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Proposed Committee Substitute by the Committee on Health  
Regulation

A bill to be entitled

An act relating to assisted care communities; amending s. 400.141, F.S.; deleting adult care communities from the standards and rules of the Agency for Health Care Administration which apply to registered pharmacists under contract with a nursing home and related health care facilities; amending s. 408.820, F.S.; providing that assisted living facilities are exempt from certain provisions authorizing the agency to impose administrative fines for violations of laws and applicable rules; amending s. 409.912, F.S.; requiring the agency to provide for the establishment of a demonstration project for a psychiatric facility in Miami-Dade County; amending s. 429.01, F.S.; revising legislative intent and the purposes of the Assisted Living Facilities Act; amending s. 429.02, F.S.; providing, revising, and deleting definitions; amending s. 429.04, F.S.; deleting provisions exempting a home health agency from licensure as an assisted living facility under certain circumstances; amending s. 429.07, F.S.; deleting limited nursing services as a category of care in which the agency may issue a license; revising the criteria and requirements for categories of care in which the agency may issue a license; revising the licensing fees; requiring the agency to conduct a survey to determine whether a facility must be monitored; providing that certain cited assisted living facilities are subject to unannounced monitoring activities; providing for a registered nurse to participate in monitoring visits within a certain time following a class I or class II violation involving



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28 nursing care; amending s. 429.08, F.S.; requiring emergency  
29 medical technicians or paramedics to report the operations of an  
30 unlicensed assisted living facility; amending s. 429.11, F.S.;  
31 requiring the Agency for Health Care Administration to develop  
32 an abbreviated form for submission of proof of financial ability  
33 to operate an assisted living facility; amending s. 429.12,  
34 F.S.; deleting the provision that requires a transferor of an  
35 assisted living facility to advise the transferee that a plan of  
36 correction must be submitted by the transferee and approved by  
37 the agency within a specified period; amending s. 429.14, F.S.;  
38 deleting a provision that authorizes the agency to impose an  
39 administrative penalty due to the actions of a facility's  
40 employee; revising the actions for which the agency may impose  
41 an administrative penalty; conforming a provision to changes  
42 made by the act; deleting the provision that authorizes the  
43 agency to revoke or deny the license of an assisted living  
44 facility that has certain class I violations; deleting a  
45 provisions that requires the agency to provide to the Division  
46 of Hotels and Restaurants of the Department of Business and  
47 Professional Regulation a monthly list of assisted living  
48 facilities that have had their licenses denied, suspended, or  
49 revoked; amending s. 429.17, F.S.; conforming provisions to  
50 changes made by the act; revising requirements for a conditional  
51 license; amending s. 429.178, F.S.; providing safety  
52 requirements for facilities serving persons with Alzheimer's  
53 disease or other related disorders; deleting a provision  
54 relating to a facility's responsibility for the payment of  
55 certain training and education programs; amending s. 429.19,  
56 F.S.; revising procedures for the Agency for Health Care



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57 Administration regarding the imposition of fines for violations  
58 of ch. 429, F.S., related to adult care communities; specifying  
59 the conditions or occurrences that constitute a class I, class  
60 II, class III, or class IV violation; amending s. 429.195, F.S.;  
61 prohibiting the licensee of an assisted living facility from  
62 contracting or promising to pay or receive any commission,  
63 bonus, kickback, or rebate or from engaging in any split-fee  
64 arrangement with any health care provider or health care  
65 facility; providing certain exceptions; amending s. 429.20,  
66 F.S.; prohibiting the solicitation of contributions of any kind  
67 in a threatening, coercive, or unduly forceful manner by or on  
68 behalf of an assisted living facility; deleting provisions  
69 specifying that the solicitation or receipt of contributions is  
70 grounds for denial, suspension, or revocation of a license for  
71 an assisted living facility; amending s. 429.23, F.S.; revising  
72 reporting requirements with respect to adverse incidents;  
73 amending s. 429.255, F.S.; permitting certain licensed persons  
74 to provide limited nursing services; deleting the provision that  
75 allows volunteers to perform duties within the scope of their  
76 license or certification in facilities that are licensed to  
77 provide extended congregate care; amending s. 429.256, F.S.;  
78 authorizing a facility to require certain dispensing systems for  
79 residents' prescriptions; revising criteria for assistance with  
80 self-administration of medication; amending s. 429.26, F.S.;  
81 removing a requirement that a facility notify a licensed  
82 physician when a resident exhibits certain signs of dementia,  
83 cognitive impairment, or change of condition; amending s.  
84 429.27, F.S.; revising provisions relating to the property and  
85 personal effects of residents of a facility; requiring a



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86 facility's licensee, owner, administrator, staff, or  
87 representative to execute a surety bond for each resident for  
88 whom power of attorney has been granted to the licensee, owner,  
89 administrator, or staff; deleting the provision that requires a  
90 governmental agency or private charitable agency to receive a  
91 statement of all funds and other property of a resident;  
92 deleting a provision that prohibits an administrator of a  
93 facility from levying an additional charge to the individual or  
94 the account for any supplies or services that the facility has  
95 agreed by contract to provide; repealing s. 429.275(4), F.S.,  
96 relating to rulemaking authority of the Department of Elderly  
97 Affairs over financial records, personnel procedures, accounting  
98 procedures, reporting procedures, and insurance coverage for  
99 residents of assisted living facilities; amending s. 429.28,  
100 F.S., relating to the resident bill of rights; revising the  
101 number of days' notice for relocation or termination of  
102 residency at a facility; removing responsibilities of the agency  
103 for conducting compliance surveys and complaint investigations;  
104 revising the actions of a person for which a staff member or  
105 employee of a facility is prohibited from taking retaliatory  
106 action upon; prohibiting the administrator of a facility from  
107 terminating the residency of an individual under certain  
108 circumstances; amending s. 429.29, F.S.; providing that a  
109 resident who alleges negligence or a violation of rights has a  
110 cause of action against the licensee of an assisted living  
111 facility or its management company under certain circumstances;  
112 providing a limitation on noneconomic damages if the claimant  
113 elects to pursue damages for wrongful death; amending s.  
114 429.293, F.S.; permitting the use of an arbitration process to



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115 resolve a resident's claim of a rights violation or negligence;  
116 revising notification requirements; amending s. 429.294, F.S.;  
117 authorizing the release of copies of a resident's records to  
118 specified persons under certain circumstances; authorizing the  
119 facility to charge a fee to copy the records; providing limits  
120 on the frequency of the release of such records; amending s.  
121 429.297, F.S.; revising procedures for bringing a claim for  
122 punitive damages against an assisted living facility; redefining  
123 the term "intentional misconduct"; amending s. 429.298, F.S.;  
124 revising the limits on the award for punitive damages; removing  
125 a provision that provides for a criminal investigation with a  
126 finding of liability for punitive damages; removing a provision  
127 that provides for admissibility of findings in subsequent civil  
128 and criminal actions; providing that the punitive damages  
129 awarded are not required to be divided equally between the  
130 claimant and the Quality of Long-Term Care Facility Improvement  
131 Trust Fund; revising the percentages of the division of the  
132 settlement amount; amending s. 429.41, F.S.; revising rulemaking  
133 authority regarding resident care and maintenance of facilities;  
134 requiring the State Fire Marshal, in cooperation with the  
135 agency, to establish and enforce firesafety standards; deleting  
136 the requirement for a facility to conduct a minimum number of  
137 resident elopement drills; requiring the agency to use an  
138 abbreviated biennial standard licensure inspection; requiring  
139 the agency, in consultation with the Department of Health, to  
140 develop, maintain, and update the key quality-of-care standards  
141 with input from the State Long-Term Care Ombudsman Council and  
142 representatives of associations and organizations representing  
143 assisted living facilities; amending s. 429.42, F.S.; removing a



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144 provision that required a corrective plan for deficiencies  
145 related to assistance with the self-administration of medication  
146 or the administration of medication; deleting a requirement that  
147 the agency employ a certain number of pharmacists among its  
148 personnel who inspect assisted living facilities; amending s.  
149 429.445, F.S.; removing a requirement that an assisted living  
150 facility submit certain information to the agency before  
151 commencing construction to expand the facility; amending s.  
152 429.47, F.S.; authorizing an owner of an assisted living  
153 facility to advertise to the public while the facility is under  
154 construction or is seeking licensure; deleting a provision that  
155 prohibits a freestanding facility from advertising or implying  
156 that any part of it is a nursing home; amending s. 429.49, F.S.;  
157 conforming terminology to changes made by the act; amending s.  
158 429.52, F.S.; revising training and education requirements for  
159 certain administrators, facility staff, and other licensed  
160 professionals; requiring training providers certified by the  
161 department to meet continuing education requirements and  
162 standards; providing conditions for the sanctioning of training  
163 providers and trainees; amending s. 429.53, F.S.; removing  
164 provisions relating to preconstruction approvals and reviews and  
165 agency consultations; repealing s. 429.54, F.S., relating to the  
166 collection of information regarding the actual cost of providing  
167 services in assisted living facilities and local subsidies;  
168 amending s. 429.71, F.S.; clarifying terminology; removing a  
169 provision authorizing the agency to request a plan to remedy  
170 violations by adult family-care homes; conforming terminology to  
171 changes made by the act; amending s. 429.81, F.S.; specifying  
172 that residency agreements require a resident to provide 30 days'



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173 written notice of intent to terminate his or her residency;  
174 creating s. 430.081, F.S.; authorizing the Department of Elderly  
175 Affairs to sanction training providers and trainees for  
176 infractions involving any required training; providing training  
177 infractions; providing sanctions; amending s. 817.505, F.S.;  
178 providing that payments by an assisted living facility are not  
179 considered patient brokering under certain circumstances;  
180 providing an effective date.

181

182

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

184

185 Section 1. Paragraph (d) of subsection (1) of section  
186 400.141, Florida Statutes, is amended to read:

187 400.141 Administration and management of nursing home  
188 facilities.—

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

191 (d) Provide for resident use of a community pharmacy as  
192 specified in s. 400.022(1)(q). Any other law to the contrary  
193 notwithstanding, a registered pharmacist licensed in Florida,  
194 that is under contract with a facility licensed under this  
195 chapter ~~or chapter 429~~, shall repackage a nursing facility  
196 resident's bulk prescription medication which has been packaged  
197 by another pharmacist licensed in any state in the United States  
198 into a unit dose system compatible with the system used by the  
199 nursing facility, if the pharmacist is requested to offer such  
200 service. In order to be eligible for the repackaging, a resident  
201 or the resident's spouse must receive prescription medication



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202 benefits provided through a former employer as part of his or  
203 her retirement benefits, a qualified pension plan as specified  
204 in s. 4972 of the Internal Revenue Code, a federal retirement  
205 program as specified under 5 C.F.R. s. 831, or a long-term care  
206 policy as defined in s. 627.9404(1). A pharmacist who correctly  
207 repackages and relabels the medication and the nursing facility  
208 which correctly administers such repackaged medication under  
209 this paragraph may not be held liable in any civil or  
210 administrative action arising from the repackaging. In order to  
211 be eligible for the repackaging, a nursing facility resident for  
212 whom the medication is to be repackaged shall sign an informed  
213 consent form provided by the facility which includes an  
214 explanation of the repackaging process and which notifies the  
215 resident of the immunities from liability provided in this  
216 paragraph. A pharmacist who repackages and relabels prescription  
217 medications, as authorized under this paragraph, may charge a  
218 reasonable fee for costs resulting from the administration  
219 ~~implementation~~ of this provision.

220 Section 2. Subsection (13) of section 408.820, Florida  
221 Statutes, is amended to read:

222 408.820 Exemptions.—Except as prescribed in authorizing  
223 statutes, the following exemptions shall apply to specified  
224 requirements of this part:

225 (13) Assisted living facilities, as provided under part I  
226 of chapter 429, are exempt from ss. s. 408.810(10) and  
227 408.813(2).

228 Section 3. Subsection (41) of section 409.912, Florida  
229 Statutes, is amended to read:

230 409.912 Cost-effective purchasing of health care.—The





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231 agency shall purchase goods and services for Medicaid recipients  
232 in the most cost-effective manner consistent with the delivery  
233 of quality medical care. To ensure that medical services are  
234 effectively utilized, the agency may, in any case, require a  
235 confirmation or second physician's opinion of the correct  
236 diagnosis for purposes of authorizing future services under the  
237 Medicaid program. This section does not restrict access to  
238 emergency services or poststabilization care services as defined  
239 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
240 shall be rendered in a manner approved by the agency. The agency  
241 shall maximize the use of prepaid per capita and prepaid  
242 aggregate fixed-sum basis services when appropriate and other  
243 alternative service delivery and reimbursement methodologies,  
244 including competitive bidding pursuant to s. 287.057, designed  
245 to facilitate the cost-effective purchase of a case-managed  
246 continuum of care. The agency shall also require providers to  
247 minimize the exposure of recipients to the need for acute  
248 inpatient, custodial, and other institutional care and the  
249 inappropriate or unnecessary use of high-cost services. The  
250 agency shall contract with a vendor to monitor and evaluate the  
251 clinical practice patterns of providers in order to identify  
252 trends that are outside the normal practice patterns of a  
253 provider's professional peers or the national guidelines of a  
254 provider's professional association. The vendor must be able to  
255 provide information and counseling to a provider whose practice  
256 patterns are outside the norms, in consultation with the agency,  
257 to improve patient care and reduce inappropriate utilization.  
258 The agency may mandate prior authorization, drug therapy  
259 management, or disease management participation for certain



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260 populations of Medicaid beneficiaries, certain drug classes, or  
261 particular drugs to prevent fraud, abuse, overuse, and possible  
262 dangerous drug interactions. The Pharmaceutical and Therapeutics  
263 Committee shall make recommendations to the agency on drugs for  
264 which prior authorization is required. The agency shall inform  
265 the Pharmaceutical and Therapeutics Committee of its decisions  
266 regarding drugs subject to prior authorization. The agency is  
267 authorized to limit the entities it contracts with or enrolls as  
268 Medicaid providers by developing a provider network through  
269 provider credentialing. The agency may competitively bid single-  
270 source-provider contracts if procurement of goods or services  
271 results in demonstrated cost savings to the state without  
272 limiting access to care. The agency may limit its network based  
273 on the assessment of beneficiary access to care, provider  
274 availability, provider quality standards, time and distance  
275 standards for access to care, the cultural competence of the  
276 provider network, demographic characteristics of Medicaid  
277 beneficiaries, practice and provider-to-beneficiary standards,  
278 appointment wait times, beneficiary use of services, provider  
279 turnover, provider profiling, provider licensure history,  
280 previous program integrity investigations and findings, peer  
281 review, provider Medicaid policy and billing compliance records,  
282 clinical and medical record audits, and other factors. Providers  
283 shall not be entitled to enrollment in the Medicaid provider  
284 network. The agency shall determine instances in which allowing  
285 Medicaid beneficiaries to purchase durable medical equipment and  
286 other goods is less expensive to the Medicaid program than long-  
287 term rental of the equipment or goods. The agency may establish  
288 rules to facilitate purchases in lieu of long-term rentals in



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289 order to protect against fraud and abuse in the Medicaid program  
290 as defined in s. 409.913. The agency may seek federal waivers  
291 necessary to administer these policies.

292 (41) The agency shall establish ~~provide for the development~~  
293 ~~of a demonstration project by establishment~~ in Miami-Dade County  
294 of a long-term-care facility and a psychiatric facility licensed  
295 pursuant to chapter 395 to improve access to health care for a  
296 predominantly minority, medically underserved, and medically  
297 complex population and to evaluate alternatives to nursing home  
298 care and general acute care for such population. Such project is  
299 to be located in a health care condominium and collocated  
300 ~~collocated~~ with licensed facilities providing a continuum of  
301 care. These projects are ~~The establishment of this project is~~  
302 not subject to the provisions of s. 408.036 or s. 408.039.

303 Section 4. Subsection (2) of section 429.01, Florida  
304 Statutes, is amended to read:

305 429.01 Short title; purpose.-

306 (2) The purpose of this act is to:

307 (a) Promote the availability of appropriate services for  
308 elderly persons and adults with disabilities in the least  
309 restrictive and most homelike environment;~~;~~~~to~~

310 (b) Encourage the development of facilities that promote  
311 the dignity, individuality, privacy, and decisionmaking ability  
312 of such persons;~~;~~~~to~~

313 (c) Provide for the health, safety, and welfare of  
314 residents of assisted living facilities in the state;~~;~~~~to~~

315 (d) Promote continued improvement of such facilities;~~;~~~~to~~  
316 encourage the development of innovative and affordable  
317 facilities particularly for persons with low to moderate



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318 incomes;~~; and to~~

319       (e) Ensure that all agencies of the state cooperate in the  
320 protection of such residents;~~; and to~~

321       (f) Ensure that needed economic, social, mental health,  
322 health, and leisure services are made available to residents of  
323 such facilities through the efforts of the Agency for Health  
324 Care Administration, the Department of Elderly Affairs, the  
325 Department of Children and Family Services, the Department of  
326 Health, assisted living facilities, and other community  
327 agencies.

328  
329       To the maximum extent possible, appropriate community-based  
330 programs must be available to state-supported residents to  
331 augment the services provided in assisted living facilities. The  
332 Legislature recognizes that assisted living facilities are an  
333 important part of the continuum of long-term care in the state  
334 as community-based social models that have a health component  
335 and not as medical or nursing facilities. In support of the goal  
336 of aging in place, the Legislature further recognizes that  
337 assisted living facilities should be operated ~~and regulated~~ as  
338 residential environments with supportive services and not as  
339 medical or nursing facilities and, as such, should not be  
340 subject to the same regulations as medical or nursing facilities  
341 but instead be regulated in a less restrictive manner that is  
342 appropriate for a residential, nonmedical setting. The services  
343 available in these facilities, either directly or through  
344 contract or agreement, are intended to help residents remain as  
345 independent as possible. Regulations governing these facilities  
346 must be sufficiently flexible to allow facilities to adopt



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347 policies that enable residents to age in place when resources  
348 are available to meet their needs and accommodate their  
349 preferences.

350 Section 5. Section 429.02, Florida Statutes, is amended to  
351 read:

352 429.02 Definitions.—When used in this part, the term:

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

356 (2) "Administrator" means an individual at least 21 years  
357 of age who is responsible for the operation and maintenance of  
358 an assisted living facility; for promoting the resident's  
359 dignity, autonomy, independence, and privacy in the least  
360 restrictive and most homelike setting consistent with the  
361 resident's preferences and physical and mental statuses; and for  
362 ensuring the appropriateness of continued placement of a  
363 resident, in consultation with the resident, resident's  
364 representative or designee, if applicable, and the resident's  
365 physician.

366 (3) "Agency" means the Agency for Health Care  
367 Administration.

368 (4) "Aging in place" or "age in place" means the process of  
369 providing increased or adjusted services to a person to  
370 compensate for the physical or mental decline that may occur  
371 with the aging process, in order to maximize the person's  
372 dignity and independence and permit them to remain in a  
373 familiar, noninstitutional, residential environment for as long  
374 as possible, as determined by the individual, his or her  
375 physician, and the administrator. Such services may be provided



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376 by facility staff, volunteers, family, or friends, or through  
377 contractual arrangements with a third party.

378 (5) "Arbitration" means a process whereby a neutral third  
379 person or panel, called an arbitrator or arbitration panel,  
380 considers the facts and arguments presented by the parties and  
381 renders a decision that may be binding or nonbinding as provided  
382 for in chapter 44.

383 (6)~~(5)~~ "Assisted living facility" means any residential  
384 setting that provides, directly or indirectly by means of  
385 contracts or arrangements, for a period exceeding 24 hours,  
386 ~~building or buildings, section or distinct part of a building,~~  
387 ~~private home, boarding home, home for the aged, or other~~  
388 ~~residential facility, whether operated for profit or not, which~~  
389 ~~undertakes through its ownership or management to provide~~  
390 housing, meals, and one or more personal services that meet the  
391 resident's changing needs and preferences ~~for a period exceeding~~  
392 ~~24 hours~~ to one or more adults who are not relatives of the  
393 owner or administrator. As used in this subsection, the term  
394 "residential setting" includes, but is not limited to, a  
395 building or buildings, section or distinct part of a building,  
396 private home, or other residence.

397 (7)~~(6)~~ "Chemical restraint" means a pharmacologic drug that  
398 physically limits, restricts, or deprives an individual of  
399 movement or mobility, and is used for discipline or convenience  
400 and not required for the treatment of medical symptoms.

401 (8)~~(7)~~ "Community living support plan" means a written  
402 document prepared by a mental health resident and the resident's  
403 mental health case manager, in consultation with the  
404 administrator or the administrator's designee, of an assisted



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405 living facility with a limited mental health license ~~or the~~  
406 ~~administrator's designee~~. A copy must be provided to the  
407 administrator. The plan must include information about the  
408 supports, services, and special needs of the resident which  
409 enable the resident to live in the assisted living facility and  
410 a method by which facility staff can recognize and respond to  
411 the signs and symptoms particular to that resident which  
412 indicate the need for professional services.

413 (9)~~(8)~~ "Cooperative agreement" means a written statement of  
414 understanding between a mental health care provider and the  
415 administrator of the assisted living facility with a limited  
416 mental health license in which a mental health resident is  
417 living. The agreement must specify directions for accessing  
418 emergency and after-hours care for the mental health resident. A  
419 single cooperative agreement may service all mental health  
420 residents who are clients of the same mental health care  
421 provider.

422 (11)~~(9)~~ "Department" means the Department of Elderly  
423 Affairs.

424 (12)~~(10)~~ "Emergency" means a situation, physical condition,  
425 or method of operation which presents imminent danger of death  
426 or serious physical or mental harm to facility residents.

427 (13)~~(11)~~ "Extended congregate care" means acts beyond those  
428 authorized in subsection (20) ~~(16)~~ that may be performed  
429 pursuant to part I of chapter 464 by persons licensed thereunder  
430 while carrying out their professional duties, and other  
431 supportive services which may be specified by rule. The purpose  
432 of such services is to enable residents to age in place in a  
433 residential environment despite mental or physical limitations



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434 that might otherwise disqualify them from residency in a  
435 facility licensed under this part.

436 (14)~~(12)~~ "Guardian" means a person to whom the law has  
437 entrusted the custody and control of the person or property, or  
438 both, of a person who has been legally adjudged incapacitated.

439 (15) "Licensed facility" means an assisted living facility  
440 for which a licensee has been issued a license pursuant to this  
441 part and part II of chapter 408.

442 (16)~~(13)~~ "Limited nursing services" means acts that may be  
443 performed pursuant to part I of chapter 464 by persons licensed  
444 thereunder while carrying out their professional duties but  
445 limited to those acts which the department specifies by rule.  
446 Acts which may be specified by rule as allowable limited nursing  
447 services shall be for persons who meet the admission criteria  
448 established by the department for assisted living facilities and  
449 shall not be complex enough to require 24-hour nursing  
450 supervision and may include such services as the application and  
451 care of routine dressings, and care of casts, braces, and  
452 splints.

453 (17)~~(14)~~ "Managed risk" means the process by which the  
454 facility staff discuss the service plan and the needs of the  
455 resident with the resident and, if applicable, the resident's  
456 representative or designee or the resident's surrogate,  
457 guardian, or attorney in fact, in such a way that the  
458 consequences of a decision, including any inherent risk, are  
459 explained to all parties and reviewed periodically in  
460 conjunction with the service plan, taking into account changes  
461 in the resident's status and the ability of the facility to  
462 respond accordingly.





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463           ~~(18)-(15)~~ "Mental health resident" means an individual who  
464 receives social security disability income due to a mental  
465 disorder as determined by the Social Security Administration or  
466 receives supplemental security income due to a mental disorder  
467 as determined by the Social Security Administration and receives  
468 optional state supplementation.

469           (19) "Person" means any individual, partnership,  
470 corporation, association, or governmental unit.

471           ~~(20)-(16)~~ "Personal services" means direct physical  
472 assistance with or supervision of the activities of daily living  
473 and the self-administration of medication and other similar  
474 services which the department may define by rule. "Personal  
475 services" shall not be construed to mean the provision of  
476 medical, nursing, dental, or mental health services.

477           ~~(21)-(17)~~ "Physical restraint" means a device which  
478 physically limits, restricts, or deprives an individual of  
479 movement or mobility, including, but not limited to, a half-bed  
480 rail, a full-bed rail, a geriatric chair, and a posey restraint.  
481 The term "physical restraint" shall also include any device  
482 which was not specifically manufactured as a restraint but which  
483 has been altered, arranged, or otherwise used for this purpose.  
484 The term shall not include bandage material used for the purpose  
485 of binding a wound or injury.

486           ~~(22)-(18)~~ "Relative" means an individual who is the father,  
487 mother, stepfather, stepmother, son, daughter, brother, sister,  
488 grandmother, grandfather, great-grandmother, great-grandfather,  
489 grandson, granddaughter, uncle, aunt, first cousin, nephew,  
490 niece, husband, wife, father-in-law, mother-in-law, son-in-law,  
491 daughter-in-law, brother-in-law, sister-in-law, stepson,



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492 stepdaughter, stepbrother, stepsister, half brother, or half  
493 sister of an owner or administrator.

494 ~~(23)(19)~~ "Resident" means a person 18 years of age or  
495 older, residing in and receiving care from an assisted living a  
496 facility.

497 ~~(24)(20)~~ "Resident's representative or designee" means a  
498 person other than the owner, or an agent or employee of the  
499 assisted living facility, designated in writing by the resident,  
500 if legally competent, to receive notice of changes in the  
501 contract executed pursuant to s. 429.24; to receive notice of  
502 and to participate in meetings between the resident and the  
503 facility owner, administrator, or staff concerning the rights of  
504 the resident; to assist the resident in contacting the ombudsman  
505 council if the resident has a complaint against the facility; or  
506 to bring legal action on behalf of the resident pursuant to s.  
507 429.29.

508 ~~(25)(21)~~ "Service plan" means a written plan, developed and  
509 agreed upon by the resident and, if applicable, the resident's  
510 representative or designee or the resident's surrogate,  
511 guardian, or attorney in fact, if any, and the administrator or  
512 the administrator's designee representing the facility, which  
513 addresses the unique physical and psychosocial needs, abilities,  
514 and personal preferences of each resident receiving extended  
515 congregate care services. The plan shall include a brief written  
516 description, in easily understood language, of what services  
517 shall be provided, who shall provide the services, when the  
518 services shall be rendered, and the purposes and benefits of the  
519 services.

520 ~~(26)(22)~~ "Shared responsibility" means exploring the



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521 options available to a resident within a facility and the risks  
522 involved with each option when making decisions pertaining to  
523 the resident's abilities, preferences, and service needs,  
524 thereby enabling the resident and, if applicable, the resident's  
525 representative or designee, or the resident's surrogate,  
526 guardian, or attorney in fact, and the facility to develop a  
527 service plan which best meets the resident's needs and seeks to  
528 improve the resident's quality of life.

529 ~~(27)-(23)~~ "Supervision" means reminding residents to engage  
530 in activities of daily living and the self-administration of  
531 medication, and, when necessary, observing or providing verbal  
532 cuing to residents while they perform these activities. The term  
533 "supervision" does not include one-on-one observation.

534 ~~(28)-(24)~~ "Supplemental security income," Title XVI of the  
535 Social Security Act, means a program through which the Federal  
536 Government guarantees a minimum monthly income to every person  
537 who is age 65 or older, or disabled, or blind and meets the  
538 income and asset requirements.

539 ~~(29)-(25)~~ "Supportive services" means services designed to  
540 encourage and assist residents ~~aged persons or adults with~~  
541 ~~disabilities~~ to remain in the least restrictive living  
542 environment and to maintain their independence as long as  
543 possible.

544 ~~(30)-(26)~~ "Twenty-four-hour nursing supervision" means  
545 services that are ordered by a physician for a resident whose  
546 condition requires the supervision of a physician and continued  
547 monitoring of vital signs and physical status. Such services  
548 shall be: medically complex enough to require constant  
549 supervision, assessment, planning, or intervention by a nurse;



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550 required to be performed by or under the direct supervision of  
551 licensed nursing personnel or other professional personnel for  
552 safe and effective performance; ~~required on a daily basis;~~ and  
553 consistent with the nature and severity of the resident's  
554 condition or the disease state or stage.

555 Section 6. Paragraphs (g) and (h) of subsection (2) of  
556 section 429.04, Florida Statutes, are amended to read:

557 429.04 Facilities to be licensed; exemptions.—

558 (2) The following are exempt from licensure under this  
559 part:

560 (g) Any facility certified under chapter 651, or a  
561 retirement community, may provide services authorized under this  
562 part ~~or part III of chapter 400~~ to its residents who live in  
563 single-family homes, duplexes, quadruplexes, or apartments  
564 located on the campus without obtaining a license to operate an  
565 assisted living facility if residential units within such  
566 buildings are used by residents who do not require staff  
567 supervision for that portion of the day when personal services  
568 are not being delivered and the owner obtains a home health  
569 license to provide such services. However, any building or  
570 distinct part of a building on the campus that is designated for  
571 persons who receive personal services and require supervision  
572 beyond that which is available while such services are being  
573 rendered must be licensed in accordance with this part. If a  
574 facility provides personal services to residents who do not  
575 otherwise require supervision and the owner is not licensed as a  
576 home health agency, the buildings or distinct parts of buildings  
577 where such services are rendered must be licensed under this  
578 part. A resident of a facility that obtains a home health



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579 license may contract with a home health agency of his or her  
580 choice, provided that the home health agency provides liability  
581 insurance and workers' compensation coverage for its employees.  
582 Facilities covered by this exemption may establish policies that  
583 give residents the option of contracting for services and care  
584 beyond that which is provided by the facility to enable them to  
585 age in place. For purposes of this section, a retirement  
586 community consists of a facility licensed under this part or a  
587 facility licensed under part II of chapter 400, and apartments  
588 designed for independent living located on the same campus.

589 (h) Any residential unit for independent living which is  
590 located within a facility certified under chapter 651, or any  
591 residential unit for independent living which is collocated  
592 ~~collocated~~ with a nursing home licensed under part II of chapter  
593 400 or collocated ~~collocated~~ with a facility licensed under this  
594 part in which services are provided through an outpatient clinic  
595 or a nursing home on an outpatient basis.

596 Section 7. Subsections (3) and (4) of section 429.07,  
597 Florida Statutes, are amended, and subsections (6) and (7) are  
598 added to that section, to read:

599 429.07 License required; fee.—

600 (3) In addition to the requirements of s. 408.806, each  
601 license granted by the agency must state the type of care for  
602 which the license is granted. Licenses shall be issued for one  
603 or more of the following categories of care: standard, extended  
604 congregate care, ~~limited nursing services~~, or limited mental  
605 health.

606 (a) A standard license shall be issued to a licensee for a  
607 facility ~~facilities~~ providing one or more of the personal



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608 ~~services identified in s. 429.02. Such facilities may also~~  
609 ~~employ or contract with a person licensed under part I of~~  
610 ~~chapter 464 to administer medications and perform other tasks as~~  
611 ~~specified in s. 429.255.~~

612 (b) An extended congregate care license shall be issued to  
613 a licensee for a facility ~~facilities~~ providing, directly or  
614 through contract, services beyond those authorized in paragraph  
615 (a), including services performed by persons licensed under part  
616 I of chapter 464 and supportive services, as defined by rule, to  
617 persons who would otherwise be disqualified from continued  
618 residence in a facility licensed under this part.

619 1. In order for extended congregate care services to be  
620 provided, the agency must first determine that all requirements  
621 established in law and rule are met and must specifically  
622 designate, on the facility's license, that such services may be  
623 provided and whether the designation applies to all or part of  
624 the facility. Such designation may be made at the time of  
625 initial licensure or relicensure, or upon request in writing by  
626 a licensee under this part and part II of chapter 408. The  
627 notification of approval or the denial of the request shall be  
628 made in accordance with part II of chapter 408. Existing  
629 facilities qualifying to provide extended congregate care  
630 services must have maintained a standard license and may not  
631 have been subject to administrative sanctions during the  
632 previous 2 years, or since initial licensure if the facility has  
633 been licensed for less than 2 years, for any of the following  
634 reasons:

- 635 a. A class I or class II violation;
- 636 ~~b. Three or more repeat or recurring class III violations~~



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637 ~~of identical or similar resident care standards from which a~~  
638 ~~pattern of noncompliance is found by the agency;~~  
639 ~~e. Three or more class III violations that were not~~  
640 ~~corrected in accordance with the corrective action plan approved~~  
641 ~~by the agency;~~  
642 ~~b.d.~~ Violation of resident care standards which results in  
643 requiring the facility to employ the services of a consultant  
644 pharmacist or consultant dietitian; or  
645 ~~e. Denial, suspension, or revocation of a license for~~  
646 ~~another facility licensed under this part in which the applicant~~  
647 ~~for an extended congregate care license has at least 25 percent~~  
648 ~~ownership interest; or~~  
649 ~~c.f.~~ Imposition of a moratorium pursuant to this part or  
650 part II of chapter 408 or initiation of injunctive proceedings.  
651 2. A licensee facility that is licensed to provide extended  
652 congregate care services shall maintain a written progress  
653 report for ~~on~~ each person who receives services, and the report  
654 must describe ~~which describes~~ the type, amount, duration, scope,  
655 and outcome of services that are rendered and the general status  
656 of the resident's health. ~~A registered nurse, or appropriate~~  
657 ~~designee, representing the agency shall visit the facility at~~  
658 ~~least quarterly to monitor residents who are receiving extended~~  
659 ~~congregate care services and to determine if the facility is in~~  
660 ~~compliance with this part, part II of chapter 408, and relevant~~  
661 ~~rules. One of the visits may be in conjunction with the regular~~  
662 ~~survey. The monitoring visits may be provided through~~  
663 ~~contractual arrangements with appropriate community agencies. A~~  
664 ~~registered nurse shall serve as part of the team that inspects~~  
665 ~~the facility. The agency may waive one of the required yearly~~



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666 ~~monitoring visits for a facility that has been licensed for at~~  
667 ~~least 24 months to provide extended congregate care services,~~  
668 ~~if, during the inspection, the registered nurse determines that~~  
669 ~~extended congregate care services are being provided~~  
670 ~~appropriately, and if the facility has no class I or class II~~  
671 ~~violations and no uncorrected class III violations. The agency~~  
672 ~~must first consult with the long term care ombudsman council for~~  
673 ~~the area in which the facility is located to determine if any~~  
674 ~~complaints have been made and substantiated about the quality of~~  
675 ~~services or care. The agency may not waive one of the required~~  
676 ~~yearly monitoring visits if complaints have been made and~~  
677 ~~substantiated.~~

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

680       a. Demonstrate the capability to meet unanticipated  
681 resident service needs.

682       b. Offer a physical environment that promotes a homelike  
683 setting, provides for resident privacy, promotes resident  
684 independence, and allows sufficient congregate space as defined  
685 by rule.

686       c. Have sufficient staff available, taking into account the  
687 physical plant and firesafety features of the residential  
688 setting ~~building~~, to assist with the evacuation of residents in  
689 an emergency.

690       d. Adopt and follow policies and procedures that maximize  
691 resident independence, dignity, choice, and decisionmaking to  
692 permit residents to age in place, so that moves due to changes  
693 in functional status are minimized or avoided.

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





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695 representative, designee, surrogate, guardian, or attorney in  
696 fact to make a variety of personal choices, participate in  
697 developing service plans, and share responsibility in  
698 decisionmaking.

699 f. Implement the concept of managed risk.

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

702 h. In addition to the training mandated in s. 429.52,  
703 provide specialized training as defined by rule for facility  
704 staff.

705 4. A facility that is licensed to provide extended  
706 congregate care services is exempt from the criteria for  
707 continued residency set forth in rules adopted under s. 429.41.  
708 A licensed facility must adopt its own requirements within  
709 guidelines for continued residency set forth by rule. However,  
710 the facility may not serve residents who require 24-hour nursing  
711 supervision. A licensed facility that provides extended  
712 congregate care services must also provide each resident with a  
713 written copy of facility policies governing admission and  
714 retention.

715 5. The primary purpose of extended congregate care services  
716 is to allow residents, as they become more impaired, the option  
717 of remaining in a familiar setting from which they would  
718 otherwise be disqualified for continued residency. A facility  
719 licensed to provide extended congregate care services may also  
720 admit an individual who exceeds the admission criteria for a  
721 facility with a standard license, if the individual is  
722 determined appropriate for admission to the extended congregate  
723 care facility.



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724           6. Before the admission of an individual to a facility  
725 licensed to provide extended congregate care services, the  
726 individual must undergo a medical examination as provided in s.  
727 429.26(4) and the licensee facility must develop a preliminary  
728 service plan for the individual.

729           7. When a licensee facility can no longer provide or  
730 arrange for services in accordance with the resident's service  
731 plan and needs and the licensee's facility's policy, the  
732 licensee facility shall make arrangements for relocating the  
733 person in accordance with s. 429.28(1)(k).

734           ~~8. Failure to provide extended congregate care services may~~  
735 ~~result in denial of extended congregate care license renewal.~~

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

739           ~~1. In order for limited nursing services to be provided in~~  
740 ~~a facility licensed under this part, the agency must first~~  
741 ~~determine that all requirements established in law and rule are~~  
742 ~~met and must specifically designate, on the facility's license,~~  
743 ~~that such services may be provided. Such designation may be made~~  
744 ~~at the time of initial licensure or relicensure, or upon request~~  
745 ~~in writing by a licensee under this part and part II of chapter~~  
746 ~~408. Notification of approval or denial of such request shall be~~  
747 ~~made in accordance with part II of chapter 408. Existing~~  
748 ~~facilities qualifying to provide limited nursing services shall~~  
749 ~~have maintained a standard license and may not have been subject~~  
750 ~~to administrative sanctions that affect the health, safety, and~~  
751 ~~welfare of residents for the previous 2 years or since initial~~  
752 ~~licensure if the facility has been licensed for less than 2~~



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753 ~~years.~~

754 ~~2. Facilities that are licensed to provide limited nursing~~  
755 ~~services shall maintain a written progress report on each person~~  
756 ~~who receives such nursing services, which report describes the~~  
757 ~~type, amount, duration, scope, and outcome of services that are~~  
758 ~~rendered and the general status of the resident's health. A~~  
759 ~~registered nurse representing the agency shall visit such~~  
760 ~~facilities at least twice a year to monitor residents who are~~  
761 ~~receiving limited nursing services and to determine if the~~  
762 ~~facility is in compliance with applicable provisions of this~~  
763 ~~part, part II of chapter 408, and related rules. The monitoring~~  
764 ~~visits may be provided through contractual arrangements with~~  
765 ~~appropriate community agencies. A registered nurse shall also~~  
766 ~~serve as part of the team that inspects such facility.~~

767 ~~3. A person who receives limited nursing services under~~  
768 ~~this part must meet the admission criteria established by the~~  
769 ~~agency for assisted living facilities. When a resident no longer~~  
770 ~~meets the admission criteria for a facility licensed under this~~  
771 ~~part, arrangements for relocating the person shall be made in~~  
772 ~~accordance with s. 429.28(1)(k), unless the facility is licensed~~  
773 ~~to provide extended congregate care services.~~

774 (4) In accordance with s. 408.805, an applicant or licensee  
775 shall pay a fee for each license application submitted under  
776 this part, part II of chapter 408, and applicable rules. The  
777 amount of the fee shall be established by rule.

778 (a) The biennial license fee required of a facility is \$300  
779 per license, with an additional fee of \$71 ~~\$50~~ per resident  
780 based on the total licensed resident capacity of the facility,  
781 except that no additional fee will be assessed for beds used by



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782 ~~designated for~~ recipients of Medicaid home and community-based  
783 waiver programs ~~optional state supplementation payments provided~~  
784 ~~for in s. 409.212.~~ The total fee may not exceed \$13,443 ~~\$10,000.~~

785 (b) In addition to the total fee assessed under paragraph  
786 (a), the agency shall require facilities that are licensed to  
787 provide extended congregate care services under this part to pay  
788 an additional fee per licensed facility. The amount of the  
789 biennial fee shall be \$400 per license, with an additional fee  
790 of \$10 per resident based on the total licensed resident  
791 capacity of the facility.

792 ~~(c) In addition to the total fee assessed under paragraph~~  
793 ~~(a), the agency shall require facilities that are licensed to~~  
794 ~~provide limited nursing services under this part to pay an~~  
795 ~~additional fee per licensed facility. The amount of the biennial~~  
796 ~~fee shall be \$250 per license, with an additional fee of \$10 per~~  
797 ~~resident based on the total licensed resident capacity of the~~  
798 ~~facility.~~

799 (6) In order to determine whether the facility must  
800 participate in the monitoring activities during the 12-month  
801 period, the agency shall conduct a biennial survey to discuss  
802 the residents' experiences within the facility. This survey must  
803 include private, informal conversations with a sample of  
804 residents and a consultation with the ombudsman council in the  
805 planning and service area in which the facility is located.

806 (7) An assisted living facility that has been cited within  
807 the previous 24-month period for a class I violation or class II  
808 violation, regardless of the status of any enforcement or  
809 disciplinary action, is subject to periodic unannounced  
810 monitoring to determine if the facility is in compliance with



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811 this part, part II of chapter 408, and applicable rules.  
812 Monitoring may occur through a desk review or an onsite  
813 assessment. If the class I violation or class II violation  
814 relates to providing or failing to provide nursing care, a  
815 registered nurse must participate in the monitoring visits  
816 during the 12-month period following the violation.

817 Section 8. Paragraph (a) of subsection (2) of section  
818 429.08, Florida Statutes, is amended to read:

819 429.08 Unlicensed facilities; referral of person for  
820 residency to unlicensed facility; penalties.—

821 (2) It is unlawful to knowingly refer a person for  
822 residency to an unlicensed assisted living facility; to an  
823 assisted living facility the license of which is under denial or  
824 has been suspended or revoked; or to an assisted living facility  
825 that has a moratorium pursuant to part II of chapter 408.

826 (a) Any health care practitioner, as defined in s. 456.001,  
827 or emergency medical technician or paramedic certified under  
828 part III of chapter 401, who is aware of the operation of an  
829 unlicensed facility shall report that facility to the agency.  
830 Failure to report a facility that the practitioner knows or has  
831 reasonable cause to suspect is unlicensed shall be reported to  
832 the practitioner's licensing board.

833 Section 9. Subsection (8) is added to section 429.11,  
834 Florida Statutes, to read:

835 429.11 Initial application for license; provisional  
836 license.—

837 (8) The agency shall develop an abbreviated form for  
838 submission of proof of financial ability to operate under s.  
839 408.810(8) which is specific to applicants for a license to



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840 operate an assisted living facility. The form must request  
841 information that demonstrates the applicant has adequate  
842 resources to sustain operations and has sufficient assets,  
843 credit, and projected revenues to cover liabilities and expenses  
844 of the facility based on the number of beds and services the  
845 applicant will provide.

846 Section 10. Section 429.12, Florida Statutes, is amended to  
847 read:

848 429.12 Sale or transfer of ownership of a facility. ~~It is~~  
849 ~~the intent of the Legislature to protect the rights of the~~  
850 ~~residents of an assisted living facility when the facility is~~  
851 ~~sold or the ownership thereof is transferred. Therefore, In~~  
852 addition to the requirements of part II of chapter 408, whenever  
853 a facility is sold or the ownership thereof is transferred,  
854 including leasing, ÷

855 (1) the transferee shall notify the residents, in writing,  
856 of the change of ownership within 7 days after receipt of the  
857 new license in order to protect the rights of the residents of  
858 an assisted living facility.

859 (2) ~~The transferor of a facility the license of which is~~  
860 ~~denied pending an administrative hearing shall, as a part of the~~  
861 ~~written change of ownership contract, advise the transferee that~~  
862 ~~a plan of correction must be submitted by the transferee and~~  
863 ~~approved by the agency at least 7 days before the change of~~  
864 ~~ownership and that failure to correct the condition which~~  
865 ~~resulted in the moratorium pursuant to part II of chapter 408 or~~  
866 ~~denial of licensure is grounds for denial of the transferee's~~  
867 ~~license.~~

868 Section 11. Section 429.14, Florida Statutes, is amended to



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869 read:

870 429.14 Administrative penalties.—

871 (1) In addition to the requirements of part II of chapter  
872 408, the agency may deny, revoke, and suspend any license issued  
873 under this part and impose an administrative fine in the manner  
874 provided in chapter 120 against a licensee for a violation of  
875 any provision of this part, part II of chapter 408, or  
876 applicable rules, or for any of the following actions by a  
877 licensee, for the actions of any person subject to level 2  
878 background screening under s. 408.809, ~~or for the actions of any~~  
879 ~~facility employee:~~

880 (a) An intentional or negligent act seriously affecting the  
881 health, safety, or welfare of a resident of the facility.

882 (b) The determination by the agency that the owner lacks  
883 the financial ability to provide continuing adequate care to  
884 residents.

885 (c) Misappropriation or conversion of the property of a  
886 resident of the facility.

887 ~~(d) Failure to follow the criteria and procedures provided~~  
888 ~~under part I of chapter 394 relating to the transportation,~~  
889 ~~voluntary admission, and involuntary examination of a facility~~  
890 ~~resident.~~

891 ~~(d)(e)~~ A citation of any of the following violations  
892 ~~deficiencies~~ as specified in s. 429.19:

- 893 1. One or more cited class I violations ~~deficiencies~~.
- 894 2. Three or more cited class II violations ~~deficiencies~~.
- 895 3. Five or more cited class III violations ~~deficiencies~~  
896 that have been cited on a single survey and have not been  
897 corrected within the times specified.



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898        ~~(e)-(f)~~ Failure to comply with the background screening  
899 standards of this part, s. 408.809(1), or chapter 435.

900        ~~(f)-(g)~~ Violation of a moratorium.

901        ~~(g)-(h)~~ Failure of the license applicant, the licensee  
902 during relicensure, or a licensee that holds a provisional  
903 license to meet the minimum license requirements of this part,  
904 or related rules, at the time of license application or renewal.

905        ~~(h)-(i)~~ An intentional or negligent life-threatening act in  
906 violation of the uniform firesafety standards for assisted  
907 living facilities or other firesafety standards that threatens  
908 the health, safety, or welfare of a resident of a facility, as  
909 communicated to the agency by the local authority having  
910 jurisdiction or the State Fire Marshal.

911        ~~(i)-(j)~~ Knowingly operating any unlicensed facility or  
912 providing without a license any service that must be licensed  
913 under this chapter or chapter 400.

914        ~~(j)-(k)~~ Any act constituting a ground upon which application  
915 for a license may be denied.

916        (2) Upon notification by the local authority having  
917 jurisdiction or by the State Fire Marshal, the agency may deny  
918 or revoke the license of a licensee of an assisted living  
919 facility that fails to correct cited fire code violations that  
920 affect or threaten the health, safety, or welfare of a resident  
921 of a facility.

922        (3) The agency may deny a license to any applicant or  
923 controlling interest as defined in part II of chapter 408 which  
924 has or had a 25-percent or greater financial or ownership  
925 interest in any other facility licensed under this part, or in  
926 any entity licensed by this state or another state to provide





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927 health or residential care, which facility or entity during the  
928 5 years prior to the application for a license closed due to  
929 financial inability to operate; had a receiver appointed or a  
930 license denied, suspended, or revoked; was subject to a  
931 moratorium; or had an injunctive proceeding initiated against  
932 it.

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

938 (4) ~~(5)~~ An action taken by the agency to suspend, deny, or  
939 revoke a licensee's ~~facility's~~ license under this part or part  
940 II of chapter 408, in which the agency claims that the facility  
941 owner or a staff member ~~an employee~~ of the facility has  
942 threatened the health, safety, or welfare of a resident of the  
943 facility must be heard by the Division of Administrative  
944 Hearings of the Department of Management Services within 120  
945 days after receipt of the facility's request for a hearing,  
946 unless that time limitation is waived by both parties. The  
947 administrative law judge must render a decision within 30 days  
948 after receipt of a proposed recommended order.

949 ~~(6) The agency shall provide to the Division of Hotels and~~  
950 ~~Restaurants of the Department of Business and Professional~~  
951 ~~Regulation, on a monthly basis, a list of those assisted living~~  
952 ~~facilities that have had their licenses denied, suspended, or~~  
953 ~~revoked or that are involved in an appellate proceeding pursuant~~  
954 ~~to s. 120.60 related to the denial, suspension, or revocation of~~  
955 ~~a license.~~



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956            (5)~~(7)~~ Agency notification of a license suspension or  
957 revocation, or denial of a license renewal, shall be posted and  
958 visible to the public at the facility.

959            Section 12. Subsections (1), (4), and (5) of section  
960 429.17, Florida Statutes, are amended to read:

961            429.17 Expiration of license; renewal; conditional  
962 license.-

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

966            (4) In addition to the license categories available in s.  
967 408.808, a conditional license may be issued to an applicant for  
968 license renewal if the applicant fails to meet all standards and  
969 requirements for licensure. A conditional license issued under  
970 this subsection shall be limited in duration to a specific  
971 period of time not to exceed 6 months, as determined by the  
972 agency, ~~and shall be accompanied by an agency-approved plan of~~  
973 ~~correction.~~

974            (5) When an extended congregate care ~~or limited nursing~~  
975 license is requested during a facility's biennial license  
976 period, the fee shall be prorated in order to permit the  
977 additional license to expire at the end of the biennial license  
978 period. The fee shall be calculated as of the date the  
979 additional license application is received by the agency.

980            Section 13. Subsections (1), (6), (7), and (8) of section  
981 429.178, Florida Statutes, are amended to read:

982            429.178 Special care for persons with Alzheimer's disease  
983 or other related disorders.-

984            (1) A facility that ~~which~~ advertises that it provides



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985 special care for persons with Alzheimer's disease or other  
986 related disorders must meet the following standards of  
987 operation:

988 (a) ~~1. If the facility has 17 or more residents,~~ Have an  
989 awake staff member on duty at all hours of the day and night for  
990 each secured unit of the facility which houses any residents who  
991 have Alzheimer's disease or other related disorders. ~~or~~

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

996 (b) Offer activities specifically designed for persons who  
997 are cognitively impaired.

998 (c) Have a physical environment that provides for the  
999 safety and welfare of the facility's residents.

1000 (d) Employ staff who have completed the training and  
1001 continuing education required in subsection (2).

1002  
1003 For the safety and protection of residents who have  
1004 Alzheimer's disease, related disorders, or dementia, a secured  
1005 locked unit may be designated. The unit may consist of the  
1006 entire building or a distinct part of the building. Exit doors  
1007 shall be equipped with an operating alarm system that releases  
1008 upon activation of the fire alarm. These units are exempt from  
1009 specific life safety requirements to which assisted living  
1010 facilities are normally subject. A staff member must be awake  
1011 and present in the secured unit at all times.

1012 (6) The department shall maintain and post on its website  
1013 ~~keep~~ a current list of providers who are approved to provide



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1014 initial and continuing education for staff and direct care staff  
1015 members of facilities that provide special care for persons with  
1016 Alzheimer's disease or other related disorders.

1017 ~~(7) Any facility more than 90 percent of whose residents~~  
1018 ~~receive monthly optional supplementation payments is not~~  
1019 ~~required to pay for the training and education programs required~~  
1020 ~~under this section. A facility that has one or more such~~  
1021 ~~residents shall pay a reduced fee that is proportional to the~~  
1022 ~~percentage of such residents in the facility. A facility that~~  
1023 ~~does not have any residents who receive monthly optional~~  
1024 ~~supplementation payments must pay a reasonable fee, as~~  
1025 ~~established by the department, for such training and education~~  
1026 ~~programs.~~

1027 ~~(7)(8)~~ The department shall adopt rules to establish  
1028 standards for trainers and training and to implement this  
1029 section.

1030 Section 14. Subsections (1), (2), (5), (7), (8), and (9) of  
1031 section 429.19, Florida Statutes, are amended to read:

1032 429.19 Violations; imposition of administrative fines;  
1033 grounds.—

1034 (1) In addition to the requirements of part II of chapter  
1035 408, the agency shall impose an administrative fine in the  
1036 manner provided in chapter 120 for the violation of any  
1037 provision of this part, part II of chapter 408, and applicable  
1038 rules by an assisted living facility, for the actions of any  
1039 person subject to level 2 background screening under s. 408.809,  
1040 ~~for the actions of any facility employee,~~ or for an intentional  
1041 or negligent act seriously affecting the health, safety, or  
1042 welfare of a resident of the facility.



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1043 (2) Each violation of this part and adopted rules shall be  
1044 classified according to the nature of the violation and the  
1045 gravity of its probable effect on facility residents. The agency  
1046 shall indicate the classification on the written notice of the  
1047 violation as follows:

1048 (a) Class "I" violations are those conditions or  
1049 occurrences related to the operation and maintenance of a  
1050 facility or to the care of residents which the agency determines  
1051 present an imminent danger to the residents or a substantial  
1052 probability that death or serious physical or emotional harm  
1053 would result. The condition or practice that constitutes a class  
1054 I violation must be abated or eliminated within 24 hours, unless  
1055 a fixed period, as determined by the agency, is required for  
1056 correction defined in s. 408.813. The agency shall impose an  
1057 administrative fine for a cited class I violation in an amount  
1058 not less than \$5,000 and not exceeding \$10,000 for each  
1059 violation. A fine shall be levied notwithstanding the correction  
1060 of the violation.

1061 (b) Class "II" violations are those conditions or  
1062 occurrences related to the operation and maintenance of a  
1063 facility or to the care of residents which the agency determines  
1064 directly threaten the physical or emotional health, safety, or  
1065 security of the residents, other than class I violations defined  
1066 in s. 408.813. The agency shall impose an administrative fine  
1067 for a cited class II violation in an amount not less than \$1,000  
1068 and not exceeding \$5,000 for each violation. A fine shall be  
1069 levied notwithstanding the correction of the violation.

1070 (c) Class "III" violations are those conditions or  
1071 occurrences related to the operation and maintenance of a



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1072 facility or to the care of residents which the agency determines  
1073 indirectly or potentially threaten the physical or emotional  
1074 health, safety, or security of residents, other than class I  
1075 violations or class II violations defined in s. 408.813. The  
1076 agency shall impose an administrative fine for a cited class III  
1077 violation in an amount not less than \$500 and not exceeding  
1078 \$1,000 for each violation. If a class III violation is corrected  
1079 within the time specified, a fine may not be imposed.

1080 (d) Class "IV" violations are those conditions or  
1081 occurrences related to the operation and maintenance of a  
1082 facility or to required reports, forms, or documents which do  
1083 not have the potential of negatively affecting residents. These  
1084 violations are of a type that the agency determines do not  
1085 threaten the health, safety, or security of residents defined in  
1086 s. 408.813. The agency shall impose an administrative fine for a  
1087 cited class IV violation in an amount not less than \$100 and not  
1088 exceeding \$200 for each violation. A citation for a class IV  
1089 violation must specify the time within which the violation is  
1090 required to be corrected. If a class IV violation is corrected  
1091 within the time specified, a fine may not be imposed.

1092 (5) Any action taken to correct a violation shall be  
1093 documented in writing by the licensee ~~owner~~ or administrator of  
1094 the facility and verified through followup visits by agency  
1095 personnel or desk review. The agency may impose a fine and, in  
1096 the case of an owner-operated facility, revoke or deny a  
1097 licensee's ~~facility's~~ license when the agency has documented  
1098 that a facility administrator has fraudulently misrepresented  
1099 ~~misrepresents~~ action taken to correct a violation.

1100 (7) In addition to any administrative fines imposed, the



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1101 agency may assess a survey fee, equal to the lesser of one half  
1102 of the facility's biennial license and bed fee or \$500, to cover  
1103 the cost of conducting initial complaint investigations that  
1104 result in the finding of a violation that was the subject of the  
1105 complaint ~~or monitoring visits conducted under s. 429.28(3)(c)~~  
1106 ~~to verify the correction of the violations.~~

1107 (8) During an inspection, the agency shall ~~make a~~  
1108 ~~reasonable attempt to~~ discuss each violation with the owner or  
1109 administrator of the facility before giving, ~~prior to~~ written  
1110 notification.

1111 (9) The agency shall develop and disseminate an annual list  
1112 of all facilities sanctioned or fined for violations of state  
1113 standards, the number and class of violations involved, the  
1114 penalties imposed, and the current status of cases. ~~The list~~  
1115 ~~shall be disseminated, at no charge, to the Department of~~  
1116 ~~Elderly Affairs, the Department of Health, the Department of~~  
1117 ~~Children and Family Services, the Agency for Persons with~~  
1118 ~~Disabilities, the area agencies on aging, the Florida Statewide~~  
1119 ~~Advocacy Council, and the state and local ombudsman councils.~~  
1120 ~~The Department of Children and Family Services shall disseminate~~  
1121 ~~the list to service providers under contract to the department~~  
1122 ~~who are responsible for referring persons to a facility for~~  
1123 ~~residency. The agency may charge a fee commensurate with the~~  
1124 ~~cost of printing and postage to other interested parties~~  
1125 ~~requesting a copy of this list.~~ This information may be provided  
1126 electronically or through the agency's Internet site.

1127 Section 15. Section 429.195, Florida Statutes, is amended  
1128 to read:

1129 429.195 Rebates prohibited; penalties.-



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1130           (1) It is unlawful for the licensee of any assisted living  
1131 facility licensed under this part to contract or promise to pay  
1132 or receive any commission, bonus, kickback, or rebate or engage  
1133 in any split-fee arrangement in any form whatsoever with any  
1134 health care provider or health care facility under s. 817.505  
1135 ~~physician, surgeon, organization, agency, or person, either~~  
1136 ~~directly or indirectly, for residents referred to an assisted~~  
1137 ~~living facility licensed under this part. A facility may employ~~  
1138 ~~or contract with persons to market the facility, provided the~~  
1139 ~~employee or contract provider clearly indicates that he or she~~  
1140 ~~represents the facility. A person or agency independent of the~~  
1141 ~~facility may provide placement or referral services for a fee to~~  
1142 ~~individuals seeking assistance in finding a suitable facility;~~  
1143 ~~however, any fee paid for placement or referral services must be~~  
1144 ~~paid by the individual looking for a facility, not by the~~  
1145 ~~facility.~~

1146           (2) A violation of this section shall be considered patient  
1147 brokering and is punishable as provided in s. 817.505.

1148           (3) This section does not apply to:

1149           (a) Any individual with whom the facility employs or  
1150 contracts with to market the facility if the employee or  
1151 contract provider clearly indicates that he or she works with or  
1152 for the facility.

1153           (b) A referral service that provides information,  
1154 consultation, or referrals to consumers to assist them in  
1155 finding appropriate care or housing options for seniors or  
1156 disabled adults if such referred consumers are not Medicaid  
1157 recipients.

1158           (c) A resident of an assisted living facility who refers to





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1159 the assisted living facility a friend, a family member, or other  
1160 individual with whom the resident has a personal relationship.  
1161 Such a referral does not prohibit the assisted living facility  
1162 from providing a monetary reward to the resident for making such  
1163 a referral.

1164 Section 16. Subsections (2) and (3) of section 429.20,  
1165 Florida Statutes, are amended to read:

1166 429.20 Certain solicitation prohibited; third-party  
1167 supplementation.—

1168 (2) Solicitation of contributions of any kind in a  
1169 threatening, coercive, or unduly forceful manner by or on behalf  
1170 of an assisted living facility or facilities by any agent,  
1171 employee, owner, or representative of any assisted living  
1172 facility or facilities is prohibited ~~grounds for denial,~~  
1173 ~~suspension, or revocation of the license of the assisted living~~  
1174 ~~facility or facilities by or on behalf of which such~~  
1175 ~~contributions were solicited.~~

1176 (3) The admission or maintenance of assisted living  
1177 facility residents whose care is supported, in whole or in part,  
1178 by state funds may not be conditioned upon the receipt of any  
1179 manner of contribution or donation from any person. ~~The~~  
1180 ~~solicitation or receipt of contributions in violation of this~~  
1181 ~~subsection is grounds for denial, suspension, or revocation of~~  
1182 ~~license, as provided in s. 429.14, for any assisted living~~  
1183 ~~facility by or on behalf of which such contributions were~~  
1184 ~~solicited.~~

1185 Section 17. Section 429.23, Florida Statutes, is amended to  
1186 read:

1187 429.23 Internal risk management and quality assurance



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1188 program; adverse incidents and reporting requirements.-

1189 (1) Every licensed facility ~~licensed under this part~~ may,  
1190 as part of its administrative functions, voluntarily establish a  
1191 risk management and quality assurance program, the purpose of  
1192 which is to assess resident care practices, facility incident  
1193 reports, violations ~~deficiencies~~ cited by the agency, adverse  
1194 incident reports, and resident grievances and develop plans of  
1195 action to correct and respond quickly to identify quality  
1196 differences.

1197 (2) Every licensed facility ~~licensed under this part~~ is  
1198 required to maintain adverse incident reports. For purposes of  
1199 this section, the term, "adverse incident" means:

1200 (a) An event over which facility staff ~~personnel~~ could  
1201 exercise control rather than as a result of the resident's  
1202 condition and results in:

- 1203 1. Death;
- 1204 2. Brain or spinal damage;
- 1205 3. Permanent disfigurement;
- 1206 4. Fracture or dislocation of bones or joints;
- 1207 5. Any condition that required medical attention to which  
1208 the resident has not given his or her consent, excluding  
1209 proceedings governed by part I of chapter 394, but including  
1210 failure to honor advanced directives;

- 1211 6. Any condition that requires the transfer of the resident  
1212 from the facility to a unit providing more acute care due to the  
1213 incident rather than the resident's condition before the  
1214 incident; or

- 1215 7. An event that is reported to law enforcement or its  
1216 personnel for investigation; or



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1217 (b) Resident elopement, if the elopement places the  
1218 resident at risk of harm or injury.

1219 ~~(3) Licensed facilities shall provide within 1 business day~~  
1220 ~~after the occurrence of an adverse incident, by electronic mail,~~  
1221 ~~facsimile, or United States mail, a preliminary report to the~~  
1222 ~~agency on all adverse incidents specified under this section.~~  
1223 ~~The report must include information regarding the identity of~~  
1224 ~~the affected resident, the type of adverse incident, and the~~  
1225 ~~status of the facility's investigation of the incident.~~

1226 (3)(4) A licensed facility ~~Licensed facilities~~ shall  
1227 provide within 15 business days after the occurrence of an  
1228 adverse incident, by electronic mail, facsimile, or United  
1229 States mail, a full report to the agency on the all adverse  
1230 incident, including information regarding the identity of the  
1231 affected resident, the type of adverse incident, and incidents  
1232 ~~specified in this section. The report must include the results~~  
1233 ~~of the facility's investigation into the adverse incident.~~

1234 ~~(5) Each facility shall report monthly to the agency any~~  
1235 ~~liability claim filed against it. The report must include the~~  
1236 ~~name of the resident, the dates of the incident leading to the~~  
1237 ~~claim, if applicable, and the type of injury or violation of~~  
1238 ~~rights alleged to have occurred. This report is not discoverable~~  
1239 ~~in any civil or administrative action, except in such actions~~  
1240 ~~brought by the agency to enforce the provisions of this part.~~

1241 (4)(6) Abuse, neglect, or exploitation must be reported to  
1242 the Department of Children and Family Services as required under  
1243 chapter 415.

1244 (5)(7) The information reported to the agency pursuant to  
1245 ~~subsection (3)~~ which relates to persons licensed under chapter



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1246 458, chapter 459, chapter 461, chapter 464, or chapter 465 must  
1247 ~~shall~~ be reviewed by the agency. The agency shall determine  
1248 whether any of the incidents potentially involved conduct by a  
1249 health care professional who is subject to disciplinary action,  
1250 in which case the provisions of s. 456.073 apply. The agency may  
1251 investigate, as it deems appropriate, any such incident and  
1252 prescribe measures that must or may be taken in response to the  
1253 incident. The agency shall review each incident and determine  
1254 whether it potentially involved conduct by a health care  
1255 professional who is subject to disciplinary action, in which  
1256 case the provisions of s. 456.073 apply.

1257 ~~(6)-(8)~~ If the agency, through its receipt of the adverse  
1258 incident reports prescribed in this part or through any  
1259 investigation, has reasonable belief that conduct by a staff  
1260 member ~~or employee~~ of a licensed facility is grounds for  
1261 disciplinary action by the appropriate board, the agency shall  
1262 report this fact to such regulatory board.

1263 ~~(7)-(9)~~ The adverse incident report ~~reports and preliminary~~  
1264 ~~adverse incident reports~~ required under this section is ~~are~~  
1265 confidential as provided by law and is ~~are~~ not discoverable or  
1266 admissible in any civil or administrative action, except in  
1267 disciplinary proceedings by the agency or appropriate regulatory  
1268 board.

1269 ~~(8)-(10)~~ The Department of Elderly Affairs may adopt rules  
1270 necessary to administer this section.

1271 Section 18. Subsections (1) and (2) of section 429.255,  
1272 Florida Statutes, are amended to read:

1273 429.255 Use of personnel; emergency care.—

1274 (1) (a) Persons under contract to the facility or ~~7~~ facility



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1275 staff, ~~or volunteers,~~ who are licensed according to part I of  
1276 chapter 464, or those persons exempt under s. 464.022(1), and  
1277 others as defined by rule, may administer medications to  
1278 residents, take residents' vital signs, manage individual weekly  
1279 pill organizers for residents who self-administer medication,  
1280 give prepackaged enemas ordered by a physician, observe  
1281 residents, document observations on the appropriate resident's  
1282 record, report observations to the resident's physician, and  
1283 contract or allow residents or a resident's representative,  
1284 designee, surrogate, guardian, or attorney in fact to contract  
1285 with a third party, provided residents meet the criteria for  
1286 appropriate placement as defined in s. 429.26. Nursing  
1287 assistants certified pursuant to part II of chapter 464 may take  
1288 residents' vital signs as directed by a licensed nurse or  
1289 physician. A person under contract to the facility or facility  
1290 staff who is licensed under part I of chapter 464 may provide  
1291 limited nursing services.

1292 (b) All staff in facilities licensed under this part shall  
1293 exercise their ~~professional~~ responsibility to observe residents,  
1294 to document observations on the appropriate resident's record,  
1295 and to report the observations to the administrator or the  
1296 administrator's designee ~~resident's physician.~~ ~~However,~~ The  
1297 ~~owner or~~ administrator of the facility shall be responsible for  
1298 determining that the resident receiving services is appropriate  
1299 for residence in the assisted living facility.

1300 ~~(c) In an emergency situation, licensed personnel may carry~~  
1301 ~~out their professional duties pursuant to part I of chapter 464~~  
1302 ~~until emergency medical personnel assume responsibility for~~  
1303 ~~care.~~



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1304           (2) In facilities licensed to provide extended congregate  
1305 care, persons under contract to the facility or ~~facility staff,~~  
1306 ~~or volunteers,~~ who are licensed according to part I of chapter  
1307 464, or those persons exempt under s. 464.022(1), or those  
1308 persons certified as nursing assistants pursuant to part II of  
1309 chapter 464, may also perform all duties within the scope of  
1310 their license or certification, as approved by the facility  
1311 administrator and pursuant to this part.

1312           Section 19. Subsections (2), (3), and (4) of section  
1313 429.256, Florida Statutes, are amended to read:

1314           429.256 Assistance with self-administration of medication.-

1315           (2) Residents who are capable of self-administering their  
1316 own medications without assistance shall be encouraged and  
1317 allowed to do so. However, an unlicensed person may, consistent  
1318 with a dispensed prescription's label or the package directions  
1319 of an over-the-counter medication, assist a resident whose  
1320 condition is medically stable with the self-administration of  
1321 routine, regularly scheduled medications that are intended to be  
1322 self-administered. Assistance with self-medication by an  
1323 unlicensed person may occur only upon a documented request by,  
1324 and the written informed consent of, a resident or the  
1325 resident's surrogate, guardian, or attorney in fact. To minimize  
1326 the potential risk for improper dosage administration of  
1327 prescription drugs, a facility may require standard-medication  
1328 dispensing systems for residents' prescriptions, as specified by  
1329 rule. For the purposes of this section, self-administered  
1330 medications include both legend and over-the-counter oral dosage  
1331 forms, topical dosage forms and topical ophthalmic, otic, and  
1332 nasal dosage forms including solutions, suspensions, sprays, and



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- 1333 inhalers, and continuous positive airway pressure machines.
- 1334 (3) Assistance with self-administration of medication
- 1335 includes:
- 1336 (a) Taking the medication, in its previously dispensed,
- 1337 properly labeled container, from where it is stored, and
- 1338 bringing it to the resident.
- 1339 (b) In the presence of the resident, reading the label,
- 1340 opening the container, removing a prescribed amount of
- 1341 medication from the container, and closing the container.
- 1342 (c) Placing an oral dosage in the resident's hand or
- 1343 placing the dosage in another container and helping the resident
- 1344 by lifting the container to his or her mouth.
- 1345 (d) Applying topical medications.
- 1346 (e) Returning the medication container to proper storage.
- 1347 (f) Keeping a record of when a resident receives assistance
- 1348 with self-administration under this section.
- 1349 (g) Assisting a resident in holding a nebulizer.
- 1350 (h) Using a glucometer to perform blood glucose checks.
- 1351 (i) Assisting with the putting on and taking off anti-
- 1352 embolism stockings.
- 1353 (j) Assisting with applying and removing an oxygen cannula.
- 1354 (4) Assistance with self-administration does not include:
- 1355 (a) Mixing, compounding, converting, or calculating
- 1356 medication doses, except for measuring a prescribed amount of
- 1357 liquid medication or breaking a scored tablet or crushing a
- 1358 tablet as prescribed.
- 1359 (b) The preparation of syringes for injection or the
- 1360 administration of medications by any injectable route.
- 1361 ~~(c) Administration of medications through intermittent~~



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1362 ~~positive pressure breathing machines or a nebulizer.~~

1363        (c)~~(d)~~ Administration of medications by way of a tube  
1364 inserted in a cavity of the body.

1365        (d)~~(e)~~ Administration of parenteral preparations.

1366        (e)~~(f)~~ Irrigations or debriding agents used in the  
1367 treatment of a skin condition.

1368        (f)~~(g)~~ Rectal, urethral, or vaginal preparations.

1369        (g)~~(h)~~ Medications ordered by the physician or health care  
1370 professional with prescriptive authority to be given "as  
1371 needed," unless the order is written with specific parameters  
1372 that preclude independent judgment on the part of the unlicensed  
1373 person, and at the request of a competent resident.

1374        (h)~~(i)~~ Medications for which the time of administration,  
1375 the amount, the strength of dosage, the method of  
1376 administration, or the reason for administration requires  
1377 judgment or discretion on the part of the unlicensed person.

1378        Section 20. Subsections (3), (7), (8), (9), (10), and (11)  
1379 of section 429.26, Florida Statutes, are amended to read:

1380        429.26 Appropriateness of placements; examinations of  
1381 residents.—

1382        (3) Persons licensed under part I of chapter 464 who are  
1383 employed by or under contract with a facility shall, on a  
1384 routine basis or at least monthly, perform a nursing assessment  
1385 of the residents for whom they are providing nursing services  
1386 ordered by a physician, except administration of medication, and  
1387 shall document such assessment, including any significant change  
1388 ~~substantial changes~~ in a resident's status which may necessitate  
1389 relocation to a nursing home, hospital, or specialized health  
1390 care facility. Such records shall be maintained in the facility





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1391 for inspection by the agency and shall be forwarded to the  
1392 resident's case manager, if applicable.

1393 ~~(7) The facility must notify a licensed physician when a~~  
1394 ~~resident exhibits signs of dementia or cognitive impairment or~~  
1395 ~~has a change of condition in order to rule out the presence of~~  
1396 ~~an underlying physiological condition that may be contributing~~  
1397 ~~to such dementia or impairment. The notification must occur~~  
1398 ~~within 30 days after the acknowledgment of such signs by~~  
1399 ~~facility staff. If an underlying condition is determined to~~  
1400 ~~exist, the facility shall arrange, with the appropriate health~~  
1401 ~~care provider, the necessary care and services to treat the~~  
1402 ~~condition.~~

1403 ~~(7)-(8)~~ The Department of Children and Family Services may  
1404 require an examination for supplemental security income and  
1405 optional state supplementation recipients residing in facilities  
1406 at any time and shall provide the examination whenever a  
1407 resident's condition requires it. Any facility administrator;  
1408 personnel of the agency, the department, or the Department of  
1409 Children and Family Services; or long-term care ombudsman  
1410 council member who believes a resident needs to be evaluated  
1411 shall notify the resident's case manager, who shall take  
1412 appropriate action. A report of the examination findings shall  
1413 be provided to the resident's case manager and the facility  
1414 administrator to help the administrator meet his or her  
1415 responsibilities under subsection (1).

1416 ~~(8)-(9)~~ A terminally ill resident who no longer meets the  
1417 criteria for continued residency may remain in the facility if  
1418 the arrangement is mutually agreeable to the resident and the  
1419 administrator ~~facility~~; additional care is rendered through a



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1420 licensed hospice, and the resident is under the care of a  
1421 physician who agrees that the physical needs of the resident are  
1422 being met.

1423 (9)~~(10)~~ Facilities licensed to provide extended congregate  
1424 care services shall promote aging in place by determining  
1425 appropriateness of continued residency based on a comprehensive  
1426 review of the resident's physical and functional status; the  
1427 ability of the facility, family members, friends, or any other  
1428 pertinent individuals or agencies to provide the care and  
1429 services required; and documentation that a written service plan  
1430 consistent with facility policy has been developed and  
1431 implemented to ensure that the resident's needs and preferences  
1432 are addressed.

1433 (10)~~(11)~~ A ~~Ne~~ resident who requires 24-hour nursing  
1434 supervision, except for a resident who is an enrolled hospice  
1435 patient pursuant to part IV of chapter 400, may not ~~shall~~ be  
1436 retained in a licensed facility ~~licensed under this part~~.

1437 Section 21. Section 429.27, Florida Statutes, is amended to  
1438 read:

1439 429.27 Property and personal affairs of residents.—

1440 (1) (a) A resident shall be given the option of using his or  
1441 her own belongings, as space permits; choosing his or her  
1442 roommate; and, whenever possible, unless the resident is  
1443 adjudicated incompetent or incapacitated under state law,  
1444 managing his or her own affairs.

1445 (b) The admission of a resident to a facility and his or  
1446 her presence therein does ~~shall~~ not give ~~confer on~~ the facility  
1447 or its licensee, owner, administrator, employees, or  
1448 representatives any authority to manage, use, or dispose of any



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1449 property of the resident; nor shall such admission or presence  
1450 give ~~confer on~~ any of such persons any authority or  
1451 responsibility for the personal affairs of the resident, except  
1452 that which may be necessary for the safe management of the  
1453 facility or for the safety of the resident.

1454 (2) The licensee, ~~A facility, or an~~ owner, administrator,  
1455 employee of an assisted living facility, or representative  
1456 thereof, may not act as the guardian, trustee, or conservator  
1457 for any resident of the assisted living facility or any of such  
1458 resident's property. A licensee, ~~An~~ owner, administrator, or  
1459 staff member, or representative thereof, may not act as a  
1460 competent resident's payee for social security, veteran's, or  
1461 railroad benefits without the consent of the resident. Any  
1462 facility whose licensee, owner, administrator, or staff, or  
1463 representative thereof, serves as representative payee for any  
1464 resident of the facility shall file a surety bond with the  
1465 agency in an amount equal to twice the average monthly aggregate  
1466 income or personal funds due to residents, or expendable for  
1467 their account, which are received by a facility. Any facility  
1468 whose licensee, owner, administrator, or staff, or a  
1469 representative thereof, is granted power of attorney for any  
1470 resident of the facility shall file a surety bond with the  
1471 agency for each resident for whom such power of attorney is  
1472 granted. The surety bond shall be in an amount equal to twice  
1473 the average monthly income of the resident, plus the value of  
1474 any resident's property under the control of the attorney in  
1475 fact. The bond shall be executed by the facility's licensee,  
1476 owner, administrator, or staff, or a representative thereof,  
1477 ~~facility~~ as principal and a licensed surety company. The bond



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1478 shall be conditioned upon the faithful compliance of the  
1479 licensee, owner, administrator, or staff, or a representative  
1480 thereof, of the facility with this section and shall run to the  
1481 agency for the benefit of any resident who suffers a financial  
1482 loss as a result of the misuse or misappropriation by a  
1483 licensee, owner, administrator, or staff, or representative  
1484 thereof, of the facility of funds held pursuant to this  
1485 subsection. Any surety company that cancels or does not renew  
1486 the bond of any licensee shall notify the agency in writing not  
1487 less than 30 days in advance of such action, giving the reason  
1488 for the cancellation or nonrenewal. Any facility's licensee,  
1489 ~~facility~~ owner, administrator, or staff, or representative  
1490 thereof, who is granted power of attorney for any resident of  
1491 the facility shall, on a monthly basis, be required to provide  
1492 the resident a written statement of any transaction made on  
1493 behalf of the resident pursuant to this subsection, and a copy  
1494 of such statement given to the resident shall be retained in  
1495 each resident's file and available for agency inspection.

1496 (3) A facility's administrator ~~facility,~~ upon mutual  
1497 consent with the resident, shall provide for the safekeeping in  
1498 the facility of personal effects, including funds not in excess  
1499 of \$500 ~~and funds of the resident not in excess of \$200 cash,~~  
1500 and shall keep complete and accurate records of all such funds  
1501 and personal effects received. If a resident is absent from a  
1502 facility for 24 hours or more, the facility may provide for the  
1503 safekeeping of the resident's personal effects, including funds  
1504 in excess of \$500.

1505 (4) Any funds or other property belonging to or due to a  
1506 resident, or expendable for his or her account, which is



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1507 received by the administrator ~~a facility~~ shall be trust funds  
1508 which shall be kept separate from the funds and property of the  
1509 facility and other residents or shall be specifically credited  
1510 to such resident. Such trust funds shall be used or otherwise  
1511 expended only for the account of the resident. Upon written  
1512 request, at least once every 3 months, unless upon order of a  
1513 court of competent jurisdiction, the administrator ~~facility~~  
1514 shall furnish the resident and his or her guardian, trustee, or  
1515 conservator, if any, a complete and verified statement of all  
1516 funds and other property to which this subsection applies,  
1517 detailing the amount and items received, together with their  
1518 sources and disposition. In any event, the administrator  
1519 ~~facility~~ shall furnish such statement annually and upon the  
1520 discharge or transfer of a resident. ~~Any governmental agency or~~  
1521 ~~private charitable agency contributing funds or other property~~  
1522 ~~to the account of a resident shall also be entitled to receive~~  
1523 ~~such statement annually and upon the discharge or transfer of~~  
1524 ~~the resident.~~

1525 (5) Any personal funds available to facility residents may  
1526 be used by residents as they choose to obtain clothing, personal  
1527 items, leisure activities, and other supplies and services for  
1528 their personal use. An administrator ~~A facility~~ may not demand,  
1529 require, or contract for payment of all or any part of the  
1530 personal funds in satisfaction of the facility rate for supplies  
1531 and services beyond that amount agreed to in writing ~~and may not~~  
1532 ~~levy an additional charge to the individual or the account for~~  
1533 ~~any supplies or services that the facility has agreed by~~  
1534 ~~contract to provide as part of the standard monthly rate. Any~~  
1535 service or supplies provided by the facility which are charged



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1536 separately to the individual or the account may be provided only  
1537 with the specific written consent of the individual, who shall  
1538 be furnished in advance of the provision of the services or  
1539 supplies with an itemized written statement to be attached to  
1540 the contract setting forth the charges for the services or  
1541 supplies.

1542 (6) (a) In addition to any damages or civil penalties to  
1543 which a person is subject, any person who:

1544 1. Intentionally withholds a resident's personal funds,  
1545 personal property, or personal needs allowance, or who demands,  
1546 beneficially receives, or contracts for payment of all or any  
1547 part of a resident's personal property or personal needs  
1548 allowance in satisfaction of the facility rate for supplies and  
1549 services; or

1550 2. Borrows from or pledges any personal funds of a  
1551 resident, other than the amount agreed to by written contract  
1552 under s. 429.24,

1553  
1554 commits a misdemeanor of the first degree, punishable as  
1555 provided in s. 775.082 or s. 775.083.

1556 (b) Any licensee, facility owner, administrator, or staff,  
1557 or representative thereof, who is granted power of attorney for  
1558 any resident of the facility and who misuses or misappropriates  
1559 funds obtained through this power commits a felony of the third  
1560 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1561 775.084.

1562 (7) In the event of the death of a resident, a licensee  
1563 shall return all refunds, funds, and property held in trust to  
1564 the resident's personal representative, if one has been



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1565 appointed at the time the facility disburses such funds, and, if  
1566 not, to the resident's spouse or adult next of kin named in a  
1567 beneficiary designation form provided by the licensee facility  
1568 to the resident. If the resident has no spouse or adult next of  
1569 kin or such person cannot be located, funds due the resident  
1570 shall be placed in an interest-bearing account, and all property  
1571 held in trust by the licensee facility shall be safeguarded  
1572 until such time as the funds and property are disbursed pursuant  
1573 to the Florida Probate Code. Such funds shall be kept separate  
1574 from the funds and property of the facility and other residents  
1575 of the facility. If the funds of the deceased resident are not  
1576 disbursed pursuant to the Florida Probate Code within 2 years  
1577 after the resident's death, the funds shall be deposited in the  
1578 Health Care Trust Fund administered by the agency.

1579 (8) The department may by rule clarify terms and specify  
1580 procedures and documentation necessary to administer the  
1581 provisions of this section relating to the proper management of  
1582 residents' funds and personal property and the execution of  
1583 surety bonds.

1584 Section 22. Subsection (4) of section 429.275, Florida  
1585 Statutes, is repealed.

1586 Section 23. Paragraph (k) of subsection (1) and subsections  
1587 (3), (4), (5), (6), and (7) of section 429.28, Florida Statutes,  
1588 are amended to read:

1589 429.28 Resident bill of rights.-

1590 (1) A ~~No~~ resident of a facility may not shall be deprived  
1591 of any civil or legal rights, benefits, or privileges guaranteed  
1592 by law, the Constitution of the State of Florida, or the  
1593 Constitution of the United States as a resident of a facility.



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1594 Every resident of a facility shall have the right to:  
1595       (k) At least 30 ~~45~~ days' notice of relocation or  
1596 termination of residency from the facility unless, for medical  
1597 reasons, the resident is certified by a physician to require an  
1598 emergency relocation to a facility providing a more skilled  
1599 level of care or the resident engages in a pattern of conduct  
1600 that is harmful or offensive to other residents. In the case of  
1601 a resident who has been adjudicated mentally incapacitated, the  
1602 guardian shall be given at least 30 ~~45~~ days' notice of a  
1603 nonemergency relocation or residency termination. Reasons for  
1604 relocation shall be set forth in writing. ~~In order for a~~  
1605 ~~facility to terminate the residency of an individual without~~  
1606 ~~notice as provided herein, the facility shall show good cause in~~  
1607 ~~a court of competent jurisdiction.~~

1608       ~~(3) (a) The agency shall conduct a survey to determine~~  
1609 ~~general compliance with facility standards and compliance with~~  
1610 ~~residents' rights as a prerequisite to initial licensure or~~  
1611 ~~licensure renewal.~~

1612       ~~(b) In order to determine whether the facility is~~  
1613 ~~adequately protecting residents' rights, the biennial survey~~  
1614 ~~shall include private informal conversations with a sample of~~  
1615 ~~residents and consultation with the ombudsman council in the~~  
1616 ~~planning and service area in which the facility is located to~~  
1617 ~~discuss residents' experiences within the facility.~~

1618       ~~(c) During any calendar year in which no survey is~~  
1619 ~~conducted, the agency shall conduct at least one monitoring~~  
1620 ~~visit of each facility cited in the previous year for a class I~~  
1621 ~~or class II violation, or more than three uncorrected class III~~  
1622 ~~violations.~~





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1623       ~~(d) The agency may conduct periodic followup inspections as~~  
1624 ~~necessary to monitor the compliance of facilities with a history~~  
1625 ~~of any class I, class II, or class III violations that threaten~~  
1626 ~~the health, safety, or security of residents.~~

1627       ~~(e) The agency may conduct complaint investigations as~~  
1628 ~~warranted to investigate any allegations of noncompliance with~~  
1629 ~~requirements required under this part or rules adopted under~~  
1630 ~~this part.~~

1631       (3)~~(4)~~ The administrator shall ensure that facility shall  
1632 ~~not hamper or prevent residents may exercise from exercising~~  
1633 ~~their rights as specified in this section.~~

1634       (4)~~(5)~~ A staff member ~~No facility~~ or employee of a facility  
1635 may not serve notice upon a resident to leave the premises or  
1636 take any other retaliatory action against any person who:

1637           (a) Exercises any right set forth in this section.

1638           (b) Appears as a witness in any hearing, inside or outside  
1639 the facility.

1640           (c) Files a civil action alleging a violation of the  
1641 provisions of this part ~~or notifies a state attorney or the~~  
1642 ~~Attorney General of a possible violation of such provisions.~~

1643       (5)~~(6)~~ An administrator may not terminate ~~Any facility~~  
1644 ~~which terminates~~ the residency of an individual who participated  
1645 in activities specified in subsection (4) ~~(5)~~ ~~shall show good~~  
1646 ~~cause in a court of competent jurisdiction.~~

1647       (6)~~(7)~~ Any person who submits or reports a complaint  
1648 concerning a suspected violation of the provisions of this part  
1649 or concerning services and conditions in facilities, or who  
1650 testifies in any administrative or judicial proceeding arising  
1651 from such a complaint, shall have immunity from any civil or



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1652 criminal liability therefor, unless such person has acted in bad  
1653 faith or with malicious purpose or the court finds that there  
1654 was a complete absence of a justiciable issue of either law or  
1655 fact raised by the losing party.

1656 Section 24. Section 429.29, Florida Statutes, is amended to  
1657 read:

1658 429.29 Civil actions to enforce rights.-

1659 (1) A ~~Any person or~~ resident who alleges negligence or a  
1660 violation of whose rights as specified in this part has are  
1661 violated shall have a cause of action against the licensee or  
1662 its management company, as identified in the state application  
1663 for licensing as an assisted living facility. However, the cause  
1664 of action may not be asserted individually against an officer,  
1665 director, owner, including an owner designated as having a  
1666 controlling interest on the state application for licensing as  
1667 an assisted living facility, or agent of a licensee or  
1668 management company unless, following an evidentiary hearing, the  
1669 court determines there is sufficient evidence in the record or  
1670 proffered by the claimant which establishes a reasonable basis  
1671 for finding that the person or entity breached, failed to  
1672 perform, or acted outside the scope of duties as an officer,  
1673 director, owner, or agent, and that the breach, failure to  
1674 perform, or action outside the scope of duties is a legal cause  
1675 of actual loss, injury, death, or damage to the resident.

1676 (2) The action may be brought by the resident or his or her  
1677 guardian, or by a person or organization acting on behalf of a  
1678 resident with the consent of the resident or his or her  
1679 guardian, or by the personal representative of the estate of a  
1680 deceased resident regardless of the cause of death.



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1681           (3) If the action alleges a claim for the resident's rights  
1682 or for negligence which: ~~that~~

1683           (a) Caused the death of the resident, the claimant shall ~~be~~  
1684 ~~required to~~ elect ~~either~~ survival damages pursuant to s. 46.021  
1685 or wrongful death damages pursuant to s. 768.21. If the claimant  
1686 elects damages for wrongful death, total noneconomic damages may  
1687 not exceed \$250,000, regardless of the number of claimants.

1688           (b) ~~If the action alleges a claim for the resident's rights~~  
1689 ~~or for negligence that~~ Did not cause the death of the resident,  
1690 the personal representative of the estate may recover damages  
1691 for the negligence that caused injury to the resident.

1692           (4) The action may be brought in any court of competent  
1693 jurisdiction to enforce such rights and to recover actual  
1694 damages, and punitive damages for violation of the rights of a  
1695 resident or negligence.

1696           (5) Any resident who prevails in seeking injunctive relief  
1697 or a claim for an administrative remedy is entitled to recover  
1698 the costs of the action and a reasonable attorney's fee assessed  
1699 against the defendant not to exceed \$25,000. Fees shall be  
1700 awarded solely for the injunctive or administrative relief and  
1701 not for any claim or action for damages whether such claim or  
1702 action is brought together with a request for an injunction or  
1703 administrative relief or as a separate action, except as  
1704 provided under s. 768.79 or the Florida Rules of Civil  
1705 Procedure. Sections 429.29-429.298 provide the exclusive remedy  
1706 for a cause of action for recovery of damages for the personal  
1707 injury or death of a resident arising out of negligence or a  
1708 violation of rights specified in s. 429.28. This section does  
1709 not preclude theories of recovery not arising out of negligence



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1710 or s. 429.28 which are available to a resident or to the agency.  
1711 The provisions of chapter 766 do not apply to any cause of  
1712 action brought under ss. 429.29-429.298.

1713 ~~(6)(2)~~ If the ~~In any~~ claim brought pursuant to this part  
1714 alleges ~~alleging~~ a violation of resident's rights or negligence  
1715 causing injury to or the death of a resident, the claimant shall  
1716 have the burden of proving, by a preponderance of the evidence,  
1717 that:

1718 (a) The defendant owed a duty to the resident;

1719 (b) The defendant breached the duty to the resident;

1720 (c) The breach of the duty is a legal cause of loss,  
1721 injury, death, or damage to the resident; and

1722 (d) The resident sustained loss, injury, death, or damage  
1723 as a result of the breach.

1724  
1725 ~~Nothing in~~ This part does not ~~shall be interpreted to~~  
1726 create strict liability. A violation of the rights set forth in  
1727 s. 429.28 or in any other standard or guidelines specified in  
1728 this part or in any applicable administrative standard or  
1729 guidelines of this state or a federal regulatory agency shall be  
1730 evidence of negligence but shall not be considered negligence  
1731 per se.

1732 ~~(7)(3)~~ In any claim brought pursuant to this section, a  
1733 licensee, person, or entity has ~~shall have~~ a duty to exercise  
1734 reasonable care. Reasonable care is that degree of care which a  
1735 reasonably careful licensee, person, or entity would use under  
1736 like circumstances.

1737 ~~(8)(4)~~ In any claim for resident's rights violation or  
1738 negligence by a nurse licensed under part I of chapter 464, such



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1739 nurse has a ~~shall have the~~ duty to exercise care consistent with  
1740 the prevailing professional standard of care for a nurse. The  
1741 prevailing professional standard of care for a nurse is ~~shall be~~  
1742 that level of care, skill, and treatment which, in light of all  
1743 relevant surrounding circumstances, is recognized as acceptable  
1744 and appropriate by reasonably prudent similar nurses.

1745 (9) ~~(5)~~ Discovery of financial information for the purpose  
1746 of determining the value of punitive damages may not be had  
1747 unless the plaintiff shows the court by proffer or evidence in  
1748 the record that a reasonable basis exists to support a claim for  
1749 punitive damages.

1750 (10) ~~(6)~~ In addition to any other standards for punitive  
1751 damages, any award of punitive damages must be reasonable in  
1752 light of the actual harm suffered by the resident and the  
1753 egregiousness of the conduct that caused the actual harm to the  
1754 resident.

1755 (11) ~~(7)~~ The resident or the resident's legal representative  
1756 shall serve a copy of any complaint alleging in whole or in part  
1757 a violation of any rights specified in this part to the agency  
1758 ~~for Health Care Administration~~ at the time of filing the initial  
1759 complaint with the clerk of the court for the county in which  
1760 the action is pursued. ~~The requirement of~~ Providing a copy of  
1761 the complaint to the agency does not impair the resident's legal  
1762 rights or ability to seek relief for his or her claim.

1763 Section 25. Subsections (4) and (7) of section 429.293,  
1764 Florida Statutes, are amended, present subsection (11) of that  
1765 section is redesignated as subsection (12) and amended, and a  
1766 new subsection (11) is added to that section, to read:

1767 429.293 Presuit notice; investigation; notification of



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1768 violation of residents' rights or alleged negligence; claims  
1769 evaluation procedure; informal discovery; review; settlement  
1770 offer; mediation.—

1771 (4) The notification of a violation of a resident's rights  
1772 or alleged negligence shall be served within the applicable  
1773 statute of limitations period; however, during the 75-day  
1774 period, the statute of limitations is tolled as to all  
1775 prospective defendants. Upon written stipulation by the parties,  
1776 the 75-day period may be extended and the statute of limitations  
1777 is tolled during any such extension. Upon receiving written  
1778 notice by certified mail, return receipt requested, of  
1779 termination of negotiations in an extended period, the claimant  
1780 shall have 30 ~~60~~ days or the remainder of the period of the  
1781 statute of limitations, whichever is greater, within which to  
1782 file suit.

1783 (7) Informal discovery may be used by a party to obtain  
1784 unsworn statements and the production of documents or things, as  
1785 follows:

1786 (a) *Unsworn statements.*—Any party may require other parties  
1787 to appear for the taking of an unsworn statement. Such  
1788 statements may be used only for the purpose of claims evaluation  
1789 and are not discoverable or admissible in any civil action for  
1790 any purpose by any party. A party seeking to take the unsworn  
1791 statement of any party must give reasonable notice in writing to  
1792 all parties. The notice must state the time and place for taking  
1793 the statement and the name and address of the party to be  
1794 examined. Unless otherwise impractical, the examination of any  
1795 party must be done at the same time by all other parties. Any  
1796 party may be represented by counsel at the taking of an unsworn



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1797 statement. An unsworn statement may be recorded electronically,  
1798 stenographically, or on videotape. The taking of unsworn  
1799 statements is subject to the provisions of the Florida Rules of  
1800 Civil Procedure and may be terminated for abuses.

1801 (b) *Documents or things.*—Any party may request discovery of  
1802 relevant documents or things relevant to evaluating the merits  
1803 of the claim. The documents or things must be produced, at the  
1804 expense of the requesting party, within 20 days after the date  
1805 of receipt of the request. A party is required to produce  
1806 relevant and discoverable documents or things within that  
1807 party's possession or control, if in good faith it can  
1808 reasonably be done within the timeframe of the claims evaluation  
1809 process.

1810 (11) An arbitration process as provided for in chapter 44  
1811 may be used to resolve a claim filed under this section.

1812 (12)~~(11)~~ Within 30 days after the claimant's receipt of the  
1813 defendant's response to the claim, the parties or their  
1814 designated representatives shall meet in mediation to discuss  
1815 the issues of liability and damages in accordance with the  
1816 mediation rules of practice and procedures adopted by the  
1817 Supreme Court. Upon written stipulation of the parties, this 30-  
1818 day period may be extended and the statute of limitations is  
1819 tolled during the mediation and any such extension. At the  
1820 conclusion of mediation, the claimant shall have 60 days or the  
1821 remainder of the period of the statute of limitations, whichever  
1822 is greater, within which to file suit.

1823 Section 26. Section 429.294, Florida Statutes, is amended  
1824 to read:

1825 429.294 Availability of facility records for investigation



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1826 of resident's rights violations and defenses; penalty.—

1827 (1) Unless expressly prohibited by a legally competent  
1828 resident, an assisted living facility licensed under this part  
1829 shall furnish to the spouse, guardian, surrogate, proxy, or  
1830 attorney in fact, as provided in chapters 744 and 765, a copy of  
1831 a resident's records that are in the possession of the facility  
1832 within:

1833 (a) Seven working days after receipt of a written request  
1834 if the resident currently resides in the facility; or

1835 (b) Ten working days after receipt of a written request if  
1836 the resident formerly resided in the facility.

1837  
1838 Such records must include medical and psychiatric records  
1839 and any records concerning the care and treatment of the  
1840 resident performed by the facility, except progress notes and  
1841 consultation report sections of a psychiatric nature. Copies of  
1842 such records are not considered part of a deceased resident's  
1843 estate and may be made available before the administration of an  
1844 estate, upon request, to the spouse, guardian, surrogate, proxy,  
1845 or attorney in fact, as provided in chapters 744 and 765. A  
1846 facility may charge a reasonable fee for the copying of a  
1847 resident's records. Such fee shall not exceed \$1 per page for  
1848 the first 25 pages and 25 cents per page for each additional  
1849 page in excess of 25 pages. The facility shall further allow any  
1850 such spouse, guardian, surrogate, proxy, or attorney in fact, as  
1851 provided in chapters 744 and 765, to examine the original  
1852 records in its possession, or microfilms or other suitable  
1853 reproductions of the records, upon such reasonable terms as  
1854 shall be imposed, to help ensure that the records are not





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1855 damaged, destroyed, or altered.

1856 (2) A person may not obtain copies of a resident's records  
1857 under this section more often than once per month, except that a  
1858 physician's report in the a resident's records may be obtained  
1859 as often as necessary to effectively monitor the resident's  
1860 condition.

1861 (3)-(1) Failure to provide complete copies of a resident's  
1862 records, including, but not limited to, all medical records and  
1863 the resident's chart, within the control or possession of the  
1864 facility within 10 days, in accordance with the provisions of  
1865 this section s. 400.145, shall constitute evidence of failure of  
1866 that party to comply with good faith discovery requirements and  
1867 shall waive the good faith certificate and presuit notice  
1868 requirements under this part by the requesting party.

1869 (4)-(2) A licensee may not ~~No facility shall~~ be held liable  
1870 for any civil damages as a result of complying with this  
1871 section.

1872 Section 27. Subsections (1), (2), and (3) of section  
1873 429.297, Florida Statutes, are amended to read:

1874 429.297 Punitive damages; pleading; burden of proof.—

1875 (1) In any action ~~for damages~~ brought under this part, a ~~no~~  
1876 claim for punitive damages is not shall be permitted unless,  
1877 based on admissible there is a reasonable showing by evidence in  
1878 the record or proffered by the claimant, which would provide a  
1879 reasonable basis for recovery of such damages is demonstrated  
1880 upon applying the criteria set forth in this section. The  
1881 defendant may proffer admissible evidence to refute the  
1882 claimant's proffer of evidence to recover punitive damages. The  
1883 trial judge shall conduct an evidentiary hearing and weigh the



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1884 admissible evidence proffered by the claimant and the defendant  
1885 to ensure that there is a reasonable basis to believe that the  
1886 claimant, at trial, will be able to demonstrate by clear and  
1887 convincing evidence that the recovery of such damages is  
1888 warranted. The claimant may move to amend her or his complaint  
1889 to assert a claim for punitive damages as allowed by the rules  
1890 of civil procedure. ~~The rules of civil procedure shall be~~  
1891 ~~liberally construed so as to allow the claimant discovery of~~  
1892 ~~evidence which appears reasonably calculated to lead to~~  
1893 ~~admissible evidence on the issue of punitive damages. No~~  
1894 Discovery of financial worth may not ~~shall~~ proceed until after  
1895 the trial judge approves the pleading on ~~concerning~~ punitive  
1896 damages ~~is permitted.~~

1897 (2) A defendant, including the licensee or management  
1898 company, against whom punitive damages is sought may be held  
1899 liable for punitive damages only if the trier of fact, based on  
1900 clear and convincing evidence, finds that a specific individual  
1901 or corporate defendant actively and knowingly participated in  
1902 intentional misconduct, or engaged in conduct that constituted  
1903 gross negligence, and that conduct contributed to the loss,  
1904 damages, or injury suffered by the claimant ~~the defendant was~~  
1905 ~~personally guilty of intentional misconduct or gross negligence.~~  
1906 As used in this section, the term:

1907 (a) "Intentional misconduct" means that the defendant  
1908 against whom a claim for punitive damages is sought had actual  
1909 knowledge of the wrongfulness of the conduct and the high  
1910 probability that injury or damage to the claimant would result  
1911 and, despite that knowledge, intentionally pursued that course  
1912 of conduct, resulting in injury or damage.



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1913 (b) "Gross negligence" means that the defendant's conduct  
1914 was so reckless or wanting in care that it constituted a  
1915 conscious disregard or indifference to the life, safety, or  
1916 rights of persons exposed to such conduct.

1917 (3) In the case of vicarious liability of an employer,  
1918 principal, corporation, or other legal entity, punitive damages  
1919 may not be imposed for the conduct of an identified employee or  
1920 agent unless only if the conduct of the employee or agent meets  
1921 the criteria specified in subsection (2) and officers,  
1922 directors, or managers of the actual employer corporation or  
1923 legal entity condoned, ratified, or consented to the specific  
1924 conduct as alleged by the claimant in subsection (2).÷

1925 ~~(a) The employer, principal, corporation, or other legal~~  
1926 ~~entity actively and knowingly participated in such conduct;~~

1927 ~~(b) The officers, directors, or managers of the employer,~~  
1928 ~~principal, corporation, or other legal entity condoned,~~  
1929 ~~ratified, or consented to such conduct; or~~

1930 ~~(c) The employer, principal, corporation, or other legal~~  
1931 ~~entity engaged in conduct that constituted gross negligence and~~  
1932 ~~that contributed to the loss, damages, or injury suffered by the~~  
1933 ~~claimant.~~

1934 Section 28. Subsections (1) and (4) of section 429.298,  
1935 Florida Statutes, are amended to read:

1936 429.298 Punitive damages; limitation.-

1937 (1) (a) ~~Except as provided in paragraphs (b) and (c),~~ An  
1938 award of punitive damages may not exceed the greater of:

1939 1. Three times the amount of compensatory damages awarded  
1940 to each claimant entitled thereto, consistent with the remaining  
1941 provisions of this section; or



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1942           2. The sum of \$250,000 ~~\$1 million.~~

1943           ~~(b) Where the fact finder determines that the wrongful~~

1944 ~~conduct proven under this section was motivated primarily by~~

1945 ~~unreasonable financial gain and determines that the unreasonably~~

1946 ~~dangerous nature of the conduct, together with the high~~

1947 ~~likelihood of injury resulting from the conduct, was actually~~

1948 ~~known by the managing agent, director, officer, or other person~~

1949 ~~responsible for making policy decisions on behalf of the~~

1950 ~~defendant, it may award an amount of punitive damages not to~~

1951 ~~exceed the greater of:~~

1952           ~~1. Four times the amount of compensatory damages awarded to~~

1953 ~~each claimant entitled thereto, consistent with the remaining~~

1954 ~~provisions of this section; or~~

1955           ~~2. The sum of \$4 million.~~

1956           ~~(c) Where the fact finder determines that at the time of~~

1957 ~~injury the defendant had a specific intent to harm the claimant~~

1958 ~~and determines that the defendant's conduct did in fact harm the~~

1959 ~~claimant, there shall be no cap on punitive damages.~~

1960           ~~(b) (d)~~ This subsection is not intended to prohibit an

1961 appropriate court from exercising its jurisdiction under s.

1962 768.74 in determining the reasonableness of an award of punitive

1963 damages that is less than three times the amount of compensatory

1964 damages.

1965           ~~(c) In any case in which the findings of fact support an~~

1966 ~~award of punitive damages pursuant to paragraph (b) or paragraph~~

1967 ~~(c), the clerk of the court shall refer the case to the~~

1968 ~~appropriate law enforcement agencies, to the state attorney in~~

1969 ~~the circuit where the long-term care facility that is the~~

1970 ~~subject of the underlying civil cause of action is located, and,~~



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1971 ~~for multijurisdictional facility owners, to the Office of the~~  
1972 ~~Statewide Prosecutor; and such agencies, state attorney, or~~  
1973 ~~Office of the Statewide Prosecutor shall initiate a criminal~~  
1974 ~~investigation into the conduct giving rise to the award of~~  
1975 ~~punitive damages. All findings by the trier of fact which~~  
1976 ~~support an award of punitive damages under this paragraph shall~~  
1977 ~~be admissible as evidence in any subsequent civil or criminal~~  
1978 ~~proceeding relating to the acts giving rise to the award of~~  
1979 ~~punitive damages under this paragraph.~~

1980 (4) Notwithstanding any other law to the contrary, the  
1981 amount of punitive damages awarded pursuant to this section  
1982 shall be ~~equally~~ divided between the claimant and the Quality of  
1983 Long-Term Care Facility Improvement Trust Fund, in accordance  
1984 with the following provisions:

1985 (a) The clerk of the court shall transmit a copy of the  
1986 jury verdict to the Chief Financial Officer by certified mail.  
1987 In the final judgment, the court shall order the percentages of  
1988 the award, payable as provided herein.

1989 (b) A settlement agreement entered into between the  
1990 original parties to the action after a verdict has been returned  
1991 must provide a ~~proportionate~~ share payable to the Quality of  
1992 Long-Term Care Facility Improvement Trust Fund specified herein.  
1993 For purposes of this paragraph, the a ~~proportionate~~ share  
1994 payable to the Quality of Long-Term Care Facility Improvement  
1995 Trust Fund must be is a 75 percent ~~50-percent~~ share of that  
1996 percentage of the settlement amount which the punitive damages  
1997 portion of the verdict bore to the total of the compensatory and  
1998 punitive damages in the verdict.

1999 (c) The Department of Financial Services shall collect or



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2000 cause to be collected all payments due the state under this  
2001 section. Such payments are made to the Chief Financial Officer  
2002 and deposited in the appropriate fund specified in this  
2003 subsection.

2004 (d) If the full amount of punitive damages awarded cannot  
2005 be collected, the claimant and the other recipient designated  
2006 pursuant to this subsection are each entitled to a proportionate  
2007 share of the punitive damages collected.

2008 Section 29. Paragraphs (a), (d), (h), (i), (j), and (l) of  
2009 subsection (1) and subsection (5) of section 429.41, Florida  
2010 Statutes, are amended to read:

2011 429.41 Rules establishing standards.—

2012 (1) It is the intent of the Legislature that rules  
2013 published and enforced pursuant to this section shall include  
2014 criteria by which a reasonable and consistent quality of  
2015 resident care and quality of life may be ensured and the results  
2016 of such resident care may be demonstrated. Such rules shall also  
2017 ensure a safe and sanitary environment that is residential and  
2018 noninstitutional in design or nature. It is further intended  
2019 that reasonable efforts be made to accommodate the needs and  
2020 preferences of residents to enhance the quality of life in a  
2021 facility. The agency, in consultation with the department, may  
2022 adopt rules to administer the requirements of part II of chapter  
2023 408. In order to provide safe and sanitary facilities and the  
2024 highest quality of resident care accommodating the needs and  
2025 preferences of residents, the department, in consultation with  
2026 the agency, the Department of Children and Family Services, and  
2027 the Department of Health, shall adopt rules, policies, and  
2028 procedures to administer this part, which must include



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2029 reasonable and fair minimum standards in relation to:

2030 (a) The requirements for and maintenance of facilities, not  
2031 in conflict with the provisions of chapter 553, relating to  
2032 plumbing, heating, cooling, lighting, ventilation, living space,  
2033 and other housing conditions, which will ensure the health,  
2034 safety, and comfort of residents and protection from fire  
2035 hazard, including adequate provisions for fire alarm and other  
2036 fire protection suitable to the size of the structure. Uniform  
2037 firesafety standards shall be established and enforced by the  
2038 State Fire Marshal in cooperation with the agency,~~the~~  
2039 ~~department, and the Department of Health.~~

2040 1. Evacuation capability determination.—

2041 a. The provisions of the National Fire Protection  
2042 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used  
2043 for determining the ability of the residents, with or without  
2044 staff assistance, to relocate from or within a licensed facility  
2045 to a point of safety as provided in the fire codes adopted  
2046 herein. An evacuation capability evaluation for initial  
2047 licensure shall be conducted within 6 months after the date of  
2048 licensure. For existing licensed facilities that are not  
2049 equipped with an automatic fire sprinkler system, the  
2050 administrator shall evaluate the evacuation capability of  
2051 residents at least annually. The evacuation capability  
2052 evaluation for each facility not equipped with an automatic fire  
2053 sprinkler system shall be validated, without liability, by the  
2054 State Fire Marshal, by the local fire marshal, or by the local  
2055 authority having jurisdiction over firesafety, before the  
2056 license renewal date. If the State Fire Marshal, local fire  
2057 marshal, or local authority having jurisdiction over firesafety



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2058 has reason to believe that the evacuation capability of a  
2059 facility as reported by the administrator may have changed, it  
2060 may, with assistance from the facility administrator, reevaluate  
2061 the evacuation capability through timed exiting drills.  
2062 Translation of timed fire exiting drills to evacuation  
2063 capability may be determined:

2064 (I) Three minutes or less: prompt.

2065 (II) More than 3 minutes, but not more than 13 minutes:  
2066 slow.

2067 (III) More than 13 minutes: impractical.

2068 b. The Office of the State Fire Marshal shall provide or  
2069 cause the provision of training and education on the proper  
2070 application of Chapter 5, NFPA 101A, 1995 edition, to its  
2071 employees, to staff of the Agency for Health Care Administration  
2072 who are responsible for regulating facilities under this part,  
2073 and to local governmental inspectors. The Office of the State  
2074 Fire Marshal shall provide or cause the provision of this  
2075 training within its existing budget, but may charge a fee for  
2076 this training to offset its costs. The initial training must be  
2077 delivered within 6 months after July 1, 1995, and as needed  
2078 thereafter.

2079 c. The Office of the State Fire Marshal, in cooperation  
2080 with provider associations, shall provide or cause the provision  
2081 of a training program designed to inform facility operators on  
2082 how to properly review bid documents relating to the  
2083 installation of automatic fire sprinklers. The Office of the  
2084 State Fire Marshal shall provide or cause the provision of this  
2085 training within its existing budget, but may charge a fee for  
2086 this training to offset its costs. The initial training must be





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2087 delivered within 6 months after July 1, 1995, and as needed  
2088 thereafter.

2089 d. The administrator of a licensed facility shall sign an  
2090 affidavit verifying the number of residents occupying the  
2091 facility at the time of the evacuation capability evaluation.

2092 2. Firesafety requirements.-

2093 a. Except for the special applications provided herein,  
2094 effective January 1, 1996, the provisions of the National Fire  
2095 Protection Association, Life Safety Code, NFPA 101, 1994  
2096 edition, Chapter 22 for new facilities and Chapter 23 for  
2097 existing facilities shall be the uniform fire code applied by  
2098 the State Fire Marshal for assisted living facilities, pursuant  
2099 to s. 633.022.

2100 b. Any new facility, regardless of size, that applies for a  
2101 license on or after January 1, 1996, must be equipped with an  
2102 automatic fire sprinkler system. The exceptions as provided in  
2103 s. 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein, apply  
2104 to any new facility housing eight or fewer residents. On July 1,  
2105 1995, local governmental entities responsible for the issuance  
2106 of permits for construction shall inform, without liability, any  
2107 facility whose permit for construction is obtained prior to  
2108 January 1, 1996, of this automatic fire sprinkler requirement.  
2109 As used in this part, the term "a new facility" does not mean an  
2110 existing facility that has undergone change of ownership.

2111 c. Notwithstanding any provision of s. 633.022 or of the  
2112 National Fire Protection Association, NFPA 101A, Chapter 5, 1995  
2113 edition, to the contrary, any existing facility housing eight or  
2114 fewer residents is not required to install an automatic fire  
2115 sprinkler system, nor to comply with any other requirement in



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2116 Chapter 23, NFPA 101, 1994 edition, that exceeds the firesafety  
2117 requirements of NFPA 101, 1988 edition, that applies to this  
2118 size facility, unless the facility has been classified as  
2119 impractical to evacuate. Any existing facility housing eight or  
2120 fewer residents that is classified as impractical to evacuate  
2121 must install an automatic fire sprinkler system within the  
2122 timeframes granted in this section.

2123 d. Any existing facility that is required to install an  
2124 automatic fire sprinkler system under this paragraph need not  
2125 meet other firesafety requirements of Chapter 23, NFPA 101, 1994  
2126 edition, which exceed the provisions of NFPA 101, 1988 edition.  
2127 The mandate contained in this paragraph which requires certain  
2128 facilities to install an automatic fire sprinkler system  
2129 supersedes any other requirement.

2130 e. This paragraph does not supersede the exceptions granted  
2131 in NFPA 101, 1988 edition or 1994 edition.

2132 f. This paragraph does not exempt a facility ~~facilities~~  
2133 from other firesafety provisions adopted under s. 633.022 and  
2134 local building code requirements in effect before July 1, 1995.

2135 g. A local government may charge fees only in an amount not  
2136 to exceed the actual expenses incurred by local government  
2137 relating to the installation and maintenance of an automatic  
2138 fire sprinkler system in an existing and properly licensed  
2139 assisted living facility structure as of January 1, 1996.

2140 h. If a licensed facility undergoes major reconstruction or  
2141 addition to an existing building on or after January 1, 1996,  
2142 the entire building must be equipped with an automatic fire  
2143 sprinkler system. Major reconstruction of a building means  
2144 repair or restoration that costs in excess of 50 percent of the



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2145 value of the building as reported on the tax rolls, excluding  
2146 land, before reconstruction. Multiple reconstruction projects  
2147 within a 5-year period the total costs of which exceed 50  
2148 percent of the initial value of the building at the time the  
2149 first reconstruction project was permitted are to be considered  
2150 as major reconstruction. Application for a permit for an  
2151 automatic fire sprinkler system is required upon application for  
2152 a permit for a reconstruction project that creates costs that go  
2153 over the 50 percent ~~50-percent~~ threshold.

2154 i. Any facility licensed before January 1, 1996, that is  
2155 required to install an automatic fire sprinkler system shall  
2156 ensure that the installation is completed within the following  
2157 timeframes based upon evacuation capability of the facility as  
2158 determined under subparagraph 1.:

2159 (I) Impractical evacuation capability, 24 months.

2160 (II) Slow evacuation capability, 48 months.

2161 (III) Prompt evacuation capability, 60 months.

2162

2163 The beginning date from which the deadline for the  
2164 automatic fire sprinkler installation requirement must be  
2165 calculated is upon receipt of written notice from the local fire  
2166 official that an automatic fire sprinkler system must be  
2167 installed. The local fire official shall send a copy of the  
2168 document indicating the requirement of a fire sprinkler system  
2169 to the Agency for Health Care Administration.

2170 j. It is recognized that the installation of an automatic  
2171 fire sprinkler system may create financial hardship for some  
2172 facilities. The appropriate local fire official shall, without  
2173 liability, grant two 1-year extensions to the timeframes for



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2174 installation established herein, if an automatic fire sprinkler  
2175 installation cost estimate and proof of denial from two  
2176 financial institutions for a construction loan to install the  
2177 automatic fire sprinkler system are submitted. However, for any  
2178 facility with a class I or class II, or a history of uncorrected  
2179 class III, firesafety deficiencies, an extension must not be  
2180 granted. The local fire official shall send a copy of the  
2181 document granting the time extension to the Agency for Health  
2182 Care Administration.

2183 k. A facility owner whose facility is required to be  
2184 equipped with an automatic fire sprinkler system under Chapter  
2185 23, NFPA 101, 1994 edition, as adopted herein, must disclose to  
2186 any potential buyer of the facility that an installation of an  
2187 automatic fire sprinkler requirement exists. The sale of the  
2188 facility does not alter the timeframe for the installation of  
2189 the automatic fire sprinkler system.

2190 1. An existing facility ~~facilities~~ required to install an  
2191 automatic fire sprinkler system as a result of construction-type  
2192 restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted  
2193 herein, or evacuation capability requirements shall be notified  
2194 by the local fire official in writing of the automatic fire  
2195 sprinkler requirement, as well as the appropriate date for final  
2196 compliance as provided in this subparagraph. The local fire  
2197 official shall send a copy of the document to the Agency for  
2198 Health Care Administration.

2199 m. Except in cases of life-threatening fire hazards, if an  
2200 existing facility experiences a change in the evacuation  
2201 capability, or if the local authority having jurisdiction  
2202 identifies a construction-type restriction, such that an



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2203 automatic fire sprinkler system is required, it shall be  
2204 afforded time for installation as provided in this subparagraph.

2205  
2206 Facilities that are fully sprinkled and in compliance with  
2207 other firesafety standards are not required to conduct more than  
2208 one of the required fire drills between the hours of 11 p.m. and  
2209 7 a.m., per year. In lieu of the remaining drills, staff  
2210 responsible for residents during such hours may be required to  
2211 participate in a mock drill that includes a review of evacuation  
2212 procedures. Such standards must be included or referenced in the  
2213 rules adopted by the State Fire Marshal. Pursuant to s.  
2214 633.022(1)(b), the State Fire Marshal is the final  
2215 administrative authority for firesafety standards established  
2216 and enforced pursuant to this section. All licensed facilities  
2217 must have an annual fire inspection conducted by the local fire  
2218 marshal or authority having jurisdiction.

2219 3. Resident elopement requirements.—Facilities are required  
2220 to conduct a minimum of two resident elopement prevention and  
2221 response drills per year. All administrators and direct care  
2222 staff must participate in the drills which shall include a  
2223 review of procedures to address resident elopement. Facilities  
2224 must document the implementation of the drills and ensure that  
2225 the drills are conducted in a manner consistent with the  
2226 facility's resident elopement policies and procedures.

2227 (d) All sanitary conditions within the facility and its  
2228 surroundings which will ensure the health and comfort of  
2229 residents. To ensure that inspections are not duplicative, the  
2230 rules must clearly delineate the responsibilities of the agency  
2231 regarding agency's licensure and survey inspections ~~staff,~~ the



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2232 county health departments regarding food safety and sanitary  
2233 inspections, and the local fire marshal regarding firesafety  
2234 inspections ~~authority having jurisdiction over firesafety and~~  
2235 ~~ensure that inspections are not duplicative. The agency may~~  
2236 ~~collect fees for food service inspections conducted by the~~  
2237 ~~county health departments and transfer such fees to the~~  
2238 ~~Department of Health.~~

2239 (h) The care ~~and maintenance~~ of residents, which must  
2240 include, but is not limited to:

- 2241 1. The supervision of residents;
- 2242 2. The provision of personal services;
- 2243 3. The provision of, or arrangement for, social and leisure  
2244 activities;
- 2245 4. The arrangement for appointments and transportation to  
2246 appropriate medical, dental, nursing, or mental health services,  
2247 as needed by residents;
- 2248 5. The management of medication;
- 2249 6. The food service nutritional needs of residents; and
- 2250 7. Resident records. ~~;~~ and
- 2251 ~~8. Internal risk management and quality assurance.~~

2252 (i) Facilities holding an a limited nursing, extended  
2253 congregate care, ~~or limited mental health license.~~

2254 (j) The establishment of specific criteria to define  
2255 appropriateness of resident admission and continued residency in  
2256 a facility holding a standard, ~~limited nursing~~, extended  
2257 congregate care, and limited mental health license.

2258 ~~(l) The establishment of specific policies and procedures~~  
2259 ~~on resident elopement. Facilities shall conduct a minimum of two~~  
2260 ~~resident elopement drills each year. All administrators and~~



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2261 ~~direct care staff shall participate in the drills. Facilities~~  
2262 ~~shall document the drills.~~

2263 (5) Beginning January 1, 2012, the agency shall ~~may~~ use an  
2264 abbreviated biennial standard licensure inspection that consists  
2265 of a review of key quality-of-care standards in lieu of a full  
2266 inspection in a facility that has a good record of past  
2267 performance. However, a full inspection must be conducted in a  
2268 facility that has a history of class I or class II violations,  
2269 uncorrected class III violations, confirmed ombudsman council  
2270 complaints, or confirmed licensure complaints, within the  
2271 previous licensure period immediately preceding the inspection  
2272 or if a potentially serious problem is identified during the  
2273 abbreviated inspection. The agency, in consultation with the  
2274 department, shall develop, maintain, and update the key quality-  
2275 of-care standards with input from the State Long-Term Care  
2276 Ombudsman Council and representatives of associations and  
2277 organizations representing assisted living facilities ~~provider~~  
2278 ~~groups~~ for incorporation into its rules.

2279 Section 30. Section 429.42, Florida Statutes, is amended to  
2280 read:

2281 429.42 Pharmacy and dietary services.—

2282 (1) Any assisted living facility in which the agency has  
2283 documented a class I or class II violation ~~deficiency~~ or  
2284 uncorrected class III violations ~~deficiencies~~ regarding  
2285 medicinal drugs or over-the-counter preparations, including  
2286 their storage, use, delivery, or administration, or dietary  
2287 services, or both, during a biennial survey or a monitoring  
2288 visit or an investigation in response to a complaint, shall, in  
2289 addition to or as an alternative to any penalties imposed under



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2290 s. 429.19, be required to employ the consultant services of a  
2291 licensed pharmacist, a licensed registered nurse, or a  
2292 registered or licensed dietitian, as applicable. The consultant  
2293 shall, at a minimum, provide onsite quarterly consultation until  
2294 the inspection team from the agency determines that such  
2295 consultation services are no longer required.

2296 ~~(2) A corrective action plan for deficiencies related to~~  
2297 ~~assistance with the self-administration of medication or the~~  
2298 ~~administration of medication must be developed and implemented~~  
2299 ~~by the facility within 48 hours after notification of such~~  
2300 ~~deficiency, or sooner if the deficiency is determined by the~~  
2301 ~~agency to be life-threatening.~~

2302 ~~(3) The agency shall employ at least two pharmacists~~  
2303 ~~licensed pursuant to chapter 465 among its personnel who~~  
2304 ~~biennially inspect assisted living facilities licensed under~~  
2305 ~~this part, to participate in biennial inspections or consult~~  
2306 ~~with the agency regarding deficiencies relating to medicinal~~  
2307 ~~drugs or over-the-counter preparations.~~

2308 ~~(2)-(4)~~ The department may by rule establish procedures and  
2309 specify documentation as necessary to implement this section.

2310 Section 31. Section 429.445, Florida Statutes, is amended  
2311 to read:

2312 429.445 Compliance with local zoning requirements. ~~No~~  
2313 ~~facility licensed under this part may commence any construction~~  
2314 ~~which will expand the size of the existing structure unless the~~  
2315 ~~licensee first submits to the agency proof that such~~  
2316 ~~construction will be in compliance with applicable local zoning~~  
2317 ~~requirements.~~ Facilities with a licensed capacity of less than  
2318 15 persons shall comply with the provisions of chapter 419.





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2319 Section 32. Section 429.47, Florida Statutes, is amended to  
2320 read:

2321 429.47 Prohibited acts; ~~penalties for violation.~~

2322 (1) While an assisted living ~~a~~ facility is under  
2323 construction or is seeking licensure, the owner may advertise to  
2324 the public prior to obtaining a license. Facilities that are  
2325 certified under chapter 651 shall comply with the advertising  
2326 provisions of s. 651.095 rather than those provided for in this  
2327 subsection.

2328 ~~(2) A freestanding facility shall not advertise or imply~~  
2329 ~~that any part of it is a nursing home. For the purpose of this~~  
2330 ~~subsection, "freestanding facility" means a facility that is not~~  
2331 ~~operated in conjunction with a nursing home to which residents~~  
2332 ~~of the facility are given priority when nursing care is~~  
2333 ~~required. A person who violates this subsection is subject to~~  
2334 ~~fine as specified in s. 429.19.~~

2335 ~~(2)(3)~~ Any facility that ~~which~~ is affiliated with any  
2336 religious organization or which has a name implying religious  
2337 affiliation shall include in its advertising whether or not it  
2338 is affiliated with any religious organization and, if so, which  
2339 organization.

2340 ~~(3)(4)~~ A facility licensed under this part which is not  
2341 part of a facility authorized under chapter 651 shall include  
2342 the facility's license number as given by the agency in all  
2343 advertising. A company or person owning more than one facility  
2344 shall include at least one license number per advertisement. All  
2345 advertising shall include the term "assisted living facility"  
2346 before the license number.

2347 Section 33. Subsection (1) of section 429.49, Florida



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2348 Statutes, is amended to read:

2349       429.49 Resident records; penalties for alteration.—

2350       (1) Any person who fraudulently alters, defaces, or  
2351 falsifies any medical record or any resident's ~~other~~ record of  
2352 an assisted living facility, or causes or procures any such  
2353 offense to be committed, commits a misdemeanor of the second  
2354 degree, punishable as provided in s. 775.082 or s. 775.083.

2355       Section 34. Subsections (3), (5), and (8) of section  
2356 429.52, Florida Statutes, are amended, present subsection (11)  
2357 of that section is redesignated as subsection (12), and a new  
2358 subsection (11) is added to that section, read:

2359       429.52 Staff training and educational programs; core  
2360 educational requirement.—

2361       (3) Effective January 1, 2004, a new facility administrator  
2362 must complete the required training and education, including the  
2363 competency test, within a reasonable time after being employed  
2364 as an administrator, as determined by the department. Failure to  
2365 do so is a violation of this part and subjects the violator to  
2366 an administrative fine as prescribed in s. 429.19.

2367 Administrators licensed in accordance with part II of chapter  
2368 468 are exempt from this requirement. ~~Other licensed~~  
2369 ~~professionals may be exempted, as determined by the department~~  
2370 ~~by rule.~~

2371       (5) Staff involved with the management of medications and  
2372 assisting with the self-administration of medications under s.  
2373 429.256 must complete a minimum of 4 additional hours of  
2374 training provided by a registered nurse, licensed pharmacist, or  
2375 department staff and must complete 2 hours of continuing  
2376 education training annually. ~~The department shall establish by~~



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2377 ~~rule the minimum requirements of this additional training.~~

2378 (8) The department shall adopt rules related to these  
2379 training requirements, the competency test, necessary  
2380 procedures, and competency test fees and shall adopt or contract  
2381 with another entity to develop a curriculum, which shall be used  
2382 as the minimum core training requirements. The department shall  
2383 consult with representatives of ~~stakeholder~~ associations,  
2384 organizations representing assisted living facilities, and  
2385 agencies in the development of the curriculum.

2386 (11) A training provider certified by the department must  
2387 continue to meet continuing education requirements and other  
2388 standards as set forth in rules adopted by the department. A  
2389 training provider or trainee may be sanctioned pursuant to s.  
2390 430.081 for failing to comply with the standards set forth in  
2391 the rules.

2392 Section 35. Subsections (1) and (2) of section 429.53,  
2393 Florida Statutes, are amended to read:

2394 429.53 Consultation by the agency.—

2395 (1) ~~The area offices of licensure and certification of the~~  
2396 agency shall provide consultation to the following upon request:

2397 (a) A licensee of a facility.

2398 (b) A person interested in obtaining a license to operate a  
2399 facility under this part.

2400 (2) As used in this section, "consultation" includes:

2401 (a) An explanation of the requirements of this part and  
2402 rules adopted pursuant thereto;

2403 (b) An explanation of the license application and renewal  
2404 procedures; and

2405 ~~(c) The provision of a checklist of general local and state~~



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2406 ~~approvals required prior to constructing or developing a~~  
2407 ~~facility and a listing of the types of agencies responsible for~~  
2408 ~~such approvals;~~

2409 ~~(d) An explanation of benefits and financial assistance~~  
2410 ~~available to a recipient of supplemental security income~~  
2411 ~~residing in a facility;~~

2412 ~~(c)(e)~~ Any other information which the agency deems  
2413 necessary to promote compliance with the requirements of this  
2414 part.; and

2415 ~~(f) A preconstruction review of a facility to ensure~~  
2416 ~~compliance with agency rules and this part.~~

2417 Section 36. Section 429.54, Florida Statutes, is repealed.

2418 Section 37. Paragraph (a) of subsection (1) and subsections  
2419 (5) and (6) of section 429.71, Florida Statutes, are amended to  
2420 read:

2421 429.71 Classification of deficiencies; administrative  
2422 fines.-

2423 (1) In addition to the requirements of part II of chapter  
2424 408 and ~~in addition to~~ any other liability or penalty provided  
2425 by law, the agency may impose an administrative fine on a  
2426 provider according to the following classification:

2427 (a) Class I violations are those conditions or practices  
2428 related to the operation and maintenance of an adult family-care  
2429 home or to the care of residents which the agency determines  
2430 present an imminent danger to the residents or guests of the  
2431 adult family-care home facility or a substantial probability  
2432 that death or serious physical or emotional harm would result  
2433 therefrom. The condition or practice that constitutes a class I  
2434 violation must be abated or eliminated within 24 hours, unless a



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2435 fixed period, as determined by the agency, is required for  
2436 correction. A class I violation ~~deficiency~~ is subject to an  
2437 administrative fine in an amount not less than \$500 and not  
2438 exceeding \$1,000 for each violation. A fine may be levied  
2439 notwithstanding the correction of the violation ~~deficiency~~.

2440 ~~(5) As an alternative to or in conjunction with an~~  
2441 ~~administrative action against a provider, the agency may request~~  
2442 ~~a plan of corrective action that demonstrates a good faith~~  
2443 ~~effort to remedy each violation by a specific date, subject to~~  
2444 ~~the approval of the agency.~~

2445 (5) ~~(6)~~ The department shall set forth, by rule, notice  
2446 requirements and procedures for correction of violations  
2447 ~~deficiencies~~.

2448 Section 38. Subsection (3) is added to section 429.81,  
2449 Florida Statutes, to read:

2450 429.81 Residency agreements.—

2451 (3) Each residency agreement must specify that the resident  
2452 must give the provider a 30 days' written notice of intent to  
2453 terminate his or her residency from the adult family-care home.

2454 Section 39. Section 430.081, Florida Statutes, is created  
2455 to read:

2456 430.081 Sanctioning of training providers and trainees.—The  
2457 Department of Elderly Affairs may sanction training providers  
2458 and trainees for infractions involving any required training  
2459 that the department has the authority to regulate under chapter  
2460 400, chapter 429, or chapter 430 in order to ensure that such  
2461 training providers and trainees satisfy specific qualification  
2462 requirements and adhere to training curricula that is approved  
2463 by the department. Training infractions include, but are not



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2464 limited to, falsification of training records, falsification of  
2465 training certificates, falsification of a training provider's  
2466 qualifications, failure to adhere to the required number of  
2467 training hours, failure to use the required curriculum, failure  
2468 to maintain the continuing education for the training provider's  
2469 recertification, failure to obtain reapproval of a curriculum  
2470 when required, providing false or inaccurate information,  
2471 misrepresentation of the required materials, and use of a false  
2472 identification as a training provider or trainee. Sanctions may  
2473 be progressive in nature and may consist of corrective action  
2474 measures; suspension or termination from participation as an  
2475 approved training provider or trainee, including sitting for any  
2476 required examination; and administrative fines not to exceed  
2477 \$1,000 per incident. One or more sanctions may be levied per  
2478 incident.

2479       Section 40. Paragraph (j) is added to subsection (3) of  
2480 section 817.505, Florida Statutes, to read:

2481       817.505 Patient brokering prohibited; exceptions;  
2482 penalties.-

2483       (3) This section shall not apply to:

2484       (j) Any payments by an assisted living facility, as defined  
2485 in s. 429.02, which are permitted under s. 429.195(3).

2486       Section 41. Licensure fees adjusted by consumer price index  
2487 increases prior to this act are not intended to be reset by this  
2488 act and may continue to accrue as authorized in law.

2489       Section 42. This act shall take effect July 1, 2011.