

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 1458

INTRODUCER: Senator Garcia

SUBJECT: Assisted Living Communities

DATE: March 26, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	Pre-meeting
2.	_____	_____	CF	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill moves the licensure requirements for assisted living facilities (ALFs), adult family-care homes, and adult day care centers, out of part II of ch. 408, F.S., and into a new part created within ch. 429, F.S., which is to be entitled the “Assisted Care Communities Licensing Procedures Act.”

The provisions moved to ch. 429, F.S., include license fees, the license application process, change of ownership, licensing categories, background screening of specified employees, minimum licensure requirements, discontinuance of operation and surrender of license, provision of statewide toll-free numbers for reporting complaints and abuse, inspections, public records and record retention, unlicensed activity, administrative fines, moratorium or emergency suspension, denial or revocation of a license, injunctive proceedings, emergency operations, overcapacity, and provision of notice to residents.

This bill substantially amends the following sections of the Florida Statutes: 101.62, 101.655, 159.27, 196.1975, 202.125, 205.1965, 252.357, 252.385, 380.06, 381.006, 381.0072, 381.0303, 394.455, 394.4574, 394.462, 394.4625, 394.75, 394.9082, 400.0060, 400.0069, 400.0074, 400.0239, 400.141, 400.148, 400.1755, 400.464, 400.471, 400.474, 400.497, 400.506, 400.6045, 400.605, 400.609, 400.701, 400.925, 400.93, 405.01, 408.033, 408.802, 408.806, 408.820, 408.831, 408.832, 409.212, 409.221, 409.906, 409.907, 409.912, 410.031, 410.034, 410.502, 415.102, 415.1034, 415.1051, 415.107, 420.626, 429.01, 429.02, 429.04, 429.07, 429.075, 429.08, 429.11, 429.12, 429.14, 429.17, 429.174, 429.177, 429.178, 429.18, 429.19, 429.195, 429.20, 429.22, 429.23, 429.24, 429.255, 429.256, 429.26, 429.27, 429.275, 429.28, 429.293, 429.294, 429.298, 429.31, 429.34, 429.35, 429.41, 429.42, 429.44, 429.445, 429.47, 429.49, 429.52, 429.53, 429.65, 429.67, 429.69, 429.71, 429.73, 429.75, 429.81, 429.83, 429.85, 429.87,

429.901, 429.905, 429.907, 429.909, 429.911, 429.913, 429.915, 429.917, 429.919, 429.925, 429.927, 429.929, 430.071, 430.601, 456.053, 458.348, 459.025, 468.1695, 468.505, 553.73, 627.94073, 633.021, 633.022, 641.31, 651.083, 825.101, 893.055, and 893.13.

This bill creates the following sections of the Florida Statutes: 429.001, 429.002, 429.003, 429.004, 429.005, 429.006, 429.007, 429.008, 429.009, 429.0105, 429.011, 429.012, 429.013, 429.014, 429.015, 429.016, 429.017, 429.018, 429.019, 429.926,

This bill repeals s. 429.54, F.S.

II. Present Situation:

Assisted Living Facilities

An ALF is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.^{1, 2} A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.³ Activities of daily living include: ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.

The ALFs are licensed by the Agency for Health Care Administration (AHCA) pursuant to part I of ch. 429, F.S., relating to assisted care communities, and part II of ch. 408, F.S., relating to the general licensing provisions for health care facilities. The ALFs are also subject to regulation under Chapter 58A-5, Florida Administrative Code (F.A.C.). These rules are adopted by the Department of Elderly Affairs (DOEA) in consultation with the AHCA, the Department of Children and Family Services, and the Department of Health (DOH).⁴ An ALF must also comply with the Uniform Fire Safety Standards for ALFs contained in Chapter 69A-40, F.A.C., and standards enforced by the DOH concerning food hygiene; physical plant sanitation; biomedical waste; and well, pool, or septic systems.⁵

There are currently 2,932 licensed ALFs in Florida.⁶ In addition to a standard license, an ALF may have specialty licenses that authorize an ALF to provide limited nursing services (LNS), limited mental health (LMH) services,⁷ and extended congregate care (ECC) services.

¹ Section 429.02(5), F.S.

² An ALF does not include an adult family-care home or a nontransient public lodging establishment. An adult family-care home is regulated under ss. 429.60 – 429.87, F.S., and is defined as a full-time, family-type living arrangement in a private home where the person who owns or rents the home, lives in the home. An adult family-care home provides room, board, and personal care, on a 24-hour basis, for no more than five disabled adults or frail elders, who are not relatives. A nontransient establishment (a.k.a. boarding house) is regulated under part I of ch. 509, F.S., and is defined as any public lodging establishment that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole residence of the guest.

³ Section 429.02(16), F.S.

⁴ Section 429.41(1), F.S.

⁵ See ch. 64E-12, ch. 64E-11, and 64E-16, F.A.C.

⁶ Senate professional staff of the Health Regulation Committee received this information via email on March 25, 2011. A copy of the email is on file with the committee.

⁷ An ALF that serves three or more mental health residents must obtain a limited mental health specialty license. A mental health resident is an individual who receives social security disability income (SSDI) due to a mental disorder or

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility. Generally, the care and services include at a minimum:

- Supervising the resident in order to monitor the resident's diet; being aware of the general health, safety, and physical and emotional well-being of the resident; and recording significant changes, illnesses, incidents, and other changes which resulted in the provision of additional services;
- Contacting appropriate persons upon a significant change in the resident or if the resident is discharged or moves out;
- Providing and coordinating social and leisure activities in keeping with each resident's needs, abilities, and interests;
- Arranging for health care by assisting in making appointments, reminding residents about scheduled appointments, and providing or arranging for transportation as needed; and
- Providing to the resident a copy of, and adhering to, the Resident Bill of Rights.

An unlicensed person who has received the appropriate training may assist a resident in an ALF with the self-administration of medication. Persons under contract to the ALF, employees, or volunteers,⁸ who are licensed under the nurse practice act⁹ and uncompensated family members or friends may:¹⁰

- Administer medications to residents;
- Take a resident's vital signs;
- Manage individual weekly pill organizers for residents who self-administer medication;
- Give prepackaged enemas ordered by a physician; and
- Observe residents, document observations on the appropriate resident's record, and report observations to the resident's physician.

Additionally, in an emergency situation, persons licensed under the nurse practice act may carry out their professional duties until emergency medical personnel assume responsibility for care. A resident may independently arrange, contract, and pay for additional services provided by a third party of the resident's choice.

The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on an assessment of the strengths, needs, and preferences of the individual; the health assessment; the preliminary service plan; the facility's residency criteria; services offered or arranged for by the facility to meet resident needs; and the ability of the facility to meet the uniform fire safety standards.¹¹

A resident who requires 24-hour nursing supervision¹² may not reside in an ALF, unless the resident is enrolled as a hospice patient. Continued residency of a hospice patient is conditioned

supplemental security income (SSI) due to a mental disorder, and receives OSS.

⁸ An association spokesperson stated in an e-mail to Senate Health Regulation Committee professional staff that ALFs do not currently use volunteers for these purposes due to liability issues.

⁹ Part I of ch. 464, F.S.

¹⁰ Section 429.255, F.S.

¹¹ Section 429.255, F.S., s. 429.26, F.S., and Rule 58A-5.030, F.A.C.

¹² Twenty-four-hour nursing supervision means services that are ordered by a physician for a resident whose condition requires the supervision of a physician and continued monitoring of vital signs and physical status. Such services must be:

upon a mutual agreement between the resident and the facility, additional care being rendered through a licensed hospice, and the resident being under the care of a physician who agrees that the physical needs of the resident are being met.

If a resident no longer meets the criteria for continued residency, or the facility is unable to meet the resident's needs, as determined by the facility administrator or health care provider, the resident must be discharged in accordance with the Resident Bill of Rights.¹³

Limited Nursing Services Specialty License

A limited nursing services (LNS) specialty license enables an ALF to provide, directly or through contract, a select number of nursing services in addition to the personal services that are authorized under the standard license.

The nursing services authorized to be provided with this license are limited to acts specified in administrative rules,¹⁴ may only be provided as authorized by a health care provider's order, and must be conducted and supervised in accordance with ch. 464, F.S., relating to nursing, and the prevailing standard of practice in the nursing community. A nursing assessment, that describes the type, amount, duration, scope, and outcomes or services that are rendered and the general status of the resident's health, is required to be conducted at least monthly on each resident who receives a limited nursing service.

An LNS licensee is subject to monitoring inspections by the AHCA or its agents at least twice a year. At least one registered nurse must be included in the inspection team to monitor residents receiving LNS and to determine if the facility is complying with applicable regulatory requirements.¹⁵

The biennial fee for an LNS license is \$304 per license with an additional fee of \$10 per resident based on the total licensed resident capacity of the facility.¹⁶ Ostensibly this fee covers the additional monitoring inspections currently required of facilities with an LNS license.

medically complex enough to require constant supervision, assessment, planning, or intervention by a nurse; required to be performed by or under the direct supervision of licensed nursing personnel or other professional personnel for safe and effective performance; required on a daily basis; and consistent with the nature and severity of the resident's condition or disease state or stage. Definition found at s. 429.02(26), F.S.

¹³ Section 429.28, F.S.

¹⁴ Rule 58A-5.031, F.A.C. The additional nursing services that might be performed pursuant to the LNS license include: conducting passive range of motion exercises; applying ice caps or collars; applying heat, including dry heat, hot water bottle, heating pad, aquathermia, moist heat, hot compresses, sitz bath and hot soaks; cutting the toenails of diabetic residents or residents with a documented circulatory problem if the written approval of the resident's health care provider has been obtained; performing ear and eye irrigations; conducting a urine dipstick test; replacing an established self-maintained indwelling urinary catheter, or performing an intermittent urinary catheterization; performing digital stool removal therapies; applying and changing routine dressings that do not require packing or irrigation, but are for abrasions, skin tears and closed surgical wounds; caring for stage 2 pressure sores, (care for stage 3 or 4 pressure sores are not permitted); caring for casts, braces and splints, (care for head braces, such as a halo, is not permitted); assisting, applying, caring for, and monitoring the application of anti-embolism stockings or hosiery; administering and regulating portable oxygen; applying, caring for, and monitoring a transcutaneous electric nerve stimulator (TENS); performing catheter, colostomy, and ileostomy care and maintenance; conducting nursing assessments; and, for hospice patients, providing any nursing service permitted within the scope of the nurse's license, including 24-hour nursing supervision.

¹⁵ Section 429.07(3)(c), F.S.

¹⁶ Section 429.07(4)(c), F.S., as adjusted per s. 408.805(2), F.S.

Extended Congregate Care Specialty License

An extended congregate care (ECC) specialty license enables an ALF to provide, directly or through contract, services performed by licensed nurses and supportive services¹⁷ to persons who otherwise would be disqualified from continued residence in an ALF.¹⁸

The primary purpose of ECC services is to allow residents, as they become more impaired with physical or mental limitations, to remain in a familiar setting. An ALF licensed to provide ECC services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the ECC facility. Facilities licensed to provide ECC services may adopt their own criteria and requirements for admission and continued residency in addition to the minimum criteria specified in law.

An ECC program may provide additional services, such as:

- Total help with bathing, dressing, grooming, and toileting;
- Nursing assessments conducted more frequently than monthly;
- Measuring and recording basic vital functions and weight;
- Dietary management, including providing special diets, monitoring nutrition, and observing the resident's food and fluid intake and output;
- Administering medications and treatments pursuant to a health care provider's order;
- Supervising residents with dementia and cognitive impairments;
- Health education, counseling, and implementing health-promoting programs;
- Rehabilitative services; and
- Escort services to health-related appointments.

An individual must undergo a medical examination before admission to an ALF with the intention of receiving ECC services or upon transfer within the same facility to that portion of the facility licensed to provide ECC services. The ALF must develop a service plan¹⁹ that sets forth how the facility will meet the resident's needs and must maintain a written progress report on each resident who receives ECC services.

A supervisor, who may also be the administrator, must be designated to be responsible for the day-to-day management of the ECC program and ECC resident service planning. A nurse, provided as staff or by contract, must be available to provide nursing services as needed by ECC residents, participate in the development of resident service plans, and perform the monthly nursing assessment for each resident receiving ECC services. The ECC licensed ALF must provide awake staff to meet resident scheduled and unscheduled night needs.²⁰

¹⁷ Supportive services include social service needs, counseling, emotional support, networking, assistance with securing social and leisure services, shopping service, escort service, companionship, family support, information and referral, assistance in developing and implementing self-directed activities, and volunteer services. *See* Rule 58A-5.030(8), F.A.C.

¹⁸ Section 429.07(3)(b), F.S., and Rule 58A-5.030, F.A.C. *See also* AHCA, 2011 Bill Analysis & Economic Impact Statement for SB 1458, on file with the committee.

¹⁹ Section 429.02(21), F.S.

²⁰ Rule 58A-5.030, F.A.C.

Persons under contract to the ECC, employees, or volunteers, who are licensed under the nurse practice act,²¹ including certified nursing assistants, may perform all duties within the scope of their license or certification, as approved by the facility administrator.²² These nursing services must be authorized by a health care provider's order and pursuant to a plan of care; medically necessary and appropriate treatment for the condition; in accordance with the prevailing standard of practice in the nursing community and the resident's service plan; a service that can be safely, effectively, and efficiently provided in the facility; and recorded in nursing progress notes.²³

An ECC licensee is subject to quarterly monitoring inspections by the AHCA or its agents. At least one registered nurse must be included in the inspection team. The AHCA may waive one of the required yearly monitoring visits for an ECC facility that has been licensed for at least 24 months, if the registered nurse who participated in the monitoring inspections determines that the ECC services are being provided appropriately and there are no serious violations or substantiated complaints about the quality of service or care.

Limited Mental Health Specialty License

An ALF that serves three or more mental health residents must obtain an LMH specialty license.²⁴

A mental health resident is an individual who receives social security disability income (SSDI) due to a mental disorder or supplemental security income (SSI) due to a mental disorder, and receives optional state supplementation (OSS).²⁵ The DCF is responsible for ensuring that a mental health resident is assessed and determined able to live in the community in an ALF with an LMH license.²⁶

An ALF licensed to provide LMH services must assist the mental health resident in carrying out the activities in the resident's community living support plan. The mental health resident's community living support plan, which is updated annually, includes:²⁷

- The specific needs of the resident which must be met for the resident to live in the ALF and community;
- The clinical mental health services to be provided by the mental health care provider to help meet the resident's needs;
- Any other services and activities to be provided by or arranged for by the mental health care provider or mental health case manager to meet the resident's needs;
- Obligations of the ALF to facilitate and assist the resident in attending appointments and arranging transportation to appointments for the services and activities identified in the plan;
- A description of other services to be provided or arranged by the ALF; and

²¹ Part I of ch. 464, F.S.

²² Section 429.255(2), F.S.

²³ Rule 58A-5.030(8)(c), F.A.C.

²⁴ Section 429.075, F.S.

²⁵ Section 429.02(15), F.S.

²⁶ Section 394.4574, F.S., requires a mental health resident to be assessed by a psychiatrist, clinical psychologist, clinical social worker, psychiatric nurse, or an individual who is supervised by one of these professionals to determine whether it is appropriate for the person to reside in an ALF.

²⁷ Rule 58A-5.029, F.A.C.

- A list of factors pertinent to the care, safety, and welfare of the mental health resident and a description of the signs and symptoms particular to the resident that indicates the immediate need for professional mental health services.

The LMH licensee must execute a cooperative agreement between the ALF and the mental health care services provider. The cooperative agreement specifies, among other things, directions for the ALF accessing emergency and after-hours care for the mental health resident. The administrator, manager, and staff in direct contact with mental health residents in an LMH licensed facility must complete LMH training provided or approved by the DCF.²⁸

Licensure Fees

The biennial licensure fees for the ALF standard license and specialty licenses are found in s. 429.07(4), F.S. This section refers to the general health care licensure provisions in part II of ch. 408, F.S. Section 408.805, F.S., provides for licensure fees to be adjusted annually by not more than the change in the Consumer Price Index (CPI) based on the 12 months immediately preceding the increase. The following chart reflects the licensure fees contained in s. 429.07(4), F.S., and the adjusted licensure fees based on the CPI that are currently in effect.²⁹

Fee Description	Per s. 429.07(4), F.S.	CPI adjusted (current fee)
Standard ALF Application Fee	\$300	\$366
Standard ALF Per-Bed Fee (non-OSS)	\$ 50	\$ 61
Total Licensure fee for Standard ALF	\$10,000	\$13,443
ECC Application Fee	\$400	\$515
ECC Per-Bed Fee (licensed capacity)	\$ 10	\$ 10
LNS Application Fee	\$250	\$304
LNS Per-Bed Fee (licensed capacity)	\$ 10	\$ 10

Adult Family-Care Homes

Part II of ch. 429, F.S., consists of the Adult Family-Care Home Act. This act regulates the provision of care for disabled adults and frail elders in family-type living arrangements in private homes. Adult family-care homes provide housing and personal care for disabled adults and frail elders who choose to live with an individual or family in a private home. The personal care available in these homes, which may be provided directly or through contract or agreement, is intended to help residents remain as independent as possible in order to delay or avoid placement in a nursing home or other institution. Regulations governing adult family-care homes must be sufficiently flexible to allow residents to age in place if resources are available to meet their needs and accommodate their preferences.³⁰

“Adult family-care home” means a full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board, and personal care, on a

²⁸ Rule 58A-5.0191(8), F.A.C.

²⁹ Found on the AHCA website at: http://ahca.myflorida.com/MCHQ/LONG_TERM_CARE/Assisted_living/alf/ALF_fee_increase.pdf, (Last visited on March 25, 2011).

³⁰ Section 429.63, F.S.

24-hour basis, for no more than five disabled adults or frail elders who are not relatives. The following family-type living arrangements are not required to be licensed as an adult family-care home:

- An arrangement whereby the person who owns or rents the home provides room, board, and personal services for not more than two adults who do not receive optional state supplementation under s. 409.212, F.S. The person who provides the housing, meals, and personal care must own or rent the home and reside therein.
- An arrangement whereby the person who owns or rents the home provides room, board, and personal services only to his or her relatives.
- An establishment that is licensed as an assisted living facility under this chapter.

A provider must be licensed by AHCA under part II of ch. 408, F.S., in order to operate an adult family-care home in Florida.

Access to a licensed adult family-care home must be provided at reasonable times for the appropriate officials of the DOEA, the DOH, the Department of Children and Family Services, the AHCA, and the State Fire Marshal, who are responsible for the development and maintenance of fire, health, sanitary, and safety standards, to inspect the facility to assure compliance with these standards. In addition, access to a licensed adult family-care home must be provided at reasonable times for the local long-term care ombudsman council.

The licensed maximum capacity of each adult family-care home is based on the service needs of the residents and the capability of the provider to meet the needs of the residents. Any relative who lives in the adult family-care home and who is a disabled adult or frail elder must be included in that limitation.

The resident's Bill of Rights for adult family-care homes is provided in s. 429.85, F.S.

Adult Day Care Centers

Part III of ch. 429, F.S., governs the regulation of adult day care centers. An "adult day care center" is any building, buildings, or part of a building, whether operated for profit or not, that provides for a part of a day basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services. Basic services include providing a protective setting that is as noninstitutional as possible; therapeutic programs of social and health activities and services; leisure activities; self-care training; rest; nutritional services; and respite care.

A provider must be licensed by AHCA under part II of ch. 408, F.S., in order to operate an adult day care center in Florida and must furnish the AHCA with a description of the physical and mental capabilities and needs of the participants to be served and the availability, frequency, and intensity of basic services and of supportive and optional services to be provided and proof of adequate liability insurance coverage to obtain such licensure.

The AHCA or DOEA has the right to enter the premises of any licensed adult day care center, at any reasonable time, in order to determine the state of compliance with part III of ch. 429, F.S., part II of ch. 408, and any applicable rules.

Senate Interim Project Report 2010-118

During the 2009-2010 interim, professional staff of the Senate Committee on Health Regulation reviewed the licensure structure for ALFs. The recommendations in the resulting report are to repeal the LNS specialty license and authorize a standard-licensed ALF to provide the nursing services currently authorized under the LNS license; require an additional inspection fee, adjusted for inflation, for a facility that indicates that it intends to provide LNS; require each ALF to periodically report electronically information, as determined by rule, related to resident population, characteristics, and attributes; authorize the AHCA to determine the number of additional monitoring inspections required for an ALF that provides LNS based on the type of nursing services provided and the number of residents who received LNS as reported by the ALF; and repeal the requirement for the AHCA to inspect *all* the ECC licensees quarterly, instead targeting monitoring inspections for those facilities with residents receiving ECC services.

III. Effect of Proposed Changes:

This bill moves the licensure requirements for ALFs, adult family-care homes, and adult day care centers, out of part II of ch. 408, F.S., and into a new part created within ch. 429, F.S., which is to be entitled the “Assisted Care Communities Licensing Procedures Act.”

Sections 1, 2, 3, 4, 5, and 6 amend the following sections of Florida Statutes to delete references to ch. 429, F.S., ALFs, adult family-care homes, and adult day care centers:

- s. 400.141, F.S., related to administration and management of nursing home facilities;
- s. 408.802, F.S., related to the applicability of part II of ch. 408, F.S., to require licensure for specified provider services;
- s. 408.806, F.S., related to the license application process;
- s. 408.820, F.S., related to certain exemptions;
- s. 408.831, F.S., related to the denial, suspension, or revocation of a license, registration, certificate, or application; and
- s. 408.832, F.S., related to conflicts between part II of ch. 408, F.S., and an authorizing statute governing the licensure of health care providers.

Section 7 designates current part I of ch. 429, F.S., which is entitled “Assisted Living Facilities” as part II of ch. 429, F.S., and this part is renamed “Assisted Living Residences.”

Section 8 designates current part II of ch. 429, F.S., which is entitled “Adult Family-Care Homes” as part III of ch. 429, F.S.

Section 9 designates current part III of ch. 429, F.S., which is entitled “Adult Day Care Centers” as part IV of ch. 429, F.S.

Section 10 creates a new part I of ch. 429, F.S., which is to be entitled the “Assisted Care Communities Licensing Procedure Act.”

This section provides legislative intent that, in order to provide appropriate services for elderly persons and adults in need of assistance with activities of daily living, allow those persons to remain in their own homes or reside in a residential homelike environment that is a community-based social model with a health component rather than a medical or nursing home facility, and maximize a person's dignity and independence, assisted care communities should be operated as residential homelike environments with supportive services and not as medical or nursing home facilities and should be regulated in a less restrictive manner than those facilities.

Definitions

This section provides definitions for the following terms: "agency," "applicant," "assisted care community," "change of ownership," "controlling interest," "department," "license," "licensee," "moratorium," "participant," and "resident."

"Assisted care community" means an assisted living residence, adult family-care home, or adult day care center.

The term "change of ownership" is defined as an event in which the licensee sells or otherwise transfers its ownership to a different individual or entity as evidenced by a change in the federal employer identification number or taxpayer identification number; or an event in which 51 percent or more of the ownership, shares, membership, or controlling interest of a licensee is in any manner transferred or otherwise assigned, but this definition does not include a licensee that is publicly traded on a recognized stock exchange.

The term "controlling interest" means the applicant or licensee or a person or entity that has a 51-percent or greater ownership interest in the applicant or licensee.

Licensure

This section prohibits operating an assisted care community without first obtaining a license and provides certain licensing requirements for an assisted care community including the following:

- The license must be displayed in a conspicuous place readily visible to the public who enter at the address that appears on the license and is valid only in the hands of the licensee to whom it is issued.
- The license may not be sold, assigned, or otherwise transferred, voluntarily or involuntarily and it is valid only for the licensee and the location for which the license is issued.
- An application for licensure must be made to the AHCA on forms furnished by the AHCA, submitted under oath, and accompanied by the appropriate fee in order to be accepted and considered timely. The application must contain information required under ch. 429, F.S., and applicable rules and must include:
 - The name, address, and social security number of: the applicant, the administrator or a similarly titled person who is responsible for the day-to-day operation of the assisted care community, the financial officer or similarly titled person who is responsible for the financial operation of the assisted care community, and each controlling interest if the applicant or controlling interest is an individual.
 - The name, address, and federal employer identification number or taxpayer identification number of the applicant and each controlling interest if the applicant or controlling interest is not an individual.
 - The name by which the assisted care community is to be known.

- The total number of beds or capacity requested, as applicable.
- The name of the person or persons under whose management or supervision the licensee will operate and the name of the administrator, if required.
- Proof that the applicant has obtained a certificate of authority as required for operation under ch. 651, F.S., if the applicant offers continuing care agreements as defined in ch. 651, F.S.
- Other information, including satisfactory inspection results, which the AHCA finds necessary to determine the ability of the applicant to carry out its responsibilities under part I of ch. 429, F.S., and applicable rules.
- An affidavit, under penalty of perjury, as required in s. 435.05(3), F.S., stating compliance with the licensing requirements under part I of ch. 429, F.S., and ch. 435, F.S.
- The applicant for a renewal license must submit an application that must be received by the AHCA at least 60 days but no more than 120 days before the expiration of the current license and if received more than 120 days before the expiration of the current license it must be returned to the applicant. If the renewal application and fee are received before the license expiration date, the license shall not be deemed to have expired if the license expiration date occurs during the AHCA's review of the renewal application.
- The applicant for initial licensure due to a change of ownership must submit an application that must be received by the AHCA at least 60 days before the date of change of ownership.
- For any other application or request, the applicant must submit an application or request that must be received by the AHCA at least 60 days but no more than 120 days before the requested effective date and if received more than 120 days before the requested effective date it shall be returned to the applicant.
- The applicant must submit proof of compliance with the licensure requirements under s. 429.009, F.S.
- An applicant must demonstrate compliance with the requirements in ch. 429, F.S., and applicable rules during an inspection pursuant to s. 429.0105, F.S., as required by part II, part III, or part IV of ch. 429, F.S. If an inspection is required for a license application other than an initial application, the inspection must be unannounced. If a licensee is not available when an inspection is attempted, the application must be denied.

In addition to the licensure requirements specified above, this section requires each applicant and licensee to comply with the following requirements in order to obtain and maintain a license:

- An applicant for licensure must comply with the background screening requirements.
- An applicant for licensure must provide a description and explanation of any exclusions, suspensions, or terminations of the applicant from the Medicaid program.
- Unless otherwise specified in ch. 429, F.S., or applicable rules, any information required to be reported to the AHCA must be submitted within 21 calendar days after the report period or effective date of the information, whichever is earlier, including any change of information contained in the most recent application for licensure or required insurance or bonds.
- Whenever a licensee discontinues operation:
 - The licensee must inform the AHCA not less than 30 days before the discontinuance of operation and inform residents or participants of such discontinuance and immediately surrender the license to the AHCA and the license must be canceled.

- The licensee shall remain responsible for retaining and appropriately distributing all records within certain timeframes. In addition, the licensee or, in the event of death or dissolution of a licensee, the estate or agent of the licensee must make arrangements to forward records for each resident to the resident or the resident's legal representative, the resident's attending physician, or the health care provider where the resident currently receives services; or cause a notice to be published in the newspaper of greatest general circulation in the county in which the licensee was located that advises residents of the discontinuance of the licensed operation. The notice must inform residents that they may obtain copies of their records and specify the name, address, and telephone number of the person from whom the copies of records may be obtained. The notice must appear at least once a week for 4 consecutive weeks.
- On or before the first day services are provided to a resident, a licensee must inform the resident and his or her immediate family or representative, if appropriate, of the right to report:
 - Complaints. The statewide toll-free telephone number for reporting complaints to the AHCA must be provided to residents in a manner that is clearly legible and must include the words: "To report a complaint regarding the services you receive, please call toll-free (phone number)."
 - Abusive, neglectful, or exploitative practices. The statewide toll-free telephone number for the central abuse hotline must be provided to residents in a manner that is clearly legible and must include the words: "To report abuse, neglect, or exploitation, please call toll-free (phone number)."
 - Medicaid fraud. An agency-written description of Medicaid fraud and the statewide toll-free telephone number for the central Medicaid fraud hotline must be provided to residents in a manner that is clearly legible and must include the words: "To report suspected Medicaid fraud, please call toll-free (phone number)."
- An applicant must provide the AHCA with proof of the applicant's legal right to occupy the property before a license may be issued. Proof may include, but need not be limited to, copies of warranty deeds, lease or rental agreements, contracts for deeds, quitclaim deeds, or other such documentation.
- Proof of insurance must be provided if it is required by law.
- Upon application for initial licensure or change of ownership licensure, the applicant must furnish satisfactory proof of the applicant's financial ability to operate. The AHCA must establish standards that require the applicant to provide information concerning the applicant's controlling interests. The AHCA must also establish documentation requirements, to be completed by each applicant, that show anticipated revenues and expenditures, the basis for financing the anticipated cash-flow requirements of the licensee, and an applicant's access to contingency financing. A current certificate of authority, pursuant to chapter 651, may be provided as proof of financial ability to operate. The AHCA may require a licensee to provide proof of financial ability to operate at any time if there is evidence of financial instability, including, but not limited to, unpaid expenses necessary for the basic operations of the licensee.
- A controlling interest may not withhold from the AHCA any evidence of financial instability. Any person who withholds such information commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 (maximum imprisonment of 60 days or maximum fine of \$500). Each day of continuing violation is a separate offense.

This section provides for the application procedure for a license. The AHCA is required to notify the licensee by mail or electronically at least 90 days before the expiration of a license that a renewal license is necessary to continue operation. The failure to timely submit a renewal application and license fee shall result in a \$50 per day late fee charged to the licensee by the AHCA; but the total late fee may not exceed 50 percent of the licensure fee or \$500, whichever is less. If an application is received after the required filing date and exhibits a hand-canceled postmark obtained from a United States post office dated on or before the required filing date, no fine is to be levied. The AHCA is required to examine the application and, within 30 days after receipt, notify the applicant in writing or electronically of any apparent errors or omissions and request any additional information required.

Requested information omitted from an application for licensure, license renewal, or change of ownership, other than an inspection, must be filed with the AHCA within 21 days after the AHCA's request for omitted information or the application is deemed incomplete and withdrawn from further consideration and the fees are forfeited.

Within 60 days after the receipt of a complete application, the AHCA is required to approve or deny the application. The license issued is a biennial license, unless conditions of the license category specify a shorter license period. Each license issued must indicate the name of the licensee, the license type, the date the license is effective, the expiration date of the license, and the maximum capacity of the assisted care community.

The AHCA may establish procedures for the electronic notification and submission of required information, including: licensure applications, required signatures, payment of fees, and notarization of applications.

This section also requires a fee for licensure and such fees are nonrefundable. License fees must be reasonably calculated by the AHCA to cover its costs in carrying out its responsibilities under this chapter and applicable rules, including the cost of licensure, inspection, and regulation of assisted care communities and license fees must be adjusted to provide for biennial licensure under AHCA rules. The AHCA is required to annually adjust license fees, including fees paid per bed, by not more than the change in the Consumer Price Index based on the 12 months immediately preceding the increase.

When a change is reported that requires issuance of a license, a fee may be assessed. The fee must be based on the actual cost of processing and issuing the license. The AHCA may charge a fee when a licensee requests a duplicate license. The fee may not exceed the actual cost of duplication and postage and may not exceed \$25. Total fees collected may not exceed the cost of administering ch. 429, F.S, and applicable rules.

Whenever a change of ownership occurs the transferor is required to notify the AHCA in writing at least 60 days before the anticipated date of the change of ownership and the transferee must apply to the AHCA for a license. The transferor is responsible and liable for the lawful operation of the licensee and the welfare of the residents served until the date the transferee is licensed by the AHCA and any and all penalties imposed against the transferor for violations occurring before the date of change of ownership. Any restriction on licensure, including a conditional license existing at the time of a change of ownership, is to remain in effect until the AHCA

determines that the grounds for the restriction are corrected. The transferee is required to maintain records of the transferor, including: all resident and participant records, inspection reports, and all other records required to be maintained.

This section provides for certain types of licensure. A standard license may be issued to an applicant at the time of initial licensure, license renewal, or change of ownership. A standard license is issued when the applicant is in compliance with all statutory requirements and the AHCA's rules. A standard license expires 2 years after the date of issue.

A provisional license is issued to an applicant applying for an initial license or for a change of ownership. A provisional license must be limited in duration to a specific period of time, up to 6 months, as determined by the AHCA.

A licensee may submit a request to the AHCA for an inactive license or to extend a previously approved inactive period. Such request must include a written justification for the inactive license with the beginning and ending dates of inactivity specified, a plan for the transfer of any residents, and the appropriate licensure fees. The AHCA may not accept a request that is submitted after initiating closure, after any suspension of service, or after notifying residents of closure or suspension of service, unless the action is a result of a disaster³¹ at the licensed premises. All licensure fees must be current, must be paid in full, and may be prorated.

A temporary license must be issued to an applicant against whom a proceeding denying, suspending, or revoking a license is pending at the time of license renewal, which is effective until final action not subject to further appeal.

This section prohibits unlicensed activity of an entity that should be licensed as an assisted care community to perform such activities, other than an assisted care community under construction. Also, a licenseholder may not advertise or hold out to the public that he or she holds a license for other than that for which he or she actually holds the license. Unlicensed activity constitutes harm that materially affects the health, safety, and welfare of residents or participants and is a violation of ch. 429, F.S. The AHCA or any state attorney may, in addition to other remedies, bring an action for an injunction to restrain such violation, or to enjoin the future operation or maintenance of the unlicensed assisted care community, until compliance with ch. 429, F.S., and AHCA rules has been demonstrated to the satisfaction of the AHCA.

If after receiving notification from the AHCA, such person or entity fails to cease operation and apply for a license, the person or entity will be subject to certain prescribed penalties. Each day of continued operation is a separate offense. Any person or entity that fails to cease operation after the AHCA's notification may be fined \$1,000 for each day of noncompliance. When a controlling interest or licensee has an interest in more than one entity and fails to license an entity rendering services that require licensure, the AHCA may revoke all licenses and impose actions under s. 429.013, F.S. (moratorium or emergency suspension), and a fine of \$1,000 per day against each licensee until such time as the appropriate license is obtained for the unlicensed operation.

³¹ "Disaster" means a sudden emergency occurrence beyond the control of the licensee, whether natural, technological, or manmade, which renders the licensee inoperable at the premises.

In addition to granting injunctive relief, if the AHCA determines that a person or entity is operating or maintaining an assisted care community requiring licensure without obtaining a license and determines that a condition exists that poses a threat to the health, safety, or welfare of a resident or participant of the person or entity, the person or entity is subject to the same actions and fines imposed against a licensee as specified in ch. 429, F.S., and AHCA rules.

Any person aware of the operation of an unlicensed person or entity must report that person or entity to the AHCA.

Background Screening

This section also requires background screenings of applicants or the employees of applicants. A level 2 background screening pursuant to ch. 435, F.S., must be conducted through the AHCA on each of the following persons:

- The licensee, if an individual.
- The administrator or a similarly titled person who is responsible for the day-to-day operation of the licensed assisted living community.
- The financial officer or similarly titled individual who is responsible for the financial operation of the licensee.
- Any person who is a controlling interest who has been convicted of any offense prohibited by s. 435.04, F.S. The licensee is required to submit to the AHCA a description and explanation of the conviction when applying for a license.
- Any person seeking employment with a licensee who is expected to, or whose responsibilities may require him or her to, provide personal care or services directly to residents or have access to resident funds, personal property, or living areas; and any person contracting with a licensee whose responsibilities require him or her to provide personal care or personal services directly to residents.

Every 5 years after his or her licensure, employment, or entry into a contract each person who was subject to a level 2 background check must submit to level 2 background rescreening as a condition of retaining a license or continuing in an employment or contractual status. All fingerprints must be provided in electronic format. Proof of compliance with level 2 screening standards submitted within the previous 5 years to meet any licensee or professional licensure requirements of the AHCA, the DOH, the Agency for Persons with Disabilities, the Department of Children and Family Services, or the Department of Financial Services for an applicant for a certificate of authority or provisional certificate of authority to operate a continuing care retirement community under chapter 651 satisfies the background screening requirements if the person subject to screening has not been unemployed for more than 90 days and such proof is accompanied, under penalty of perjury, by an affidavit of compliance with the provisions of ch. 435, F.S., and these background screening requirements using forms provided by the AHCA. A person, who serves as a controlling interest of, is employed by, or contracts with a licensee on July 31, 2011, who has been screened and qualified according to standards specified in s. 435.03, F.S., or s. 435.04, F.S., must be rescreened by July 31, 2016.

This section provides that an applicant or employee required to undergo a background screening must not have committed specific delineated crimes in order to be cleared for licensure or employment.

The AHCA is authorized to adopt rules to establish a schedule to stagger the implementation of the required rescreening over a 5-year period, beginning July 31, 2011, through July 31, 2016. If, upon rescreening, a person has a disqualifying offense that was not a disqualifying offense at the time of the last screening, but is a current disqualifying offense and was committed before the last screening, he or she may apply for an exemption from the appropriate licensing agency and, if agreed to by the employer, may continue to perform his or her duties until the licensing agency renders a decision on the application for exemption if the person is eligible to apply for an exemption and the exemption request is received by the agency within 30 days after receipt of the rescreening results by the person.

The AHCA may grant an exemption to a person who does not have an active professional license or certification from the DOH or has an active professional license or certification from the DOH but is not providing a service within the scope of that license or certification. Also, the appropriate regulatory board within the DOH, or the DOH if there is no board, may grant an exemption from disqualification to a person who has received a professional license or certification from the DOH or a regulatory board within the DOH and that person is providing a service within the scope of his or her licensed or certified practice.

This provides that there is no unemployment compensation or other monetary liability on the part of, and no cause of action for damages arising against, an employer that, upon notice of a disqualifying offense listed under ch. 435, F.S., or in s. 429.008, F.S., terminates the person against whom the report was issued, whether or not that person has filed for an exemption with the DOH or the AHCA.

Inspections and Investigations

This section also provides the AHCA with inspection and investigation authority. An authorized officer or employee of the AHCA may inspect or investigate, when deemed necessary by the AHCA, to determine compliance with ch. 492, F.S., and applicable rules. The right of inspection extends to any business that the AHCA has reason to believe is being operated without a license, but inspection of any business suspected of being operated without the appropriate license may not be made without the permission of the owner or person in charge unless a warrant is first obtained from a circuit court. Any application for a license issued under ch. 492, F.S., or applicable rules constitutes permission for an appropriate inspection to verify the information submitted on or in connection with the application.

All inspections must be unannounced, except as specified in s. 429.005, F.S., for an initial application for licensure. Inspections for relicensure must be conducted biennially. The AHCA is required to have access to all licensee records required during an inspection or other review at no cost to the AHCA, including records requested during an offsite review.

A violation must be corrected within 30 calendar days after the licensee is notified of inspection results unless an alternative timeframe is required or approved by the AHCA.

Each licensee is required to maintain records of all inspection reports pertaining to that licensee and make them available to the public unless those reports are exempt from or contain information that is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution or is otherwise made confidential by law. Copies of the reports must be retained in the records of the

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

A licensee is required to furnish an applicant for admission, a person who is a resident, or any relative, spouse, or guardian of any such person, a copy of the last inspection report pertaining to the licensee that was issued by the AHCA, if requested by such person.

Penalties

As a penalty for any violation of ch. 429, F.S., or applicable rules, the AHCA may impose an administrative fine. In addition, the AHCA may impose an immediate moratorium or emergency suspension on any licensee if the AHCA determines that any condition related to the licensee presents a threat to the health, safety, or welfare of a resident or participant. A licensee, the license of which is denied or revoked, may be subject to immediate imposition of a moratorium or emergency suspension to run concurrently with licensure denial, revocation, or injunction. A moratorium or emergency suspension remains in effect after a change of ownership, unless the AHCA has determined that the conditions that created the moratorium, emergency suspension, or denial of licensure have been corrected. When a moratorium or emergency suspension is placed on a licensee, notice of the action must be posted and visible to the public at the location of the licensee until the action is lifted.

In addition to the grounds provided in part II, part III, or part IV of ch. 429, F.S., grounds that may be used by the AHCA for denying or revoking a license or change of ownership application include any of the following actions by a controlling interest:

- False representation of a material fact in the license application or omission of any material fact from the application.
- An intentional or negligent act materially affecting the health or safety of a resident or participant of an assisted care community.
- A violation of ch. 429, F.S., or applicable rules.
- A demonstrated pattern of violations.
- The applicant, licensee, or controlling interest has been or is currently excluded, suspended, or terminated, for cause, from participation in the Medicaid program.

If a licensee lawfully continues to operate while a denial or revocation is pending in litigation, the licensee must continue to meet all other requirements of ch. 429, F.S., and applicable rules and must file subsequent renewal applications for licensure and pay all licensure fees.

In addition to the grounds provided in authorizing statutes, the AHCA is required to deny an application for a license or license renewal if the applicant or a person having a controlling interest in an applicant has been:

- Convicted of, or enters a plea of guilty to, regardless of adjudication, a felony under ch. 409, F.S., ch. 817, F.S., or ch. 893, F.S., unless the sentence and any subsequent period of probation for such convictions or plea ended more than 15 years before the date of the application;
- Terminated for cause from the Florida Medicaid program, unless the applicant has been in good standing with the Florida Medicaid program for the most recent 5 years; or

- Terminated for cause, pursuant to the appeals procedures established by the Florida Medicaid program, unless the applicant has been in good standing with the Florida Medicaid program for the most recent 5 years and the termination occurred at least 20 years before the date of the application.

In addition to the other penalties that may be imposed by the AHCA, it may also institute injunction proceedings in a court of competent jurisdiction in the local jurisdiction of the residence to:

- Restrain or prevent the establishment or operation of a person or entity that does not have a license or is in violation of any provision of ch. 429, F.S., or applicable rules or when a violation of ch. 429, F.S., or applicable rules constitutes an emergency affecting the immediate health and safety of a resident.
- Enforce the provisions of ch. 429, F.S., or any minimum standard, rule, or order issued or entered into pursuant thereto when the attempt by the AHCA to correct a violation through administrative sanctions has failed or when the violation materially affects the health, safety, or welfare of residents or participants or involves any operation of an unlicensed assisted care community.
- Terminate the operation of a licensee when a violation of any provision ch. 429, F.S., or any standard or rule adopted pursuant thereto exists that materially affects the health, safety, or welfare of a resident or participant.

If action is necessary to protect a resident or participant of a licensee from an immediate, life-threatening situation, the court may allow a temporary injunction.

In addition to any other remedies provided by law, the AHCA may deny an application or suspend or revoke the license of an assisted care community:

- If the applicant, licensee, or a licensee subject to this part that shares a common controlling interest with the applicant has failed to pay all outstanding fines, liens, or overpayments assessed by final order of the AHCA, not subject to further appeal, unless a repayment plan is approved by the AHCA; or
- For failure to comply with any repayment plan.

In reviewing an application requesting a change of ownership or change of the licensee, the transferor is required to, before AHCA approval of the change, repay or make arrangements to repay any amounts owed to the AHCA. The issuance of a license to the transferee shall be delayed until the transferor repays or makes arrangements to repay the amounts owed.

Administrative proceedings challenging the AHCA's licensure enforcement action must be reviewed on the basis of the facts and conditions that resulted in the AHCA action.

Rulemaking Authority

This section provides the DOEA with the authority to adopt rules as necessary to administer part I of ch. 429, F.S. (See comment under Related Issues) Any licensee that is in operation at the time of adoption of any applicable rule must be given a reasonable time under the particular circumstances, not to exceed 6 months after the date of such adoption, within which to comply with that rule, unless otherwise specified by rule.

Emergency Management

This section requires a licensee to have an emergency operations plan, which must designate a safety liaison to serve as the primary contact for emergency operations. A licensee may temporarily exceed its licensed capacity to act as a receiving licensee in accordance with an approved emergency operations plan for up to 15 days. While in an overcapacity status, each licensee must furnish or arrange for appropriate care and services to all residents. In addition, the AHCA may approve requests for overcapacity in excess of 15 days, which approvals may be based upon satisfactory justification and need as provided by the receiving and sending licensees.

An inactive license may be issued to a licensee when the licensee is located in a geographic area in which a state of emergency was declared by the Governor, if the licensee:

- Suffered damage to its operation during the state of emergency;
- Is currently licensed;
- Does not have a provisional license; and
- Will be temporarily unable to provide services but is reasonably expected to resume services within 12 months.

An inactive license may be issued for a period not to exceed 12 months but may be renewed by the AHCA for up to 12 additional months upon demonstration to the AHCA of progress toward reopening. A request by a licensee for an inactive license or to extend the previously approved inactive period must be submitted in writing to the AHCA, accompanied by written justification for the inactive license, and must state the beginning and ending dates of inactivity and include a plan for the transfer of any residents and appropriate licensure fees. Upon AHCA approval, the licensee must notify residents of any necessary discharge or transfer. The beginning of the inactive licensure period must be the date the licensee ceases operations and the end of the inactive period must become the license expiration date. All licensure fees must be current, must be paid in full, and may be prorated. Reactivation of an inactive license requires the prior approval by the AHCA of a renewal application, including payment of licensure fees and AHCA inspections indicating compliance with all requirements of this chapter and applicable rules and statutes.

Licensees providing residential services must utilize an online database approved by the AHCA to report information to the AHCA regarding the licensee's emergency status, planning, or operations.

Section 11 amends s. 429.01, F.S., to rename the "Assisted Living Facilities Act," the "Assisted Living Residences Act," and to replace any reference to facilities with "residences." This section also provides that the Legislature recognizes that assisted living residences are an important part of the continuum of long-term care in the state as community-based social models with a health component and not as medical or nursing facilities. In addition, such residences should be operated as residential environments with supportive services and should not be subject to the same regulations as medical or nursing facilities, but instead be regulated in a less restrictive manner that is appropriate for a residential, non-medical setting.

Section 12 amends s. 429.02, F.S., to redefine "administrator," "assisted living residence," "community living support plan," and "supervision." Additionally, the terms "arbitration," "licensed residence," and "person" are introduced and defined.

Sections 13, 15, 17, 21, 22, 24, 28, 30, 45, 47, 48, 52, 53, 54, 57, 59, 60, 61, 62, 63, 64, 65, 66, 67, 69, 70, 71, 73, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, and 140 of the bill make technical, conforming changes to the following sections of the Florida Statutes:

- s. 429.04, F.S., related to residences to be licensed and exemptions;
- s. 429.075, F.S., related to limited mental health licenses;
- s. 429.11, F.S., related to initial application for a license and provision licenses;
- s. 429.174, F.S., related to background screening;
- s. 429.177, F.S., related to patients with Alzheimer’s disease and other related disorders;
- s. 429.18, F.S., related to disposition of fees and administrative fines;
- s. 429.22, F.S., related to receivership proceedings;
- s. 429.24, F.S., related to contracts;
- s. 429.44, F.S., related to construction and renovation;
- s. 429.47, F.S., related to prohibited acts and penalties for violations;
- s. 429.49, F.S., related to resident records and penalties for alteration;
- s. 429.65, F.S., related to definitions;
- s. 429.67, F.S., related to licensure;
- s. 429.69, F.S., related to denial, revocation, and suspension of a license;
- s. 429.75, F.S., related to training and education programs;
- s. 429.83, F.S., related to residents with Alzheimer’s disease or other related disorders and certain disclosures;
- s. 429.85, F.S., related to residents’ Bill of Rights;
- s. 429.87, F.S., related to civil actions to enforce rights;
- s. 429.901, F.S., related to definitions;
- s. 429.905, F.S., related to exemptions, monitoring of adult day care center programs colocated with assisted living residences or licensed nursing home facilities;
- s. 429.907, F.S., related to license requirement, fee, exemption, and display;
- s. 429.909, F.S., related to application for license;
- s. 429.911, F.S., related to denial, suspension, revocation of license, emergency action, administrative fines, investigations, and inspections;
- s. 429.913, F.S., related to administrative fines;
- s. 429.917, F.S., related to patients’ with Alzheimer’s disease or other related disorders, staff training requirements, and certain disclosures;
- s. 429.919, F.S., related to background screening;
- s. 429.925, F.S., related to discontinuance of operation of adult day care centers;
- s. 429.927, F.S., related to right of entry and inspection;
- s. 101.62, F.S., related to requests for absentee ballots;
- s. 101.655, F.S., related to supervised voting by absent electors in certain facilities;
- s. 159.27, F.S., related to definitions;
- s. 196.1975, F.S., related to exemptions for property used by nonprofit homes for the aged;
- s. 202.125, F.S., related to sales of communications services and specified exemptions;
- s. 205.1965, F.S., related to assisted living residences;

- s. 252.357, F.S., related to monitoring of nursing homes and assisted living residences.
- s. 252.385, F.S., related to public shelter space;
- s. 380.06, F.S., related to developments of regional impact;
- s. 381.006, F.S., related to environmental health;
- s. 381.0072, F.S., related to food service protection;
- s. 381.0303, F.S., related to special needs shelters;
- s. 394.455, F.S., related to definitions;
- s. 394.4574, F.S., related to department responsibilities for a mental health resident who resides in an assisted living residence that holds a limited mental health license;
- s. 394.462, F.S., related to transportation;
- s. 394.4625, F.S., related to voluntary admissions;
- s. 394.75, F.S., related to state and district substance abuse and mental health plans;
- s. 394.9082, F.S., related to behavioral health managing entities;
- s. 400.0060, F.S., related to definitions;
- s. 400.0069, F.S., related to local long-term care ombudsman councils, duties, and membership;
- s. 400.0074, F.S., related to local ombudsman council onsite administrative assessments;
- s. 400.0239, F.S., related to Quality of Long-Term Care Facility Improvement Trust Fund;
- s. 400.148, F.S., related to Medicaid “Up-or-Out” Quality of Care Contract Management Program;
- s. 400.1755, F.S., related to care for persons with Alzheimer’s disease or related disorders;
- s. 400.464, F.S., related to home health agencies to be licensed, expiration of license, exemptions, unlawful acts, and penalties;
- s. 400.471, F.S., related to application for license and fee;
- s. 400.474, F.S., related to administrative penalties;
- s. 400.497, F.S., related to rules establishing minimum standards;
- s. 400.506, F.S., related to licensure of nurse registries, requirements, and penalties;
- s. 400.6045, F.S., related to patients with Alzheimer’s disease or other related disorders;
- s. 400.605, F.S., related to administration, forms, fees, rules, inspections, and fines;
- s. 400.609, F.S., related to hospice services;
- s. 400.701, F.S., related to intermediate care facilities;
- s. 400.925, F.S., related to definitions;
- s. 400.93, F.S., related to licensure requirements, exemptions, unlawful acts, and penalties;
- s. 405.01, F.S., related to release of medical information to certain study groups;
- s. 408.033, F.S., related to local and state health planning;
- s. 409.212, F.S., related to optional supplementation;
- s. 409.221, F.S., related to consumer-directed care program;
- s. 409.906, F.S., related to Optional Medicaid services;
- s. 409.907, F.S., related to Medicaid provider agreements;
- s. 409.912, F.S., related to cost-effective purchasing of health care;
- s. 410.031, F.S., related to legislative intent;
- s. 410.034, F.S., related to department determination of fitness to provide home care;
- s. 410.502, F.S., related to housing and living arrangements, special needs of the elderly, and services;

- s. 415.102, F.S., related to definitions;
- s. 415.1034, F.S., related to mandatory reporting of abuse, neglect, or exploitation of vulnerable adults, and mandatory reporting of death;
- s. 415.1051, F.S., related to protective services interventions when capacity to consent is lacking, nonemergencies, emergencies, orders and limitations;
- s. 415.107, F.S., related to confidentiality of reports and records;
- s. 420.626, F.S., related to homelessness and discharge guidelines;
- s. 430.071, F.S., related to respite for elders living in everyday families;
- s. 430.601, F.S., related to home care for the elderly;
- s. 456.053, F.S., related to financial arrangements between referring health care providers and providers of health care services;
- s. 458.348, F.S., related to formal supervisory relationships, standing orders, and established protocols;
- s. 459.025, F.S., related to formal supervisory relationships, standing orders, and established protocols;
- s. 468.1695, F.S., related to licensure by examination;
- s. 468.505, F.S., related to exemptions and exceptions;
- s. 553.73, F.S., related to the Florida Building Code;
- s. 627.94073, F.S., related to notice of cancellation and grace period;
- s. 633.021, F.S., related to definitions;
- s. 633.022, F.S., related to uniform firesafety standards;
- s. 641.31, F.S., related to health maintenance contracts;
- s. 651.083, F.S., related to residents' rights;
- s. 825.101, F.S., related to definitions;
- s. 893.055, F.S., related to prescription drug monitoring program; and
- s. 893.13, F.S., related to prohibited acts and penalties.

Section 14 amends s. 429.07, F.S., to remove the LNS license from the list of licenses that may be issued by the AHCA to an assisted living residence. This section also removes the authority for assisted living residences to employ or contract with a licensed nurse to administer medications and perform other tasks and removes certain requirements an existing assisted living residence must meet to qualify for an extended congregate care services license. In addition, this section removes the requirement that a registered nurse monitor residents receiving extended congregate care services and the potential waiver of one of the required monitoring visits if the residence meets certain requirements. This section removes the penalty associated with failing to provide extended congregate care services.

This section also removes the procedures and qualifications for the AHCA to issue a LNS license and the recording and reporting requirement by residences that have obtained a LNS license. The admission requirements of a person receiving LNS are also deleted. The fee requirement for residences providing LNS is deleted.

This section requires, in order to determine whether the residence is adequately protecting residents' rights, the AHCA to conduct a biennial survey that includes private informal conversations with a sample of residents to discuss the residents' experiences within the residence. This section also provides that an assisted living residence that has been cited for

certain violations within the previous 24 month period is subject to periodic unannounced monitoring, which may occur through a desk review or an onsite assessment. If the violation relates to providing or failing to provide nursing care, a registered nurse is required to participate in at least two monitoring visits within a 12-month period.

Section 16 amends s. 429.08, F.S., to require not only a health care practitioner, but also an emergency medical technician or paramedic, who is aware of the operation of an unlicensed residence to report that residence to AHCA. This section removes the AHCA's authority to sanction any provider that knowingly discharges a patient or client to an unlicensed residence.

Section 18 amends s. 429.12, F.S., to remove the requirement that when there is a change of ownership a plan of correction must be submitted by the transferee and approved by the AHCA at least 7 days before the change of ownership and a failure to correct a condition, which resulted in a moratorium or denial of licensure is grounds for denial of the transferee's license.

Section 19 amends s. 429.14, F.S., to remove administrative penalties for the misappropriation or conversion of the property of a resident of the facility; for the failure to follow the criteria and procedures required by law relating to the transportation, voluntary admission, and involuntary examination of a facility resident; and for knowingly providing without a license any service for which a person must be licensed under ch. 429, F.S. or ch. 400, F.S. (nursing homes and other related facilities).

This section removes the requirement that the AHCA must deny or revoke the license of a residence if it has two or more class I violations that are similar or identical to violations identified by the AHCA during a survey, inspection, monitoring visit, or complaint investigation occurring within the previous 2 years.

This section also removes the requirement that the AHCA provide to the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, on a monthly basis, a list of those residences that have had their licenses denied, suspended, or revoked or that are involved in an appellate proceeding related to the denial, suspension, or revocation of a license.

Section 20 amends s. 429.17, F.S., to delete the requirement that a LNS license expire at the same time as the residence's license. This section also removes the requirement that a license may only be renewed after the residence provides proof of its ability to operate and conduct the residence in accordance with the requirements of the Assisted Living Residences Act and any adopted rules.

The requirement that the AHCA adopt certain rules in consultation with the DOEA is deleted.

Section 23 amends s. 429.178, F.S., to remove the provision that a residence having 17 or more residents must have an awake staff member on duty at all hours of the day and night if that residence advertises that it provides special care for persons with Alzheimer's disease or a related disorder. This section also deletes the requirement that a facility have an awake staff member on duty at all hours of the day and night or have mechanisms in place to monitor and ensure the safety of the residents if the residence has fewer than 17 residents. However, this section requires instead that a residence of any size have an awake staff member on duty at all

hours of the day and night for each secured unit of the residence that houses any residents with Alzheimer's disease or other related disorders.

This section also provides that for the safety and protection of residents with Alzheimer's disease, related disorders, or dementia, a secured locked unit may be designated. The unit may consist of the entire building or a distinct part of the building. Exit doors must be equipped with an operating alarm system which releases upon activation of the fire alarm. These units are exempt from specific life safety requirements to which assisted living residences are normally subject. A staff member must be awake and present in the secured unit at all times.

This section deletes the prohibition that a caregiver may not receiving training for the required continuing education requirements under a topic that he or she has already received training under.

This section requires the DOEA to maintain and post on its website a current list of providers who are approved to provide initial and continuing education for staff and direct care staff members of residences.

This section removes the provisions that a facility having more than 90 percent of residents who receive monthly optional supplementation payments is not required to pay for the required training and education programs and a facility that has one or more such residents is required to pay a reduced fee that is proportional to the percentage of such residents in the facility. This section also removes the requirement that a facility that does not have any residents who receive monthly optional supplementation payments must pay a reasonable fee, as established by the DOEA for such training and education programs.

Section 25 amends s. 429.19, F.S., to define a "class I," "class II," "class III," and "class IV" violation, which mirrors the current definitions for these terms in s. 408.813, F.S. The section deletes the AHCA's authority to assess a survey fee to cover the cost of monitoring visits to verify a correction of a violation.

This section also deletes the requirement that the AHCA develop and disseminate an annual list of all facilities sanctioned or fined for violations of state standards, the number and class of violations involved, the penalties imposed, and the current status of cases to specified entities at no charge. Also deleted is the requirement that the Department of Children and Family Services disseminate the list to service providers under contract to the department who are responsible for referring persons to a facility for residency.

Section 26 amends s. 429.195, F.S., to exempt from the prohibition against referrals for compensation, residents of an assisted living residence who refer friends, family members, or other individuals with whom they have a personal relationship. This allows the licensee of the assisted living residence to provide a monetary reward to the resident for making a referral to the residence.

Section 27 amends s. 429.20, F.S., to remove the administrative penalties for the unlawful solicitation or receipt of contributions by an assisted living residence.

Section 29 amends s. 429.23, F.S., to clarify within one of the events that constitutes an adverse incident that a proceeding (Baker Act) under part I of ch. 394, F.S., the Florida Mental Health Act, which is undertaken without the resident's consent, is not an adverse incident that must be reported.

This section deletes the 1-day reporting requirement of an event and the follow-up if the event is not determined to be an adverse incident. Instead, the bill requires reporting within 7 days after the occurrence of an adverse incident. The section also deletes the reporting requirement by the assisted living residences to the AHCA when a liability claim has been filed against the residence.

Section 31 amends s. 429.255, F.S., to remove the ability of volunteers, who are licensed nurses, to administer medications to residents, take residents' vital signs, manage individual weekly pill organizers for residents, give prepackaged enemas, observe residents, document observations, or report observations to the resident's physician. This section provides that persons under contract to the residence or residence staff who are licensed nurses may provide LNS.

This section requires staff in residences to report observations of a resident to the administrator or the administrator's designee instead of to the resident's physician.

This section removes the authority of licensed nurses to carry out their professional duties when an emergency situation arises until emergency medical personnel assume responsibility for care.

This section removes the DOEA rulemaking authority to implement an order not to resuscitate.

Section 32 amends s. 429.256, F.S., to authorize a residence to require standard medication dispensing systems for residents' prescriptions to minimize the potential risk for improper dosage administration of prescription drugs.

This section adds to the list of activities that may be considered assistance with self-administration of medication to include preparing syringes for injection or the administration of medications by any injectable route, administering medications through intermittent positive pressure breathing machines or a nebulizer, using a glucometer to perform blood glucose checks, or assisting with the putting on and taking off ted hose.

Section 33 amends s. 429.26, F.S., to remove the requirement that a residence notify within 30 days a licensed physician when a resident exhibits signs of dementia or cognitive impairment or has a change of condition in order to rule out the presence of an underlying physiological condition that may be contributing to the dementia or impairment. Also deleted is the requirement that if an underlying condition is determined to exist, the facility must arrange, with the appropriate health care provider, the necessary care and services to treat the condition.

This section also deletes a requirement that a long-term care ombudsman who believes a resident needs to be evaluated to notify the resident's case manager.

Section 34 amends s. 429.27, F.S., to authorize the residence's licensee, owner, administrator, or staff, or other representative to execute a surety bond. The bond must be conditioned upon the

faithful compliance of such persons and must run to the AHCA for the benefit of a resident who suffers a financial loss as a result of the misuse or misappropriation of funds by such persons.

This section provides that a residence administrator may only provide for the safekeeping in the residence personal effects, including funds, not in excess of \$500.

This section removes the authority of a governmental agency or private charitable agency contributing funds or other property to the account of a resident to obtain a financial statement of the account.

This section removes the prohibition that a residence may not levy an additional charge to the individual or the account of a resident for any supplies or services that the residence has agreed by contract to provide as part of the standard monthly rate.

Section 35 amends s. 429.275, F.S., to remove the DOEA rulemaking authority to clarify terms, establish requirements for financial records, accounting procedures, personnel procedures, insurance coverage, and reporting procedures, and specify documentation as necessary.

Section 36 amends s. 429.28, F.S., to reduce the number of days from 45 days to 30 days that notice of relocation or termination of residence from the residence must be provided to a resident or legal guardian. This section also deletes the requirement that the residence must show good cause in a court in order for the residence to terminate the residency of an individual without notice.

This section deletes the requirement that the AHCA conduct a survey to determine general compliance with facility standards and compliance with residents' rights, or when no survey is conducted, a monitoring visit. This section also removes the authority of the AHCA to conduct periodic follow-up inspections or complaint investigations.

This section removes the prohibition that a staff member or employee of a residence may not serve notice upon a resident to leave the residence or take other retaliatory action against a person who notifies a state attorney or the Attorney General of a possible violation of the Assisted Living Residences Act.

Section 37 amends s. 429.293, F.S., to require a written stipulation by parties to extend the statute of limitations within which a resident may allege a violation of the resident's rights or negligence. This section reduces the number of days from 60 days to 30 days that a resident may file suit if negotiations have been terminated.

This section provides that any party may request discovery of relevant documents or things, which must be relevant to evaluating the merits of a claim. This section also provides that an arbitration process may be used to resolve a claim filed by a resident. This section also reduces the number of days from 60 days to 30 days that a claimant has to file suit after the conclusion of mediation.

Section 38 amends s. 429.294, F.S., to provide that unless expressly prohibited by a legally competent resident, an assisted living residence must furnish to the spouse, guardian, surrogate,

proxy, or attorney in fact of a current resident, within 7 working days after receipt of a written request, or of a former resident, within 10 working days after receipt of a written request, a copy of that resident's records that are in the possession of the residence. These records are required to include medical and psychiatric records and any records concerning the care and treatment of the resident performed by the residence, except progress notes and consultation report sections of a psychiatric nature. Copies of these records must not be considered part of a deceased resident's estate and may be made available before the administration of an estate, upon request, to the spouse, guardian, surrogate, proxy, or attorney in fact. This section provides that a residence may charge a reasonable fee for the copying of resident records and the fee must not exceed \$1 per page for the first 25 pages and 25 cents per page for each additional page in excess of 25 pages. The residence must allow any such spouse, guardian, surrogate, proxy, or attorney in fact to examine the original records in its possession, or microfilms or other suitable reproductions of the records to help ensure that the records are not damaged, destroyed, or altered.

This section also provides that a person must not be allowed to obtain copies of residents' records more often than once per month, except that physician's reports in the residents' records may be obtained as often as necessary to effectively monitor the residents' condition.

Section 39 amends s. 429.298, F.S., to reduce the amount of punitive damages that may be awarded from \$1 million to \$250,000. This section also prevents punitive damages from being awarded at all for wrongful and dangerous conduct proven to be motivated primarily by unreasonable financial gain, which was known by the manager or responsible party. The section also prevents any punitive damages from being awarded when the fact finder determines that at the time of injury the defendant had a specific intent to harm the claimant and the defendant did in fact harm the claimant.

This section also removes the requirement that in any case in which the findings of fact support an award of punitive damages, the clerk of the court must refer the case to the appropriate law enforcement agencies, to the state attorney in the circuit where the long-term care facility that is the subject of the underlying civil cause of action is located, and, for multijurisdictional facility owners, to the Office of the Statewide Prosecutor and removes the requirement that such agencies, state attorney, or Office of the Statewide Prosecutor initiate a criminal investigation into the conduct giving rise to the award of punitive damages. This section also deletes the requirement that all findings by the trier of fact which support an award of punitive damages be admissible as evidence in any subsequent civil or criminal proceeding relating to the acts giving rise to the award of punitive damages.

This section requires any punitive damages awarded to be divided between the claimant and the Health Care Trust fund and the claimant is entitled to 25 percent instead of 50 percent and the Health Care Trust Fund is to receive 75 percent instead of 50 percent of the damages.

Section 40 amends s. 429.31, F.S., to provide that when notice has been provide to the AHCA that there is a voluntary or involuntary termination of the operation of a residence, the AHCA or the receiver of the residence must monitor the transfer of residents to other facilities. This section also clarifies that the AHCA may levy a fine of up to \$5,000 against a licensee or other persons that terminate an operation without providing the required notice.

Section 41 amends s. 429.34, F.S., to remove the authority of a member of the state or local long-term care ombudsman council to enter unannounced into a residence in order to determine the residence's compliance with the provisions of the Assisted Living Residences Act. This section also deletes the provision authorizing data collected by the state or local long-term care ombudsman councils or the state or local advocacy councils to be used by the AHCA in investigations involving violations of regulatory standards.

Section 42 amends s. 429.35, F.S., to delete the requirement that within 60 days after the date of the biennial inspection visit or within 30 days after the date of any interim visit, the AHCA must forward the results of an inspection to the local ombudsman council in whose planning and service area, the facility is located; to at least one public library or, in the absence of a public library, the county seat in the county in which the inspected assisted living facility is located; and, when appropriate, to the district Adult Services and Mental Health Program Offices.

Section 43 amends s. 429.41, F.S., to require uniform firesafety standards to be enforced, but not established, by the State fire Marshal in cooperation with the AHCA, but not the DOEA or the DOH.

This section also removes the requirement that the Office of the State Fire Marshal provide or cause the provision of training and education on the proper application of Chapter 5, NFPA 101A, 1995 edition, to its employees, to staff of the AHCA who are responsible for regulating residences, and to local governmental inspectors and deletes the requirement that the Office of the State Fire Marshal provide or cause the provision of this training within its existing budget. Also deleted is the requirement that the Office of the State Fire Marshal, in cooperation with provider associations, provide or cause the provision of a training program designed to inform facility operators on how to properly review bid documents relating to the installation of automatic fire sprinklers within its existing budget.

This section also removes outdated provision related to requiring certain notifications of automatic fire sprinkler requirements.

This section specifies that any existing residence housing eight or fewer residents that is classified as impractical to evacuate must install an automatic fire sprinkler system within the timeframes mutually agreed to by the local fire marshal and the AHCA.

This section deletes the provision that any existing facility that is required to install an automatic fire sprinkler system need not meet other firesafety requirements of Chapter 23, NFPA 101, 1994 edition, which exceed the provisions of NFPA 101, 1988 edition and that the mandate requiring certain facilities to install an automatic fire sprinkler system supersedes any other requirement.

This section also deletes provisions related to a local government's authority to charge fees for expenses incurred relating to the installation and maintenance of an automatic fire sprinkler system; to the requirement that if a licensed facility undergoes major reconstruction or addition to an existing building on or after January 1, 1996, the entire building must be equipped with an automatic fire sprinkler system; to the requirement that an application for a permit for an automatic fire sprinkler system is required upon application for a permit for a reconstruction project that creates costs that go over the 50-percent threshold. This section also deletes the

corresponding time frames that any facility licensed before January 1, 1996, is required to install an automatic fire sprinkler system.

This section deletes the authority of the appropriate local fire official to grant two 1-year extensions to the timeframes for installation of an automatic fire sprinkler in the cases of financial hardship.

This section also deletes the requirement that a facility owner whose facility is required to be equipped with an automatic fire sprinkler system under Chapter 23, NFPA 101, 1994 edition, must disclose to any potential buyer of the facility that an installation of an automatic fire sprinkler requirement exists.

This section deletes the requirement that a local emergency management agency ensures certain agencies or certain volunteer organizations are given an opportunity to review a residence's comprehensive emergency management plan.

This section provides that in order to ensure that inspections are not duplicative, the rules adopted regarding inspections must clearly delineate the responsibilities of the agency regarding agency's licensure and survey inspections staff, the county health departments regarding food safety and sanitary inspections, and the local fire marshal regarding firesafety inspections.

This section removes from the rulemaking requirement that must provide for the care of residents rules that relate to internal risk management and quality assurance.

This section removes the rulemaking requirement to establish specific policies and procedures on resident elopement, including the requirement that a residence conduct a minimum of two elopement drills each year.

This section deletes the requirement that the DOEA must submit a copy of proposed rules to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of substance for review and comment prior to the promulgation. Also deleted is the requirement that rules promulgated by the department shall encourage the development of homelike facilities which promote the dignity, individuality, personal strengths, and decisionmaking ability of residents.

This section removes from the considerations as to whether a full inspection of a residence must take place the consideration of confirmed ombudsman council complaints.

This section requires the AHCA, in consultation with the DOEA, to develop, maintain, and update the key quality-of-care standards with input from representatives of associations and organizations representing assisted living residences. The specific reference to the State Long-Term Care Ombudsman Council is deleted.

Section 44 amends s. 429.42, F.S., to delete the requirement that a residence develop and implement a corrective action plan for deficiencies related to assistance with the self-administration of medication or the administration of medication within 48 hours after notification of such deficiency, or sooner if the deficiency is determined by the AHCA to be life-

threatening. This section also deletes the requirement that the AHCA must employ at least two licensed pharmacists among its personnel who biennially inspect assisted living residences, to participate in biennial inspections or consult with the AHCA regarding deficiencies relating to medicinal drugs or over-the-counter preparations.

Section 46 amends s. 429.47, F.S., to delete the requirement that a licensed residence must submit to the AHCA proof that construction to expand the residence is in compliance with applicable local zoning requirements prior to commencing the construction.

Section 49 amends s. 429.52, F.S., to remove the exemption for administrators of residences who are licensed in accordance with part II of ch. 468, F.S., and other professionals who are exempted by the DOEA from certain training and education requirements.

This section requires staff persons who are involved with the management of medications and assisting with the self-administration of medications to complete 2 hours of continuing education training annually.

This section requires the DOEA to consult with associations and organizations representing assisted living residences when developing a training curriculum for residence staff.

This section also requires a trainer certified by the DOEA to continue to meet continuing education requirements and other standards as set forth in rules adopted by the department. Noncompliance with the standards set forth in the rules may result in suspension or revocation of a trainer's certificate.

Section 50 amends s. 429.53, F.S., to redefine the term "consultation" to no longer include the provision of a checklist of general local and state approvals required prior to constructing or developing a facility and a listing of the types of agencies responsible for such approvals, an explanation of benefits and financial assistance available to a recipient of supplemental security income residing in a facility, and a preconstruction review of a facility to ensure compliance with the AHCA's rules and the Assisted Living Residences Act. The AHCA is required to provide consultation to certain persons upon request.

Section 51 repeals s. 429.54, F.S., which enables the DOEA to collect the information requested by the Legislature regarding the actual cost of providing room, board, and personal care in facilities, by conducting field visits and audits of facilities as necessary. Section 429.54, F.S., also requires owners of randomly sampled facilities to submit such reports, audits, and accountings of cost as the department may require by rule and any facility selected to participate in the study must cooperate with the department by providing cost of operation information to interviewers. Section 429.54, F.S., also authorizes local governments or organizations to contribute to the cost of care of local facility residents by further subsidizing the rate of state-authorized payment to such facilities, but implementation of local subsidy requires departmental approval and must not result in reductions in the state supplement.

Section 55 amends s. 429.71, F.S., to delete the authority of the AHCA to request a plan of corrective action from a licensee of an adult family-care home that demonstrates a good faith

effort to remedy each violation by a specific date as an alternative to, or in conjunction with, an administrative action against the licensee.

Section 56 amends s. 429.73, F.S., to require rules adopted by the DOEA to address requirements for the physical site and maintenance of the adult family-care home.

Section 58 amends s. 429.81, F.S., to require each residency agreement to specify that the resident must give the provider a 30 days' written notice of intent to terminate his or her residency from the adult family-care home.

Section 68 amends s. 429.915, F.S., to delete the requirement that a conditional license be accompanied by an approved plan of correction.

Section 72 creates s. 429.926, F.S., to provide that the minimum licensure requirements under s. 429.009(7)-(9), F.S., do not apply to licensed adult day care centers.

Section 74 amends s. 429.929, F.S., to provide that the AHCA must develop the key quality-of-care standards for adult day care centers, taking into consideration the comments and recommendations of the DOEA and of associations and organizations representing adult day care centers.

Section 141 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill significantly caps the amount of punitive damages that may be awarded to a claimant, who is an assisted living residence resident.

Residents would be eligible under the provisions of the bill to refer friends and family members to the assisted living residence for a monetary award.

C. Government Sector Impact:

Fees for ALFs will be reduced due to the elimination of the LNS license fees. Based on the number of LNS specialty licenses in January 2011 (1,038), the LNS specialty license generates approximately \$586,762 biennially based upon \$309 per license (1,038 x \$309 = \$320,742) and \$10 per bed (\$10 x 26,602 beds = \$266,020). The per bed fee for ALFs are not adjusted to offset losses from elimination of the LNS license fees, therefore there would be a fiscal impact on state fee collections and reduction of \$226,020 per year in the Health Care Trust Fund.³²

Changing “assisted living facility” to “assisted living residence” throughout will require the revision of all AHCA forms and publications that currently state “assisted living facility.” At a minimum, 19 forms and multiple publications will require revision. Additionally, and more significantly, this change would be imposed on all existing assisted living facility providers who used the term in their brochures, printed materials and advertisements.³³

It will be necessary for staff to make revisions, review, post on the Agency’s website and work with Information Technology, and coordinate with Multimedia and the Agency’s mailroom, Call Center and website contractor.³⁴

VI. Technical Deficiencies:

Line 839 of the bill requires the AHCA to publish a minimum of 90-day advance notice of a change in the toll-free telephone numbers to report complaints. However, it does not specify where the AHCA is supposed to publish such information.

On line 1417 of the bill it should read “part III” not “part II.”

On lines 2013 through 2014 of the bill the phrase “limited nursing license” should be deleted to conform to other changes in the bill.

On line 4460 of the bill, the catch line should replace the term “deficiencies” with the term “violations” to conform to other changes in the bill.

³² AHCA, 2011 Bill Analysis & Economic Impact Statement for SB 1458, on file with the committee.

³³ *Id.*

³⁴ *Id.*

VII. Related Issues:

Line 1073 authorizes the DOEA to adopt rules as necessary to administer part I of ch. 429, F.S., the Assisted Care Communities licensing Procedure Act. However, licensing is a function of the AHCA.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
