Act, the agency, in compliance with appropriate

6469 federal authorization, shall develop policies and procedures
 6470 that allow for certification of local and state funds.

6471 5. Children residing in a statewide inpatient psychiatric
 6472 program, or in a Department of Juvenile Justice or a Department
 6473 of Children and Family Services residential program approved as
 6474 a Medicaid behavioral health overlay services provider may not
 6475 be included in a behavioral health care prepaid health plan or
 6476 any other Medicaid managed care plan pursuant to this paragraph.

6477 6. In converting to a prepaid system of delivery, the
 6478 agency shall in its procurement document require an entity
 6479 providing only comprehensive behavioral health care services to
 6480 prevent the displacement of indigent care patients by enrollees
 6481 in the Medicaid prepaid health plan providing behavioral health
 6482 care services from facilities receiving state funding to provide
 6483 indigent behavioral health care, to facilities licensed under
 6484 chapter 395 which do not receive state funding for indigent
 6485 behavioral health care, or reimburse the unsubsidized facility
 6486 for the cost of behavioral health care provided to the displaced
 6487 indigent care patient.

6488 7. Traditional community mental health providers under
 6489 contract with the Department of Children and Family Services
 6490 pursuant to part IV of chapter 394, child welfare providers
 6491 under contract with the Department of Children and Family
 6492 Services in areas 1 and 6, and inpatient mental health providers
 6493 licensed pursuant to chapter 395 must be offered an opportunity
 6494 to accept or decline a contract to participate in any provider
 6495 network for prepaid behavioral health services.

6496 8. All Medicaid-eligible children, except children in area

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6497 1 and children in Highlands County, Hardee County, Polk County,
 6498 or Manatee County of area 6, that are open for child welfare
 6499 services in the HomeSafeNet system, shall receive their
 6500 behavioral health care services through a specialty prepaid plan
 6501 operated by community-based lead agencies through a single
 6502 agency or formal agreements among several agencies. The
 6503 specialty prepaid plan must result in savings to the state
 6504 comparable to savings achieved in other Medicaid managed care
 6505 and prepaid programs. Such plan must provide mechanisms to
 6506 maximize state and local revenues. The specialty prepaid plan
 6507 shall be developed by the agency and the Department of Children
 6508 and Family Services. The agency may seek federal waivers to
 6509 implement this initiative. Medicaid-eligible children whose
 6510 cases are open for child welfare services in the HomeSafeNet
 6511 system and who reside in AHCA area 10 are exempt from the
 6512 specialty prepaid plan upon the development of a service
 6513 delivery mechanism for children who reside in area 10 as
 6514 specified in s. 409.91211(3) (dd).

6515 (36) Any entity that provides Medicaid prepaid health plan
 6516 services shall ensure the appropriate coordination of health
 6517 care services with an assisted living residence ~~facility~~ in
 6518 cases where a Medicaid recipient is both a member of the
 6519 entity's prepaid health plan and a resident of the assisted
 6520 living residence ~~facility~~. If the entity is at risk for Medicaid
 6521 targeted case management and behavioral health services, the
 6522 entity shall inform the assisted living residence ~~facility~~ of
 6523 the procedures to follow should an emergent condition arise.

6524 Section 117. Section 410.031, Florida Statutes, is amended

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6525 to read:

6526 410.031 Legislative intent.—It is the intent of the
 6527 Legislature to encourage the provision of care for disabled
 6528 adults in family-type living arrangements in private homes as an
 6529 alternative to institutional or nursing home care for such
 6530 persons. The provisions of ss. 410.031-410.036 are intended
 6531 to be supplemental to the provisions of chapters 400 and 429,
 6532 relating to the licensing and regulation of nursing homes and
 6533 assisted living residences ~~facilities~~, and do not exempt any
 6534 person who is otherwise subject to regulation under chapter 400
 6535 or chapter 429.

6536 Section 118. Section 410.034, Florida Statutes, is amended
 6537 to read:

6538 410.034 Department determination of fitness to provide
 6539 home care.—In accordance with s. 429.02, a person caring for an
 6540 adult who is related to such person by blood or marriage is not
 6541 subject to the Assisted Living Residences ~~Facilities~~ Act. If,
 6542 however, the person who plans to provide home care under this
 6543 act is found by the department to be unable to provide this
 6544 care, the department shall notify the person wishing to provide
 6545 home care of this determination, and the person shall not be
 6546 eligible for subsidy payments under ss. 410.031-410.036.

6547 Section 119. Paragraph (b) of subsection (3) of section
 6548 410.502, Florida Statutes, is amended to read:

6549 410.502 Housing and living arrangements; special needs of
 6550 the elderly; services.—The Department of Elderly Affairs shall
 6551 provide services related to housing and living arrangements
 6552 which meet the special needs of the elderly. Such services shall

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6553 include, but not be limited to:

6554 (3) Promoting, through the Department of Elderly Affairs
 6555 staff activities and area agencies on aging, the development of
 6556 a variety of living arrangements through public and private
 6557 auspices to meet the various needs and desires of the elderly,
 6558 including, but not limited to:

6559 (b) Assisted living residence ~~facilities~~.

6560
 6561 Demonstration projects must be used advisedly to test the extent
 6562 to which these and other innovative housing and living
 6563 arrangements do meet the basic and special needs of the elderly.

6564 Section 120. Subsection (9) of section 415.102, Florida
 6565 Statutes, is amended to read:

6566 415.102 Definitions of terms used in ss. 415.101-415.113.—
 6567 As used in ss. 415.101-415.113, the term:

6568 (9) "Facility" means any location providing day or
 6569 residential care or treatment for vulnerable adults. The term
 6570 "facility" may include, but is not limited to, any hospital,
 6571 state institution, nursing home, assisted living residence
 6572 ~~facility~~, adult family-care home, adult day care center,
 6573 residential facility licensed under chapter 393, adult day
 6574 training center, or mental health treatment center.

6575 Section 121. Paragraph (a) of subsection (1) of section
 6576 415.1034, Florida Statutes, is amended to read:

6577 415.1034 Mandatory reporting of abuse, neglect, or
 6578 exploitation of vulnerable adults; mandatory reports of death.—

6579 (1) MANDATORY REPORTING.—

6580 (a) Any person, including, but not limited to, any:

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6581 1. Physician, osteopathic physician, medical examiner,
 6582 chiropractic physician, nurse, paramedic, emergency medical
 6583 technician, or hospital personnel engaged in the admission,
 6584 examination, care, or treatment of vulnerable adults;
 6585 2. Health professional or mental health professional other
 6586 than one listed in subparagraph 1.;
 6587 3. Practitioner who relies solely on spiritual means for
 6588 healing;
 6589 4. Nursing home staff; assisted living residence ~~facility~~
 6590 staff; adult day care center staff; adult family-care home
 6591 staff; social worker; or other professional adult care,
 6592 residential, or institutional staff;
 6593 5. State, county, or municipal criminal justice employee
 6594 or law enforcement officer;
 6595 6. An employee of the Department of Business and
 6596 Professional Regulation conducting inspections of public lodging
 6597 establishments under s. 509.032;
 6598 7. Florida advocacy council member or long-term care
 6599 ombudsman council member; or
 6600 8. Bank, savings and loan, or credit union officer,
 6601 trustee, or employee,
 6602
 6603 who knows, or has reasonable cause to suspect, that a vulnerable
 6604 adult has been or is being abused, neglected, or exploited shall
 6605 immediately report such knowledge or suspicion to the central
 6606 abuse hotline.
 6607 Section 122. Paragraph (b) of subsection (3) of section
 6608 415.1051, Florida Statutes, is amended to read:

6609 | 415.1051 Protective services interventions when capacity
 6610 | to consent is lacking; nonemergencies; emergencies; orders;
 6611 | limitations.—

6612 | (3) PROTECTIVE SERVICES ORDER.—In ordering any protective
 6613 | services under this section, the court shall adhere to the
 6614 | following limitations:

6615 | (b) Protective services ordered may not include a change
 6616 | of residence, unless the court specifically finds such action is
 6617 | necessary to ameliorate the conditions creating the abuse,
 6618 | neglect, or exploitation and the court gives specific approval
 6619 | for such action in the order. Placement may be made to such
 6620 | facilities as adult family-care homes, assisted living
 6621 | residences ~~facilities~~, or nursing homes, or to other appropriate
 6622 | facilities. Placement may not be made to residences ~~facilities~~
 6623 | for the acutely mentally ill, except as provided in chapter 394.

6624 | Section 123. Paragraph (a) of subsection (3) of section
 6625 | 415.107, Florida Statutes, is amended to read:

6626 | 415.107 Confidentiality of reports and records.—

6627 | (3) Access to all records, excluding the name of the
 6628 | reporter which shall be released only as provided in subsection
 6629 | (6), shall be granted only to the following persons, officials,
 6630 | and agencies:

6631 | (a) Employees or agents of the department, the Agency for
 6632 | Persons with Disabilities, the Agency for Health Care
 6633 | Administration, or the Department of Elderly Affairs who are
 6634 | responsible for carrying out protective investigations, ongoing
 6635 | protective services, or licensure or approval of nursing homes,
 6636 | assisted living residences ~~facilities~~, adult day care centers,

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6637 adult family-care homes, home care for the elderly, hospices,
 6638 residential facilities licensed under chapter 393, or other
 6639 facilities used for the placement of vulnerable adults.

6640 Section 124. Subsection (2) of section 420.626, Florida
 6641 Statutes, is amended to read:

6642 420.626 Homelessness; discharge guidelines.—

6643 (2) The following facilities and institutions are
 6644 encouraged to develop and implement procedures designed to
 6645 reduce the discharge of persons into homelessness when such
 6646 persons are admitted or housed for more than 24 hours at such
 6647 facilities or institutions: hospitals and inpatient medical
 6648 facilities; crisis stabilization units; residential treatment
 6649 facilities; assisted living residences ~~facilities~~; and
 6650 detoxification centers.

6651 Section 125. Paragraph (b) of subsection (4) of section
 6652 430.071, Florida Statutes, is amended to read:

6653 430.071 Respite for elders living in everyday families.—

6654 (4) To receive assistance from the RELIEF program, the
 6655 family unit must be assessed according to the following
 6656 guidelines developed by the department to determine the need for
 6657 respite services. This assessment must determine, at a minimum,
 6658 that:

6659 (b) The homebound elderly individual for whom the family
 6660 unit is caring is 60 years of age or older, requires assistance
 6661 to remain in the home, and, without this assistance, would need
 6662 to move to an assisted living residence ~~facility~~ or a nursing
 6663 facility.

6664 Section 126. Section 430.601, Florida Statutes, is amended

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6665 to read:

6666 430.601 Home care for the elderly; legislative intent.—It
 6667 is the intent of the Legislature to encourage the provision of
 6668 care for the elderly in family-type living arrangements in
 6669 private homes as an alternative to institutional or nursing home
 6670 care for such persons. The provisions of ss. 430.601-
 6671 430.606 are intended to be supplemental to the provisions of
 6672 chapters 400 and 429, relating to the licensing and regulation
 6673 of nursing homes and assisted living residences ~~facilities~~, and
 6674 do not exempt any person who is otherwise subject to regulation
 6675 under those chapters.

6676 Section 127. Paragraph (o) of subsection (3) of section
 6677 456.053, Florida Statutes, is amended to read:

6678 456.053 Financial arrangements between referring health
 6679 care providers and providers of health care services.—

6680 (3) DEFINITIONS.—For the purpose of this section, the
 6681 word, phrase, or term:

6682 (o) "Referral" means any referral of a patient by a health
 6683 care provider for health care services, including, without
 6684 limitation:

6685 1. The forwarding of a patient by a health care provider
 6686 to another health care provider or to an entity which provides
 6687 or supplies designated health services or any other health care
 6688 item or service. ~~or~~

6689 2. The request or establishment of a plan of care by a
 6690 health care provider, which includes the provision of designated
 6691 health services or other health care item or service.

6692 3. The following orders, recommendations, or plans of care

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6693 shall not constitute a referral by a health care provider:
 6694 a. By a radiologist for diagnostic-imaging services.
 6695 b. By a physician specializing in the provision of
 6696 radiation therapy services for such services.
 6697 c. By a medical oncologist for drugs and solutions to be
 6698 prepared and administered intravenously to such oncologist's
 6699 patient, as well as for the supplies and equipment used in
 6700 connection therewith to treat such patient for cancer and the
 6701 complications thereof.
 6702 d. By a cardiologist for cardiac catheterization services.
 6703 e. By a pathologist for diagnostic clinical laboratory
 6704 tests and pathological examination services, if furnished by or
 6705 under the supervision of such pathologist pursuant to a
 6706 consultation requested by another physician.
 6707 f. By a health care provider who is the sole provider or
 6708 member of a group practice for designated health services or
 6709 other health care items or services that are prescribed or
 6710 provided solely for such referring health care provider's or
 6711 group practice's own patients, and that are provided or
 6712 performed by or under the direct supervision of such referring
 6713 health care provider or group practice; provided, however, that
 6714 effective July 1, 1999, a physician licensed pursuant to chapter
 6715 458, chapter 459, chapter 460, or chapter 461 may refer a
 6716 patient to a sole provider or group practice for diagnostic
 6717 imaging services, excluding radiation therapy services, for
 6718 which the sole provider or group practice billed both the
 6719 technical and the professional fee for or on behalf of the
 6720 patient, if the referring physician has no investment interest

6721 in the practice. The diagnostic imaging service referred to a
 6722 group practice or sole provider must be a diagnostic imaging
 6723 service normally provided within the scope of practice to the
 6724 patients of the group practice or sole provider. The group
 6725 practice or sole provider may accept no more than 15 percent of
 6726 their patients receiving diagnostic imaging services from
 6727 outside referrals, excluding radiation therapy services.

6728 g. By a health care provider for services provided by an
 6729 ambulatory surgical center licensed under chapter 395.

6730 h. By a urologist for lithotripsy services.

6731 i. By a dentist for dental services performed by an
 6732 employee of or health care provider who is an independent
 6733 contractor with the dentist or group practice of which the
 6734 dentist is a member.

6735 j. By a physician for infusion therapy services to a
 6736 patient of that physician or a member of that physician's group
 6737 practice.

6738 k. By a nephrologist for renal dialysis services and
 6739 supplies, except laboratory services.

6740 l. By a health care provider whose principal professional
 6741 practice consists of treating patients in their private
 6742 residences for services to be rendered in such private
 6743 residences, except for services rendered by a home health agency
 6744 licensed under chapter 400. For purposes of this sub-
 6745 subparagraph, the term "private residences" includes patients'
 6746 private homes, independent living centers, and assisted living
 6747 residences ~~facilities~~, but does not include skilled nursing
 6748 facilities.

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6749 m. By a health care provider for sleep-related testing.

6750 Section 128. Paragraph (e) of subsection (4) of section
6751 458.348, Florida Statutes, is amended to read:

6752 458.348 Formal supervisory relationships, standing orders,
6753 and established protocols; notice; standards.—

6754 (4) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—

6755 A physician who supervises an advanced registered nurse
6756 practitioner or physician assistant at a medical office other
6757 than the physician's primary practice location, where the
6758 advanced registered nurse practitioner or physician assistant is
6759 not under the onsite supervision of a supervising physician,
6760 must comply with the standards set forth in this subsection. For
6761 the purpose of this subsection, a physician's "primary practice
6762 location" means the address reflected on the physician's profile
6763 published pursuant to s. 456.041.

6764 (e) This subsection does not apply to health care services
6765 provided in residences ~~facilities~~ licensed under chapter 395 or
6766 in conjunction with a college of medicine, a college of nursing,
6767 an accredited graduate medical program, or a nursing education
6768 program; not-for-profit, family-planning clinics that are not
6769 licensed pursuant to chapter 390; rural and federally qualified
6770 health centers; health care services provided in a nursing home
6771 licensed under part II of chapter 400, an assisted living
6772 residence ~~facility~~ licensed under part I of chapter 429, a
6773 continuing care residence ~~facility~~ licensed under chapter 651,
6774 or a retirement community consisting of independent living units
6775 and a licensed nursing home or assisted living residence
6776 ~~facility~~; anesthesia services provided in accordance with law;

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6777 health care services provided in a designated rural health
 6778 clinic; health care services provided to persons enrolled in a
 6779 program designed to maintain elderly persons and persons with
 6780 disabilities in a home or community-based setting; university
 6781 primary care student health centers; school health clinics; or
 6782 health care services provided in federal, state, or local
 6783 government facilities. Subsection (3) and this subsection do not
 6784 apply to offices at which the exclusive service being performed
 6785 is laser hair removal by an advanced registered nurse
 6786 practitioner or physician assistant.

6787 Section 129. Paragraph (e) of subsection (3) of section
 6788 459.025, Florida Statutes, is amended to read:

6789 459.025 Formal supervisory relationships, standing orders,
 6790 and established protocols; notice; standards.—

6791 (3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—

6792 An osteopathic physician who supervises an advanced registered
 6793 nurse practitioner or physician assistant at a medical office
 6794 other than the osteopathic physician's primary practice
 6795 location, where the advanced registered nurse practitioner or
 6796 physician assistant is not under the onsite supervision of a
 6797 supervising osteopathic physician, must comply with the
 6798 standards set forth in this subsection. For the purpose of this
 6799 subsection, an osteopathic physician's "primary practice
 6800 location" means the address reflected on the physician's profile
 6801 published pursuant to s. 456.041.

6802 (e) This subsection does not apply to health care services
 6803 provided in residences ~~facilities~~ licensed under chapter 395 or
 6804 in conjunction with a college of medicine or college of nursing

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6805 or an accredited graduate medical or nursing education program;
 6806 offices where the only service being performed is hair removal
 6807 by an advanced registered nurse practitioner or physician
 6808 assistant; not-for-profit, family-planning clinics that are not
 6809 licensed pursuant to chapter 390; rural and federally qualified
 6810 health centers; health care services provided in a nursing home
 6811 licensed under part II of chapter 400, an assisted living
 6812 residence facility licensed under part I of chapter 429, a
 6813 continuing care facility licensed under chapter 651, or a
 6814 retirement community consisting of independent living units and
 6815 either a licensed nursing home or assisted living residence
 6816 ~~facility~~; anesthesia services provided in accordance with law;
 6817 health care services provided in a designated rural health
 6818 clinic; health care services provided to persons enrolled in a
 6819 program designed to maintain elderly persons and persons with
 6820 disabilities in a home or community-based setting; university
 6821 primary care student health centers; school health clinics; or
 6822 health care services provided in federal, state, or local
 6823 government facilities.

6824 Section 130. Paragraph (b) of subsection (2) of section
 6825 468.1695, Florida Statutes, is amended to read:

6826 468.1695 Licensure by examination.—

6827 (2) The department shall examine each applicant who the
 6828 board certifies has completed the application form and remitted
 6829 an examination fee set by the board not to exceed \$250 and who:

6830 (b)1. Holds a baccalaureate degree from an accredited
 6831 college or university; and

6832 2.a. Has fulfilled the requirements of a 2,000-hour

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6833 nursing home administrator-in-training program prescribed by the
6834 board; or

6835 b. Has 1 year of management experience allowing for the
6836 application of executive duties and skills, including the
6837 staffing, budgeting, and directing of resident care, dietary,
6838 and bookkeeping departments within a skilled nursing facility,
6839 hospital, hospice, assisted living residence ~~facility~~ with a
6840 minimum of 60 licensed beds, or geriatric residential treatment
6841 program and, if such experience is not in a skilled nursing
6842 facility, has fulfilled the requirements of a 1,000-hour nursing
6843 home administrator-in-training program prescribed by the board.

6844 Section 131. Paragraph (k) of subsection (1) of section
6845 468.505, Florida Statutes, is amended to read:

6846 468.505 Exemptions; exceptions.—

6847 (1) Nothing in this part may be construed as prohibiting
6848 or restricting the practice, services, or activities of:

6849 (k) A person employed by a hospital licensed under chapter
6850 395, by a nursing home licensed under part II of chapter 400, by
6851 an assisted living residence ~~facility~~ licensed under chapter
6852 429, or by a continuing care facility certified under chapter
6853 651, if the person is employed in compliance with the laws and
6854 rules adopted thereunder regarding the operation of its dietetic
6855 department.

6856 Section 132. Subsection (2) of section 553.73, Florida
6857 Statutes, is amended to read:

6858 553.73 Florida Building Code.—

6859 (2) The Florida Building Code shall contain provisions or
6860 requirements for public and private buildings, structures, and

6861 facilities relative to structural, mechanical, electrical,
 6862 plumbing, energy, and gas systems, existing buildings,
 6863 historical buildings, manufactured buildings, elevators, coastal
 6864 construction, lodging facilities, food sales and food service
 6865 facilities, health care facilities, including assisted living
 6866 residences ~~facilities~~, adult day care facilities, hospice
 6867 residential and inpatient facilities and units, and facilities
 6868 for the control of radiation hazards, public or private
 6869 educational facilities, swimming pools, and correctional
 6870 facilities and enforcement of and compliance with such
 6871 provisions or requirements. Further, the Florida Building Code
 6872 must provide for uniform implementation of ss. 515.25, 515.27,
 6873 and 515.29 by including standards and criteria for residential
 6874 swimming pool barriers, pool covers, latching devices, door and
 6875 window exit alarms, and other equipment required therein, which
 6876 are consistent with the intent of s. 515.23. Technical
 6877 provisions to be contained within the Florida Building Code are
 6878 restricted to requirements related to the types of materials
 6879 used and construction methods and standards employed in order to
 6880 meet criteria specified in the Florida Building Code. Provisions
 6881 relating to the personnel, supervision or training of personnel,
 6882 or any other professional qualification requirements relating to
 6883 contractors or their workforce may not be included within the
 6884 Florida Building Code, and subsections (4), (6), (7), (8), and
 6885 (9) are not to be construed to allow the inclusion of such
 6886 provisions within the Florida Building Code by amendment. This
 6887 restriction applies to both initial development and amendment of
 6888 the Florida Building Code.

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6889 Section 133. Subsection (3) of section 627.94073, Florida
 6890 Statutes, is amended to read:

6891 627.94073 Notice of cancellation; grace period.—

6892 (3) If a policy is canceled due to nonpayment of premium,
 6893 the policyholder is entitled to have the policy reinstated if,
 6894 within a period of not less than 5 months after the date of
 6895 cancellation, the policyholder or any secondary addressee
 6896 designated pursuant to subsection (2) demonstrates that the
 6897 failure to pay the premium when due was unintentional and due to
 6898 the policyholder's cognitive impairment, loss of functional
 6899 capacity, or continuous confinement in a hospital, skilled
 6900 nursing facility, or assisted living residence ~~facility~~ for a
 6901 period in excess of 60 days. Policy reinstatement shall be
 6902 subject to payment of overdue premiums. The standard of proof of
 6903 cognitive impairment or loss of functional capacity shall not be
 6904 more stringent than the benefit eligibility criteria for
 6905 cognitive impairment or the loss of functional capacity, if any,
 6906 contained in the policy and certificate. The insurer may require
 6907 payment of an interest charge not in excess of 8 percent per
 6908 year for the number of days elapsing before the payment of the
 6909 premium, during which period the policy shall continue in force
 6910 if the demonstration of cognitive impairment is made. If the
 6911 policy becomes a claim during the 180-day period before the
 6912 overdue premium is paid, the amount of the premium or premiums
 6913 with interest not in excess of 8 percent per year may be
 6914 deducted in any settlement under the policy.

6915 Section 134. Paragraph (d) of subsection (5) of section
 6916 633.021, Florida Statutes, is amended to read:

6917 | 633.021 Definitions.—As used in this chapter:

6918 | (5)

6919 | (d) "Contractor IV" means a contractor whose business is
 6920 | limited to the execution of contracts requiring the ability to
 6921 | lay out, fabricate, install, inspect, alter, repair, and service
 6922 | automatic fire sprinkler systems for detached one-family
 6923 | dwellings, detached two-family dwellings, and mobile homes,
 6924 | excluding preengineered systems and excluding single-family
 6925 | homes in cluster units, such as apartments, condominiums, and
 6926 | assisted living residences ~~facilities~~ or any building that is
 6927 | connected to other dwellings.

6928 |
 6929 | The definitions in this subsection must not be construed to
 6930 | include fire protection engineers or architects and do not limit
 6931 | or prohibit a licensed fire protection engineer or architect
 6932 | from designing any type of fire protection system. A distinction
 6933 | is made between system design concepts prepared by the design
 6934 | professional and system layout as defined in this section and
 6935 | typically prepared by the contractor. However, persons certified
 6936 | as a Contractor I, Contractor II, or Contractor IV under this
 6937 | chapter may design fire protection systems of 49 or fewer
 6938 | sprinklers, and may design the alteration of an existing fire
 6939 | sprinkler system if the alteration consists of the relocation,
 6940 | addition, or deletion of not more than 49 sprinklers,
 6941 | notwithstanding the size of the existing fire sprinkler system.
 6942 | A Contractor I, Contractor II, or Contractor IV may design a
 6943 | fire protection system the scope of which complies with NFPA
 6944 | 13D, Standard for the Installation of Sprinkler Systems in One-

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6945 and Two-Family Dwellings and Manufactured Homes, as adopted by
 6946 the State Fire Marshal, notwithstanding the number of fire
 6947 sprinklers. Contractor-developed plans may not be required by
 6948 any local permitting authority to be sealed by a registered
 6949 professional engineer.

6950 Section 135. Paragraph (b) of subsection (1) of section
 6951 633.022, Florida Statutes, is amended to read:

6952 633.022 Uniform firesafety standards.—The Legislature
 6953 hereby determines that to protect the public health, safety, and
 6954 welfare it is necessary to provide for firesafety standards
 6955 governing the construction and utilization of certain buildings
 6956 and structures. The Legislature further determines that certain
 6957 buildings or structures, due to their specialized use or to the
 6958 special characteristics of the person utilizing or occupying
 6959 these buildings or structures, should be subject to firesafety
 6960 standards reflecting these special needs as may be appropriate.

6961 (1) The department shall establish uniform firesafety
 6962 standards that apply to:

6963 (b) All new, existing, and proposed hospitals, nursing
 6964 homes, assisted living residences ~~facilities~~, adult family-care
 6965 homes, correctional facilities, public schools, transient public
 6966 lodging establishments, public food service establishments,
 6967 elevators, migrant labor camps, mobile home parks, lodging
 6968 parks, recreational vehicle parks, recreational camps,
 6969 residential and nonresidential child care facilities, facilities
 6970 for the developmentally disabled, motion picture and television
 6971 special effects productions, tunnels, and self-service gasoline
 6972 stations, of which standards the State Fire Marshal is the final

6973 administrative interpreting authority.

6974

6975 In the event there is a dispute between the owners of the
 6976 buildings specified in paragraph (b) and a local authority
 6977 requiring a more stringent uniform firesafety standard for
 6978 sprinkler systems, the State Fire Marshal shall be the final
 6979 administrative interpreting authority and the State Fire
 6980 Marshal's interpretation regarding the uniform firesafety
 6981 standards shall be considered final agency action.

6982 Section 136. Subsection (25) of section 641.31, Florida
 6983 Statutes, is amended to read:

6984 641.31 Health maintenance contracts.—

6985 (25) If a subscriber is a resident of a continuing care
 6986 facility certified under chapter 651 or a retirement facility
 6987 consisting of a nursing home or assisted living residence
 6988 ~~facility~~ and residential apartments, the subscriber's primary
 6989 care physician must refer the subscriber to that facility's
 6990 skilled nursing unit or assisted living residence ~~facility~~ if
 6991 requested by the subscriber and agreed to by the facility; if
 6992 the primary care physician finds that such care is medically
 6993 necessary; if the facility agrees to be reimbursed at the health
 6994 maintenance organization's contract rate negotiated with similar
 6995 providers for the same services and supplies; and if the
 6996 facility meets all guidelines established by the health
 6997 maintenance organization related to quality of care,
 6998 utilization, referral authorization, risk assumption, use of the
 6999 health maintenance organization's network, and other criteria
 7000 applicable to providers under contract for the same services and

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7001 supplies. If a health maintenance organization enrolls a new
 7002 subscriber who already resides in a continuing care facility or
 7003 a retirement facility as described in this subsection, the
 7004 health maintenance organization must provide in writing a
 7005 disclosure of the subscriber's rights under this subsection. If
 7006 a subscriber's request to be referred to the skilled nursing
 7007 unit or assisted living residence ~~facility~~ that is part of the
 7008 subscriber's place of residence is not honored, the subscriber
 7009 may use the grievance process provided in s. 641.511.

7010 Section 137. Subsection (6) of section 651.083, Florida
 7011 Statutes, is amended to read:

7012 651.083 Residents' rights.—

7013 (6) This section does not supersede any bill of rights
 7014 provided by law for residents of nursing homes or assisted
 7015 living residences ~~facilities~~.

7016 Section 138. Subsection (7) of section 825.101, Florida
 7017 Statutes, is amended to read:

7018 825.101 Definitions.—As used in this chapter:

7019 (7) "Facility" means any location providing day or
 7020 residential care or treatment for elderly persons or disabled
 7021 adults. The term "facility" may include, but is not limited to,
 7022 any hospital, training center, state institution, nursing home,
 7023 assisted living residence ~~facility~~, adult family-care home,
 7024 adult day care center, group home, mental health treatment
 7025 center, or continuing care community.

7026 Section 139. Subsection (14) of section 893.055, Florida
 7027 Statutes, is amended to read:

7028 893.055 Prescription drug monitoring program.—

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7029 (14) A pharmacist, pharmacy, or dispensing health care
 7030 practitioner or his or her agent, before releasing a controlled
 7031 substance to any person not known to such dispenser, shall
 7032 require the person purchasing, receiving, or otherwise acquiring
 7033 the controlled substance to present valid photographic
 7034 identification or other verification of his or her identity to
 7035 the dispenser. If the person does not have proper
 7036 identification, the dispenser may verify the validity of the
 7037 prescription and the identity of the patient with the prescriber
 7038 or his or her authorized agent. Verification of health plan
 7039 eligibility through a real-time inquiry or adjudication system
 7040 will be considered to be proper identification. This subsection
 7041 does not apply in an institutional setting or to a long-term
 7042 care facility, including, but not limited to, an assisted living
 7043 residence ~~facility~~ or a hospital to which patients are admitted.
 7044 As used in this subsection, the term "proper identification"
 7045 means an identification that is issued by a state or the Federal
 7046 Government containing the person's photograph, printed name, and
 7047 signature or a document considered acceptable under 8 C.F.R. s.
 7048 274a.2(b)(1)(v)(A) and (B).

7049 Section 140. Paragraph (h) of subsection (1) of section
 7050 893.13, Florida Statutes, is amended to read:

7051 893.13 Prohibited acts; penalties.—

7052 (1)

7053 (h) Except as authorized by this chapter, it is unlawful
 7054 for any person to sell, manufacture, or deliver, or possess with
 7055 intent to sell, manufacture, or deliver, a controlled substance
 7056 in, on, or within 1,000 feet of the real property comprising an

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7057 assisted living residence ~~facility~~, as that term is used in
 7058 chapter 429. Any person who violates this paragraph with respect
 7059 to:

7060 1. A controlled substance named or described in s.
 7061 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 7062 commits a felony of the first degree, punishable as provided in
 7063 s. 775.082, s. 775.083, or s. 775.084.

7064 2. A controlled substance named or described in s.
 7065 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 7066 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 7067 the second degree, punishable as provided in s. 775.082, s.
 7068 775.083, or s. 775.084.

7069 Section 141. This act shall take effect July 1, 2011.