

By Senator Garcia

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

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

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

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

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117 training fees; amending s. 429.19, F.S.; revising
118 Agency for Health Care Administration procedures for
119 the imposition of fines for violations of ch. 429,
120 F.S.; amending s. 429.195, F.S.; permitting the
121 licensee of an assisted living residences to provide
122 monetary rewards to residents who refer certain
123 individuals to the residence; amending s. 429.23,
124 F.S.; revising adverse incidents reporting
125 requirements; amending s. 429.255, F.S.; permitting
126 certain licensed persons to provide limited nursing
127 services; deleting rulemaking authority of the
128 Department of Elderly Affairs with regard to
129 cardiopulmonary resuscitation in assisted living
130 residences; repealing s. 1 of chapter 2010-200, Laws
131 of Florida, which provides for future implementation
132 of provisions relating to the use of automated
133 external defibrillators in assisted living facilities;
134 amending s. 429.256, F.S.; providing additional
135 guidelines for the assistance with self-administration
136 of medication; amending s. 429.26, F.S.; removing a
137 requirement that a facility notify a licensed
138 physician when a resident exhibits certain signs of
139 dementia, cognitive impairment, or change of
140 condition; revising the persons who are authorized to
141 notify a resident's case manager about examining the
142 resident; amending s. 429.27, F.S.; revising
143 provisions relating to the property and personal
144 effects of residents; amending s. 429.275, F.S.;

145 removing rulemaking authority of the Department of

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146 Elderly Affairs over financial records, personnel
147 procedures, accounting procedures, reporting
148 procedures, and insurance coverage for residents of
149 assisted living residences; amending s. 429.28, F.S.,
150 relating to the resident bill of rights; revising
151 provisions relating to termination of residency;
152 removing responsibilities of the agency for conducting
153 compliance surveys and complaint investigations;
154 amending s. 429.293, F.S.; permitting the use of an
155 arbitration process to resolve a resident's claim of a
156 rights violation or negligence; amending s. 429.294,
157 F.S.; authorizing the release of copies of a
158 resident's records to specified persons under certain
159 conditions; providing limits on the frequency of the
160 release of such records; amending s. 429.298, F.S.;
161 providing limits on the amount of punitive damages;
162 removing a provision that provides for a criminal
163 investigation with a finding of liability for punitive
164 damages; removing a provision that provides for
165 admissibility of findings in subsequent civil and
166 criminal actions; providing that the punitive damages
167 awarded are divided between the claimant and the
168 Health Care Trust Fund rather than the Quality of
169 Long-Term Care Facility Improvement Trust Fund;
170 revising the percentages of the division of the
171 settlement amount; amending s. 429.31, F.S.; revising
172 responsibilities of an administrator for providing
173 notice of the closing of an assisted living residence;
174 amending s. 429.34, F.S.; removing authorization for

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175 state and local long-term care ombudsman councils to
176 enter and inspect residences; amending s. 429.35,
177 F.S.; removing requirement that the agency forward
178 results of residence inspections to certain entities;
179 amending s. 429.41, F.S.; revising rulemaking
180 authority regarding resident care and maintenance of
181 residences; conforming terminology to changes made by
182 the act; amending s. 429.42, F.S.; revising provisions
183 relating to pharmacy services; amending s. 429.445,
184 F.S.; removing a requirement that assisted living
185 residences submit certain information to the agency
186 prior to commencing construction to expand the
187 residence; amending s. 429.52, F.S.; revising training
188 and education requirements for certain administrators,
189 residence staff, and other licensed professionals;
190 requiring trainers certified by the department to meet
191 continuing education requirements and standards;
192 providing conditions for suspension or revocation of a
193 trainer's certificate; amending s. 429.53, F.S.;
194 removing provisions relating to preconstruction
195 approvals and reviews and agency consultations;
196 repealing s. 429.54, F.S., relating to the collection
197 of information regarding the actual cost of providing
198 services in assisted living facilities and local
199 subsidies; amending s. 429.65, F.S.; revising and
200 deleting definitions; amending ss. 429.67 and 429.69,
201 F.S.; revising licensure requirements for adult
202 family-care homes; amending s. 429.71, F.S.; removing
203 a provision authorizing the agency to request a plan

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204 to remedy violations by adult family-care homes;
205 amending s. 429.73, F.S.; removing agency rulemaking
206 authority over adult family-care homes; amending ss.
207 429.75, 429.83, 429.85, 429.87, 429.905, 429.907,
208 429.909, 429.913, 429.919, 429.925, and 429.927, F.S.;
209 conforming terminology and references; amending s.
210 429.81, F.S.; specifying that residency agreements
211 require a resident to provide 30 days' written notice
212 of intent to terminate residency; amending s. 429.901,
213 F.S.; removing definitions; amending s. 429.911, F.S.;
214 revising provisions relating to the denial,
215 suspension, and revocation of adult day care center
216 licenses; amending s. 429.915, F.S.; revising
217 provisions relating to conditional licenses to remove
218 a requirement for a plan of correction to accompany
219 the license; amending s. 429.917, F.S.; conforming
220 references; removing a training requirement; creating
221 s. 429.926, F.S.; providing an exemption from
222 applicability of certain minimum licensure
223 requirements to adult day care centers; amending s.
224 429.929, F.S.; removing agency rulemaking authority
225 over adult daycare centers; conforming a cross-
226 reference; amending ss. 101.62, 101.655, 159.27,
227 196.1975, 202.125, 205.1965, 252.357, 252.385, 380.06,
228 381.006, 381.0072, 381.0303, 394.455, 394.4574,
229 394.462, 394.4625, 394.75, 394.9082, 400.0060,
230 400.0069, 400.0074, 400.0239, 400.148, 400.1755,
231 400.464, 400.471, 400.474, 400.497, 400.506, 400.6045,
232 400.605, 400.609, 400.701, 400.925, 400.93, 405.01,

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233 408.033, 409.212, 409.221, 409.906, 409.907, 409.912,
234 410.031, 410.034, 410.502, 415.102, 415.1034,
235 415.1051, 415.107, 420.626, 430.071, 430.601, 456.053,
236 458.348, 459.025, 468.1695, 468.505, 553.73,
237 627.94073, 633.021, 633.022, 641.31, 651.083, 825.101,
238 893.055, and 893.13, F.S.; conforming cross-
239 references; providing an effective date.

240

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

242

243 Section 1. Paragraph (d) of subsection (1) of section
244 400.141, Florida Statutes, is amended to read:

245 400.141 Administration and management of nursing home
246 facilities.-

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

249 (d) Provide for resident use of a community pharmacy as
250 specified in s. 400.022(1)(q). Any other law to the contrary
251 notwithstanding, a registered pharmacist licensed in Florida,
252 that is under contract with a facility licensed under this
253 chapter ~~or chapter 429~~, shall repackage a nursing facility
254 resident's bulk prescription medication which has been packaged
255 by another pharmacist licensed in any state in the United States
256 into a unit dose system compatible with the system used by the
257 nursing facility, if the pharmacist is requested to offer such
258 service. In order to be eligible for the repackaging, a resident
259 or the resident's spouse must receive prescription medication
260 benefits provided through a former employer as part of his or
261 her retirement benefits, a qualified pension plan as specified

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262 in s. 4972 of the Internal Revenue Code, a federal retirement
263 program as specified under 5 C.F.R. s. 831, or a long-term care
264 policy as defined in s. 627.9404(1). A pharmacist who correctly
265 repackages and relabels the medication and the nursing facility
266 which correctly administers such repackaged medication under
267 this paragraph may not be held liable in any civil or
268 administrative action arising from the repackaging. In order to
269 be eligible for the repackaging, a nursing facility resident for
270 whom the medication is to be repackaged shall sign an informed
271 consent form provided by the facility which includes an
272 explanation of the repackaging process and which notifies the
273 resident of the immunities from liability provided in this
274 paragraph. A pharmacist who repackages and relabels prescription
275 medications, as authorized under this paragraph, may charge a
276 reasonable fee for costs resulting from the implementation of
277 this provision.

278 Section 2. Present subsections (15) through (30) of section
279 408.802, Florida Statutes, are renumbered as subsections (14)
280 through (27), respectively, and subsections (14), (18), and (20)
281 of that section, are amended to read:

282 408.802 Applicability.—The provisions of this part apply to
283 the provision of services that require licensure as defined in
284 this part and to the following entities licensed, registered, or
285 certified by the agency, as described in chapters 112, 383, 390,
286 394, 395, 400, ~~429~~, 440, 483, and 765:

287 ~~(14) Assisted living facilities, as provided under part I~~
288 ~~of chapter 429.~~

289 ~~(18) Adult day care centers, as provided under part III of~~
290 ~~chapter 429.~~

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291 ~~(20) Adult family care homes, as provided under part II of~~
292 ~~chapter 429.~~

293 Section 3. Paragraph (c) of subsection (7) of section
294 408.806, Florida Statutes, is amended to read:

295 408.806 License application process.—

296 (7)

297 (c) If an inspection is required by the authorizing statute
298 for a license application other than an initial application, the
299 inspection must be unannounced. This paragraph does not apply to
300 inspections required pursuant to ss. 383.324, 395.0161(4),
301 ~~429.67(6)~~, and 483.061(2).

302 Section 4. Present subsections (14) through (28) of section
303 408.820, Florida Statutes, are renumbered as subsections (13)
304 through (25), respectively, and subsections (13), (17), and (18)
305 of that section, are amended to read:

306 408.820 Exemptions.—Except as prescribed in authorizing
307 statutes, the following exemptions shall apply to specified
308 requirements of this part:

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

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

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

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

317 408.831 Denial, suspension, or revocation of a license,
318 registration, certificate, or application.—

319 (3) This section provides standards of enforcement

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320 applicable to all entities licensed or regulated by the Agency
321 for Health Care Administration. This section controls over any
322 conflicting provisions of chapters 39, 383, 390, 391, 394, 395,
323 400, 408, ~~429~~, 468, 483, and 765 or rules adopted pursuant to
324 those chapters.

325 Section 6. Section 408.832, Florida Statutes, is amended to
326 read:

327 408.832 Conflicts.—In case of conflict between the
328 provisions of this part and the authorizing statutes governing
329 the licensure of health care providers by the Agency for Health
330 Care Administration found in s. 112.0455 and chapters 383, 390,
331 394, 395, 400, ~~429~~, 440, 483, and 765, the provisions of this
332 part shall prevail.

333 Section 7. Part I of chapter 429, Florida Statutes,
334 consisting of sections 429.01, 429.02, 429.04, 429.07, 429.075,
335 429.08, 429.11, 429.12, 429.14, 429.17, 429.174, 429.176,
336 429.177, 429.178, 429.18, 429.19, 429.195, 429.20, 429.22,
337 429.23, 429.24, 429.255, 429.256, 429.26, 429.27, 429.275,
338 429.28, 429.29, 429.293, 429.294, 429.295, 429.296, 429.297,
339 429.298, 429.31, 429.34, 429.35, 429.41, 429.42, 429.44,
340 429.445, 429.47, 429.49, 429.52, 429.53, and 429.54, Florida
341 Statutes, and entitled "ASSISTED LIVING FACILITIES," is
342 designated as part II of chapter 429, Florida Statutes, and
343 renamed "ASSISTED LIVING RESIDENCES."

344 Section 8. Part II of chapter 429, Florida Statutes,
345 consisting of sections 429.60, 429.63, 429.65, 429.67, 429.69,
346 429.71, 429.73, 429.75, 429.81, 429.83, 429.85, and 429.87,
347 Florida Statutes, is designated as part III of chapter 429,
348 Florida Statutes, and entitled "ADULT FAMILY-CARE HOMES."

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349 Section 9. Part III of chapter 429, Florida Statutes,
350 consisting of sections 429.90, 429.901, 429.903, 429.905,
351 429.907, 429.909, 429.911, 429.913, 429.915, 429.917, 429.919,
352 429.925, 429.927, 429.929, and 429.931, Florida Statutes, is
353 designated as part IV of chapter 429, Florida Statutes, and
354 entitled "ADULT DAY CARE CENTERS."

355 Section 10. Sections 429.001, 429.002, 429.003, 429.004,
356 429.005, 429.006, 429.007, 429.008, 429.009, 429.0105, 429.011,
357 429.012, 429.013, 429.014, 429.015, 429.016, 429.017, 429.018,
358 and 429.019, Florida Statutes, are designated as part I of
359 chapter 429, Florida Statutes, entitled the "ASSISTED CARE
360 COMMUNITIES LICENSING PROCEDURE ACT," and created to read:

361 429.001 Short title; purpose.—

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

364 (2) The Legislature finds that assisted care communities
365 provide appropriate services for elderly persons and adults in
366 need of assistance with activities of daily living and allow
367 those persons to remain in their own homes or reside in a
368 residential homelike environment that is a community-based
369 social model with a health component rather than a medical or
370 nursing home facility. The Legislature further finds that the
371 goal of assisted care communities is to maximize a person's
372 dignity and independence and to support the person's ability to
373 remain in a familiar, nonmedical, residential homelike setting
374 for as long as is appropriate. Therefore, the Legislature
375 intends that assisted care communities be operated as
376 residential homelike environments with supportive services and
377 not as medical or nursing facilities and, as such, should not be

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378 subject to the same regulations as medical or nursing facilities
379 but instead should be regulated in a less restrictive manner
380 that is appropriate for a residential, noninstitutional,
381 nonmedical setting.

382 429.002 Definitions.—As used in this part, the term:

383 (1) "Agency" means the Agency for Health Care
384 Administration, which is the licensing agency under this
385 chapter.

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

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

392 (4) "Change of ownership" means:

393 (a) An event in which the licensee sells or otherwise
394 transfers its ownership to a different individual or entity as
395 evidenced by a change in federal employer identification number
396 or taxpayer identification number; or

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

402 (5) "Controlling interest" means:

403 (a) The applicant or licensee; or

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

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

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

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

414 (9) "Moratorium" means a prohibition on the acceptance of
415 new admissions.

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

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

422 429.003 License required; display.—

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

425 (2) The license must be displayed in a conspicuous place
426 readily visible to the public who enter at the address that
427 appears on the license and is valid only in the hands of the
428 licensee to whom it is issued and may not be sold, assigned, or
429 otherwise transferred, voluntarily or involuntarily. The license
430 is valid only for the licensee and the location for which the
431 license is issued.

432 429.004 Fees required; adjustments.—License fees must be
433 reasonably calculated by the agency to cover its costs in
434 carrying out its responsibilities under this chapter and
435 applicable rules, including the cost of licensure, inspection,

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436 and regulation of assisted care communities.

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

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

443 (3) License fees are nonrefundable.

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

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

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

452 429.005 License application process.-

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

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

459 1. The applicant;

460 2. The administrator or a similarly titled person who is
461 responsible for the day-to-day operation of the assisted care
462 community;

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

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465 community; and

466 4. Each controlling interest if the applicant or
467 controlling interest is an individual.

468 (b) The name, address, and federal employer identification
469 number or taxpayer identification number of the applicant and
470 each controlling interest if the applicant or controlling
471 interest is not an individual.

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

474 (d) The total number of beds or capacity requested, as
475 applicable.

476 (e) The name of the person or persons under whose
477 management or supervision the licensee will operate and the name
478 of the administrator, if required.

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

483 (g) Other information, including satisfactory inspection
484 results, that the agency finds necessary to determine the
485 ability of the applicant to carry out its responsibilities under
486 this part, and applicable rules.

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

490 (2) (a) The applicant for a renewal license must submit an
491 application that must be received by the agency at least 60 days
492 but no more than 120 days before the expiration of the current
493 license. An application received more than 120 days before the

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494 expiration of the current license shall be returned to the
495 applicant. If the renewal application and fee are received
496 before the license expiration date, the license shall not be
497 deemed to have expired if the license expiration date occurs
498 during the agency's review of the renewal application.

499 (b) The applicant for initial licensure due to a change of
500 ownership must submit an application that must be received by
501 the agency at least 60 days before the date of change of
502 ownership.

503 (c) For any other application or request, the applicant
504 must submit an application or request that must be received by
505 the agency at least 60 days but no more than 120 days before the
506 requested effective date, unless otherwise specified in this
507 chapter or applicable rules. An application received more than
508 120 days before the requested effective date shall be returned
509 to the applicant.

510 (d) The agency shall notify the licensee by mail or
511 electronically at least 90 days before the expiration of a
512 license that a renewal license is necessary to continue
513 operation. The failure to timely submit a renewal application
514 and license fee shall result in a \$50 per day late fee charged
515 to the licensee by the agency; however, the aggregate amount of
516 the late fee may not exceed 50 percent of the licensure fee or
517 \$500, whichever is less. If an application is received after the
518 required filing date and exhibits a hand-canceled postmark
519 obtained from a United States post office dated on or before the
520 required filing date, no fine will be levied.

521 (3) (a) Upon receipt of an application for a license, the
522 agency shall examine the application and, within 30 days after

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523 receipt, notify the applicant in writing or electronically of
524 any apparent errors or omissions and request any additional
525 information required.

526 (b) Requested information omitted from an application for
527 licensure, license renewal, or change of ownership, other than
528 an inspection, must be filed with the agency within 21 days
529 after the agency's request for omitted information or the
530 application shall be deemed incomplete and shall be withdrawn
531 from further consideration and the fees shall be forfeited.

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

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

537 (b) Each license issued shall indicate the name of the
538 licensee, the license type, the date the license is effective,
539 the expiration date of the license, and the maximum capacity of
540 the assisted care community.

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

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

548 (b) If an inspection is required under this chapter for a
549 license application other than an initial application, the
550 inspection must be unannounced. This paragraph does not apply to
551 inspections required pursuant to s. 429.67(6).

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

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

558 (a) Licensure applications.

559 (b) Required signatures.

560 (c) Payment of fees.

561 (d) Notarization of applications.

562 429.006 Change of ownership.—Whenever a change of ownership
563 occurs:

564 (1) The transferor shall notify the agency in writing at
565 least 60 days before the anticipated date of the change of
566 ownership.

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

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

570 (a) The lawful operation of the licensee and the welfare of
571 the residents served until the date the transferee is licensed
572 by the agency.

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

575 (4) Any restriction on licensure, including a conditional
576 license existing at the time of a change of ownership, shall
577 remain in effect until the agency determines that the grounds
578 for the restriction are corrected.

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

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581 (a) All resident and participant records.

582 (b) Inspection reports.

583 (c) All records required to be maintained pursuant to s.
584 409.913, if applicable.

585 429.007 License categories.-

586 (1) STANDARD LICENSE.-A standard license may be issued to
587 an applicant at the time of initial licensure, license renewal,
588 or change of ownership. A standard license shall be issued when
589 the applicant is in compliance with all statutory requirements
590 and agency rules. Unless sooner revoked, a standard license
591 expires 2 years after the date of issue.

592 (2) PROVISIONAL LICENSE.-A provisional license shall be
593 issued to an applicant applying for an initial license or for a
594 change of ownership. A provisional license must be limited in
595 duration to a specific period of time, up to 6 months, as
596 determined by the agency.

597 (3) INACTIVE LICENSES.-A licensee may submit a request to
598 the agency for an inactive license or to extend a previously
599 approved inactive period. Such request must include a written
600 justification for the inactive license with the beginning and
601 ending dates of inactivity specified, a plan for the transfer of
602 any residents, and the appropriate licensure fees. The agency
603 may not accept a request that is submitted after initiating
604 closure, after any suspension of service, or after notifying
605 residents of closure or suspension of service, unless the action
606 is a result of a disaster at the licensed premises. For the
607 purposes of this section, the term "disaster" means a sudden
608 emergency occurrence beyond the control of the licensee, whether
609 natural, technological, or manmade, which renders the licensee

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610 inoperable at the premises. Upon agency approval, the licensee
611 shall notify residents of any necessary discharge or transfer as
612 required by part II or part III or applicable rules. The
613 beginning of the inactive license period is the date the
614 licensee ceases operations. The end of the inactive license
615 period shall become the license expiration date. All licensure
616 fees must be current, must be paid in full, and may be prorated.
617 Reactivation of an inactive license requires the approval of a
618 renewal application, including payment of licensure fees and
619 agency inspections indicating compliance with all requirements
620 of this part, parts II and III, and applicable rules.

621 (4) TEMPORARY LICENSE.—An applicant against whom a
622 proceeding denying, suspending, or revoking a license is pending
623 at the time of license renewal shall be issued a temporary
624 license effective until final action not subject to further
625 appeal.

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

628 429.008 Background screening; prohibited offenses.—

629 (1) Level 2 background screening pursuant to chapter 435
630 must be conducted through the agency on each of the following
631 persons, who are considered staff members or employees for the
632 purposes of conducting screening under chapter 435:

633 (a) The licensee, if an individual.

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

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

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

643 (e) Any person, as required by this chapter, seeking
644 employment with a licensee who is expected to, or whose
645 responsibilities may require him or her to, provide personal
646 care or services directly to residents or have access to
647 resident funds, personal property, or living areas; and any
648 person, as required by this chapter, contracting with a licensee
649 whose responsibilities require him or her to provide personal
650 care or personal services directly to residents. Evidence of
651 contractor screening may be retained by the contractor's
652 employer or the licensee.

653 (2) Every 5 years after his or her licensure, employment,
654 or entry into a contract in a capacity that under subsection (1)
655 would require level 2 background screening under chapter 435,
656 each such person must submit to level 2 background rescreening
657 as a condition of retaining such license or continuing in such
658 employment or contractual status. For any such rescreening, the
659 agency shall request the Department of Law Enforcement to
660 forward the person's fingerprints to the Federal Bureau of
661 Investigation for a national criminal history record check. If
662 the fingerprints of such a person are not retained by the
663 Department of Law Enforcement under s. 943.05(2)(g), the person
664 must file a complete set of fingerprints with the agency and the
665 agency shall forward the fingerprints to the Department of Law
666 Enforcement for state processing, and the Department of Law
667 Enforcement shall forward the fingerprints to the Federal Bureau

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668 of Investigation for a national criminal history record check.
669 The fingerprints may be retained by the Department of Law
670 Enforcement under s. 943.05(2)(g). Proof of compliance with
671 level 2 screening standards submitted within the previous 5
672 years to meet any licensee or professional licensure
673 requirements of the agency, the Department of Health, the Agency
674 for Persons with Disabilities, the Department of Children and
675 Family Services, or the Department of Financial Services for an
676 applicant for a certificate of authority or provisional
677 certificate of authority to operate a continuing care retirement
678 community under chapter 651 satisfies the requirements of this
679 section if the person subject to screening has not been
680 unemployed for more than 90 days and such proof is accompanied,
681 under penalty of perjury, by an affidavit of compliance with the
682 provisions of chapter 435 and this section using forms provided
683 by the agency.

684 (3) All fingerprints must be provided in electronic format.
685 Screening results shall be reviewed by the agency with respect
686 to the offenses specified in s. 435.04 and this section, and the
687 qualifying or disqualifying status of the person named in the
688 request shall be maintained in a database. The qualifying or
689 disqualifying status of the person named in the request shall be
690 posted on a secure website for retrieval by the licensee or
691 designated agent on the licensee's behalf.

692 (4) In addition to the offenses listed in s. 435.04, all
693 persons required to undergo background screening pursuant to
694 this chapter must not have an arrest awaiting final disposition
695 for, must not have been found guilty of, regardless of
696 adjudication, or entered a plea of guilty to, and must not have

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697 been adjudicated delinquent and the record must not have been
698 sealed or expunged for any of the following offenses or any
699 similar offense of another jurisdiction:

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

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

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

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

704 (e) Section 817.034, relating to fraudulent acts through
705 mail, wire, radio, electromagnetic, photoelectronic, or
706 photooptical systems.

707 (f) Section 817.234, relating to false and fraudulent
708 insurance claims.

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

710 (h) Section 817.568, relating to criminal use of personal
711 identification information.

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

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

716 (k) Section 831.01, relating to forgery.

717 (l) Section 831.02, relating to uttering forged
718 instruments.

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

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

723 (o) Section 831.30, relating to fraud in obtaining
724 medicinal drugs.

725 (p) Section 831.31, relating to the sale, manufacture,

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726 delivery, or possession with the intent to sell, manufacture, or
727 deliver any counterfeit controlled substance, if the offense was
728 a felony.

729
730 A person who serves as a controlling interest of, is employed
731 by, or contracts with a licensee on July 31, 2011, who has been
732 screened and qualified according to standards specified in s.
733 435.03 or s. 435.04 must be rescreened by July 31, 2016. The
734 agency may adopt rules to establish a schedule to stagger the
735 implementation of the required rescreening over the 5-year
736 period, beginning July 31, 2011, through July 31, 2016. If, upon
737 rescreening, such person has a disqualifying offense that was
738 not a disqualifying offense at the time of the last screening,
739 but is a current disqualifying offense and was committed before
740 the last screening, he or she may apply for an exemption from
741 the appropriate licensing agency and, if agreed to by the
742 employer, may continue to perform his or her duties until the
743 licensing agency renders a decision on the application for
744 exemption if the person is eligible to apply for an exemption
745 and the exemption request is received by the agency within 30
746 days after receipt of the rescreening results by the person.

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

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

752 2. Has an active professional license or certification from
753 the Department of Health but is not providing a service within
754 the scope of that license or certification.

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755 (b) As provided in chapter 435, the appropriate regulatory
756 board within the Department of Health, or the department itself
757 if there is no board, may grant an exemption from
758 disqualification to a person who is subject to this section and
759 who has received a professional license or certification from
760 the Department of Health or a regulatory board within that
761 department and that person is providing a service within the
762 scope of his or her licensed or certified practice.

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

768 (7) There is no unemployment compensation or other monetary
769 liability on the part of, and no cause of action for damages
770 arising against, an employer that, upon notice of a
771 disqualifying offense listed under chapter 435 or this section,
772 terminates the person against whom the report was issued,
773 whether or not that person has filed for an exemption with the
774 Department of Health or the agency.

775 429.009 Minimum licensure requirements.—In addition to the
776 licensure requirements specified in this chapter and applicable
777 rules, each applicant and licensee must comply with the
778 requirements of this section in order to obtain and maintain a
779 license.

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

782 (2) An applicant for licensure must provide a description
783 and explanation of any exclusions, suspensions, or terminations

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784 of the applicant from the Medicaid program.

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

790 (a) Information contained in the most recent application
791 for licensure.

792 (b) Required insurance or bonds.

793 (4) Whenever a licensee discontinues operation:

794 (a) The licensee must inform the agency not less than 30
795 days before the discontinuance of operation and inform residents
796 or participants of such discontinuance as required by this
797 chapter. Immediately upon discontinuance of operation, the
798 licensee shall surrender the license to the agency and the
799 license shall be canceled.

800 (b) The licensee shall remain responsible for retaining and
801 appropriately distributing all records within the timeframes
802 prescribed in this chapter and applicable rules. In addition,
803 the licensee or, in the event of death or dissolution of a
804 licensee, the estate or agent of the licensee shall:

805 1. Make arrangements to forward records for each resident
806 to one of the following, based upon the resident's choice: the
807 resident or the resident's legal representative, the resident's
808 attending physician, or the health care provider where the
809 resident currently receives services; or

810 2. Cause a notice to be published in the newspaper of
811 greatest general circulation in the county in which the licensee
812 was located that advises residents of the discontinuance of the

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813 licensed operation. The notice must inform residents that they
814 may obtain copies of their records and specify the name,
815 address, and telephone number of the person from whom the copies
816 of records may be obtained. The notice must appear at least once
817 a week for 4 consecutive weeks.

818 (5) (a) On or before the first day services are provided to
819 a resident, a licensee must inform the resident and his or her
820 immediate family or representative, if appropriate, of the right
821 to report:

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

827 2. Abusive, neglectful, or exploitative practices. The
828 statewide toll-free telephone number for the central abuse
829 hotline must be provided to residents in a manner that is
830 clearly legible and must include the words: "To report abuse,
831 neglect, or exploitation, please call toll-free (phone number)."

832 3. Medicaid fraud. An agency-written description of
833 Medicaid fraud and the statewide toll-free telephone number for
834 the central Medicaid fraud hotline must be provided to residents
835 in a manner that is clearly legible and must include the words:
836 "To report suspected Medicaid fraud, please call toll-free
837 (phone number)."

838
839 The agency shall publish a minimum of a 90-day advance notice of
840 a change in the toll-free telephone numbers.

841 (b) Each licensee shall establish appropriate policies and

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842 procedures for providing such notice to residents.

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

848 (7) If proof of insurance is required under this chapter,
849 that insurance must be in compliance with chapter 624, chapter
850 626, chapter 627, or chapter 628 and with agency rules.

851 (8) Upon application for initial licensure or change of
852 ownership licensure, the applicant shall furnish satisfactory
853 proof of the applicant's financial ability to operate in
854 accordance with the requirements of this chapter and applicable
855 rules. The agency shall establish standards that require the
856 applicant to provide information concerning the applicant's
857 controlling interests. The agency shall also establish
858 documentation requirements, to be completed by each applicant,
859 that show anticipated revenues and expenditures, the basis for
860 financing the anticipated cash-flow requirements of the
861 licensee, and an applicant's access to contingency financing. A
862 current certificate of authority, pursuant to chapter 651, may
863 be provided as proof of financial ability to operate. The agency
864 may require a licensee to provide proof of financial ability to
865 operate at any time if there is evidence of financial
866 instability, including, but not limited to, unpaid expenses
867 necessary for the basic operations of the licensee.

868 (9) A controlling interest may not withhold from the agency
869 any evidence of financial instability, including, but not
870 limited to, checks returned due to insufficient funds,

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871 delinquent accounts, nonpayment of withholding taxes, unpaid
872 utility expenses, nonpayment for essential services, or adverse
873 court action concerning the financial viability of the licensee
874 or any other licensee licensed under this part that is under the
875 control of the controlling interest. Any person who violates
876 this subsection commits a misdemeanor of the second degree,
877 punishable as provided in s. 775.082 or s. 775.083. Each day of
878 continuing violation is a separate offense.

879 429.0105 Right of inspection; copies; inspection reports.-

880 (1) An authorized officer or employee of the agency may
881 make or cause to be made any inspection or investigation deemed
882 necessary by the agency to determine the state of compliance
883 with this chapter and applicable rules. The right of inspection
884 extends to any business that the agency has reason to believe is
885 being operated without a license, but inspection of any business
886 suspected of being operated without the appropriate license may
887 not be made without the permission of the owner or person in
888 charge unless a warrant is first obtained from a circuit court.
889 Any application for a license issued under this chapter or
890 applicable rules constitutes permission for an appropriate
891 inspection to verify the information submitted on or in
892 connection with the application.

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

895 (b) Inspections for relicensure shall be conducted
896 biennially except as specified under this chapter or applicable
897 rules.

898 (2) The agency shall have access to and the licensee shall
899 provide, or if requested send, copies of all licensee records

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900 required during an inspection or other review at no cost to the
901 agency, including records requested during an offsite review.

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

905 (4) (a) Each licensee shall maintain as public information,
906 available upon request, records of all inspection reports
907 pertaining to that licensee that have been filed by the agency
908 unless those reports are exempt from or contain information that
909 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State
910 Constitution or is otherwise made confidential by law. Copies of
911 such reports shall be retained in the records of the licensee
912 for at least 3 years following the date the reports are filed
913 and issued, regardless of a change of ownership.

914 (b) A licensee shall, upon the request of any person who
915 has completed a written application with intent to be admitted
916 by such licensee, any person who is a resident, or any relative,
917 spouse, or guardian of any such person, furnish to the requester
918 a copy of the last inspection report pertaining to the licensee
919 that was issued by the agency if such report is used in lieu of
920 a licensure inspection.

921 429.011 Unlicensed activity.-

922 (1) A person or entity may not offer or advertise services
923 that require licensure as defined by this chapter or applicable
924 rules to the public without obtaining a valid license from the
925 agency. A licenseholder may not advertise or hold out to the
926 public that he or she holds a license for other than that for
927 which he or she actually holds the license.

928 (2) The operation or maintenance of an unlicensed assisted

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929 care community is a violation of this chapter. Unlicensed
930 activity constitutes harm that materially affects the health,
931 safety, and welfare of residents or participants. The agency or
932 any state attorney may, in addition to other remedies provided
933 in this part, bring an action for an injunction to restrain such
934 violation, or to enjoin the future operation or maintenance of
935 the unlicensed assisted care community in violation of this
936 chapter, until compliance with this chapter and agency rules has
937 been demonstrated to the satisfaction of the agency.

938 (3) It is unlawful for any person or entity to own,
939 operate, or maintain an assisted care community requiring
940 licensure pursuant to this chapter without obtaining a license.
941 If after receiving notification from the agency, such person or
942 entity fails to cease operation and apply for a license under
943 this chapter, the person or entity shall be subject to penalties
944 as prescribed under this chapter and applicable rules. Each day
945 of continued operation is a separate offense.

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

949 (5) When a controlling interest or licensee has an interest
950 in more than one entity and fails to license an entity rendering
951 services that require licensure pursuant to this chapter, the
952 agency may revoke all licenses and impose actions under s.
953 429.013 and a fine of \$1,000 per day, unless otherwise specified
954 under this chapter, against each licensee until such time as the
955 appropriate license is obtained for the unlicensed operation.

956 (6) In addition to granting injunctive relief pursuant to
957 subsection (2), if the agency determines that a person or entity

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958 is operating or maintaining an assisted care community requiring
959 licensure pursuant to this chapter without obtaining a license
960 and determines that a condition exists that poses a threat to
961 the health, safety, or welfare of a resident or participant of
962 the person or entity, the person or entity is subject to the
963 same actions and fines imposed against a licensee as specified
964 in this chapter and agency rules.

965 (7) Any person aware of the operation of an unlicensed
966 person or entity must report that person or entity to the
967 agency.

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

970 429.012 Administrative fines; violations.—As a penalty for
971 any violation of this chapter, or applicable rules, the agency
972 may impose an administrative fine pursuant to the provisions of
973 this chapter.

974 429.013 Moratorium; emergency suspension.—

975 (1) The agency may impose an immediate moratorium or
976 emergency suspension as defined in s. 120.60 on any licensee if
977 the agency determines that any condition related to the licensee
978 presents a threat to the health, safety, or welfare of a
979 resident or participant.

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

984 (3) A moratorium or emergency suspension remains in effect
985 after a change of ownership, unless the agency has determined
986 that the conditions that created the moratorium, emergency

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987 suspension, or denial of licensure have been corrected.

988 (4) When a moratorium or emergency suspension is placed on
989 a licensee, notice of the action shall be posted and visible to
990 the public at the location of the licensee until the action is
991 lifted.

992 429.014 License or application denial; revocation.—

993 (1) In addition to the grounds provided in part II, part
994 III, or part IV, grounds that may be used by the agency for
995 denying or revoking a license or change of ownership application
996 include any of the following actions by a controlling interest:

997 (a) False representation of a material fact in the license
998 application or omission of any material fact from the
999 application.

1000 (b) An intentional or negligent act materially affecting
1001 the health or safety of a resident or participant of an assisted
1002 care community.

1003 (c) A violation of this chapter or applicable rules.

1004 (d) A demonstrated pattern of violations.

1005 (e) The applicant, licensee, or controlling interest has
1006 been or is currently excluded, suspended, or terminated, for
1007 cause, from participation in the Medicaid program.

1008 (2) If a licensee lawfully continues to operate while a
1009 denial or revocation is pending in litigation, the licensee must
1010 continue to meet all other requirements of this chapter and
1011 applicable rules and must file subsequent renewal applications
1012 for licensure and pay all licensure fees. The provisions of ss.
1013 120.60(1) and 429.005(3)(c) shall not apply to renewal
1014 applications filed during the time period in which the
1015 litigation of the denial or revocation is pending until that

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1016 litigation is final.

1017 (3) An action under s. 429.013 or denial of the license of
1018 the transferor may be grounds for denial of a change of
1019 ownership application of the transferee.

1020 (4) In addition to the grounds provided in authorizing
1021 statutes, the agency shall deny an application for a license or
1022 license renewal if the applicant or a person having a
1023 controlling interest in an applicant has been:

1024 (a) Convicted of, or enters a plea of guilty to, regardless
1025 of adjudication, a felony under chapter 409, chapter 817, or
1026 chapter 893, unless the sentence and any subsequent period of
1027 probation for such convictions or plea ended more than 15 years
1028 before the date of the application;

1029 (b) Terminated for cause from the Florida Medicaid program
1030 pursuant to s. 409.913, unless the applicant has been in good
1031 standing with the Florida Medicaid program for the most recent 5
1032 years; or

1033 (c) Terminated for cause, pursuant to the appeals
1034 procedures established by the Florida Medicaid program, unless
1035 the applicant has been in good standing with the Florida
1036 Medicaid program for the most recent 5 years and the termination
1037 occurred at least 20 years before the date of the application.

1038 429.015 Injunctions.—

1039 (1) In addition to the other powers provided by this
1040 chapter and applicable rules, the agency may institute
1041 injunction proceedings in a court of competent jurisdiction in
1042 the local jurisdiction of the residence to:

1043 (a) Restrain or prevent the establishment or operation of a
1044 person or entity that does not have a license or is in violation

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1045 of any provision of this chapter or applicable rules. The agency
1046 may also institute injunction proceedings in a court of
1047 competent jurisdiction when a violation of this chapter or
1048 applicable rules constitutes an emergency affecting the
1049 immediate health and safety of a resident.

1050 (b) Enforce the provisions of this chapter or any minimum
1051 standard, rule, or order issued or entered into pursuant thereto
1052 when the attempt by the agency to correct a violation through
1053 administrative sanctions has failed or when the violation
1054 materially affects the health, safety, or welfare of residents
1055 or participants or involves any operation of an unlicensed
1056 assisted care community.

1057 (c) Terminate the operation of a licensee when a violation
1058 of any provision of this chapter or any standard or rule adopted
1059 pursuant thereto exists that materially affects the health,
1060 safety, or welfare of a resident or participant.

1061 (2) If action is necessary to protect a resident or
1062 participant of a licensee from an immediate, life-threatening
1063 situation, the court may allow a temporary injunction without
1064 bond upon proper proofs being made. If it appears by competent
1065 evidence or a sworn, substantiated affidavit that a temporary
1066 injunction should be issued, the court, pending the
1067 determination on final hearing, shall enjoin the operation of
1068 the licensee.

1069 429.016 Administrative proceedings.—Administrative
1070 proceedings challenging agency licensure enforcement action
1071 shall be reviewed on the basis of the facts and conditions that
1072 resulted in the agency action.

1073 429.017 Rules.—The department is authorized to adopt rules

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1074 as necessary to administer this part. Any licensee that is in
1075 operation at the time of adoption of any applicable rule under
1076 this chapter shall be given a reasonable time under the
1077 particular circumstances, not to exceed 6 months after the date
1078 of such adoption, within which to comply with that rule, unless
1079 otherwise specified by rule.

1080 429.018 Emergency management planning; emergency
1081 operations; inactive license.-

1082 (1) A licensee required by part II, part III, or part IV to
1083 have an emergency operations plan must designate a safety
1084 liaison to serve as the primary contact for emergency
1085 operations.

1086 (2) An entity subject to this part may temporarily exceed
1087 its licensed capacity to act as a receiving licensee in
1088 accordance with an approved emergency operations plan for up to
1089 15 days. While in an overcapacity status, each licensee must
1090 furnish or arrange for appropriate care and services to all
1091 residents. In addition, the agency may approve requests for
1092 overcapacity in excess of 15 days, which approvals may be based
1093 upon satisfactory justification and need as provided by the
1094 receiving and sending licensees.

1095 (3) (a) An inactive license may be issued to a licensee
1096 subject to this section when the licensee is located in a
1097 geographic area in which a state of emergency was declared by
1098 the Governor, if the licensee:

1099 1. Suffered damage to its operation during the state of
1100 emergency.

1101 2. Is currently licensed.

1102 3. Does not have a provisional license.

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1103 4. Will be temporarily unable to provide services but is
1104 reasonably expected to resume services within 12 months.

1105 (b) An inactive license may be issued for a period not to
1106 exceed 12 months but may be renewed by the agency for up to 12
1107 additional months upon demonstration to the agency of progress
1108 toward reopening. A request by a licensee for an inactive
1109 license or to extend the previously approved inactive period
1110 must be submitted in writing to the agency, accompanied by
1111 written justification for the inactive license, and must state
1112 the beginning and ending dates of inactivity and include a plan
1113 for the transfer of any residents and appropriate licensure
1114 fees. Upon agency approval, the licensee shall notify residents
1115 of any necessary discharge or transfer as required under this
1116 chapter or applicable rules. The beginning of the inactive
1117 licensure period shall be the date the licensee ceases
1118 operations. The end of the inactive period shall become the
1119 license expiration date, and all licensure fees must be current,
1120 must be paid in full, and may be prorated. Reactivation of an
1121 inactive license requires the prior approval by the agency of a
1122 renewal application, including payment of licensure fees and
1123 agency inspections indicating compliance with all requirements
1124 of this chapter and applicable rules and statutes.

1125 (4) The department may adopt rules relating to emergency
1126 management planning, communications, and operations. Licensees
1127 providing residential services must utilize an online database
1128 approved by the agency to report information to the agency
1129 regarding the licensee's emergency status, planning, or
1130 operations.

1131 429.019 Denial, suspension, or revocation of a license or

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1132 application.-

1133 (1) In addition to any other remedies provided by law, the
1134 agency may deny an application or suspend or revoke the license
1135 of an assisted care community:

1136 (a) If the applicant, licensee, or a licensee subject to
1137 this part that shares a common controlling interest with the
1138 applicant has failed to pay all outstanding fines, liens, or
1139 overpayments assessed by final order of the agency, not subject
1140 to further appeal, unless a repayment plan is approved by the
1141 agency; or

1142 (b) For failure to comply with any repayment plan.

1143 (2) In reviewing an application requesting a change of
1144 ownership or change of the licensee, the transferor shall,
1145 before agency approval of the change, repay or make arrangements
1146 to repay any amounts owed to the agency. The issuance of a
1147 license to the transferee shall be delayed until the transferor
1148 repays or makes arrangements to repay the amounts owed.

1149 Section 11. Section 429.01, Florida Statutes, is amended to
1150 read:

1151 429.01 Short title; purpose.-

1152 (1) This act may be cited as the "Assisted Living
1153 Residences ~~Facilities~~ Act."

1154 (2) The purpose of this act is to promote the availability
1155 of appropriate services for elderly persons and adults with
1156 disabilities in the least restrictive and most homelike
1157 environment, to encourage the development of residences
1158 ~~facilities~~ that promote the dignity, individuality, privacy, and
1159 decisionmaking ability of such persons, to provide for the
1160 health, safety, and welfare of residents of assisted living

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1161 residences ~~facilities~~ in the state, to promote continued
1162 improvement of such residences ~~facilities~~, to encourage the
1163 development of innovative and affordable residences ~~facilities~~
1164 particularly for persons with low to moderate incomes, to ensure
1165 that all agencies of the state cooperate in the protection of
1166 such residents, and to ensure that needed economic, social,
1167 mental health, health, and leisure services are made available
1168 to residents of such residences ~~facilities~~ through the efforts
1169 of the Agency for Health Care Administration, the Department of
1170 Elderly Affairs, the Department of Children and Family Services,
1171 the Department of Health, assisted living residences ~~facilities~~,
1172 and other community agencies. To the maximum extent possible,
1173 appropriate community-based programs must be available to state-
1174 supported residents to augment the services provided in assisted
1175 living residences ~~facilities~~. The Legislature recognizes that
1176 assisted living residences ~~facilities~~ are an important part of
1177 the continuum of long-term care in the state as community-based
1178 social models with a health component and not as medical or
1179 nursing facilities. In support of the goal of aging in place,
1180 the Legislature further recognizes that assisted living
1181 residences ~~facilities~~ should be operated ~~and regulated~~ as
1182 residential environments with supportive services and not as
1183 medical or nursing facilities and, as such, should not be
1184 subject to the same regulations as medical or nursing facilities
1185 but instead be regulated in a less restrictive manner that is
1186 appropriate for a residential, non-medical setting. The services
1187 available in these residences ~~facilities~~, either directly or
1188 through contract or agreement, are intended to help residents
1189 remain as independent as possible. Regulations governing these

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1190 residences ~~facilities~~ must be sufficiently flexible to allow the
1191 residences ~~facilities~~ to adopt policies that enable residents to
1192 age in place when resources are available to meet their needs
1193 and accommodate their preferences.

1194 (3) The principle that a license issued under this part is
1195 a public trust and a privilege and is not an entitlement should
1196 guide the finder of fact or trier of law at any administrative
1197 proceeding or in a court action initiated by the Agency for
1198 Health Care Administration to enforce this part.

1199 Section 12. Section 429.02, Florida Statutes, is amended to
1200 read:

1201 429.02 Definitions.—When used in this part, the term:

1202 (1) "Activities of daily living" means functions and tasks
1203 for self-care, including ambulation, bathing, dressing, eating,
1204 grooming, and toileting, and other similar tasks.

1205 (2) "Administrator" means an individual at least 21 years
1206 of age who is responsible for the operation and maintenance of
1207 an assisted living residence facility; for promoting the
1208 resident's dignity, autonomy, independence, and privacy in the
1209 least restrictive and most homelike setting consistent with the
1210 resident's preferences and physical and mental status; and for
1211 ensuring the appropriateness of continued placement of a
1212 resident, in consultation with the resident, resident's
1213 representative or designee, if applicable, and the resident's
1214 physician.

1215 ~~(3) "Agency" means the Agency for Health Care~~
1216 ~~Administration.~~

1217 ~~(3)-(4)~~ "Aging in place" or "age in place" means the process
1218 of providing increased or adjusted services to a person to

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1219 compensate for the physical or mental decline that may occur
1220 with the aging process, in order to maximize the person's
1221 dignity and independence and permit them to remain in a
1222 familiar, noninstitutional, residential environment for as long
1223 as possible, as determined by the individual, his or her
1224 physician and the administrator. Such services may be provided
1225 by residence facility staff, volunteers, family, or friends, or
1226 through contractual arrangements with a third party.

1227 (4) "Arbitration" means a process whereby a neutral third
1228 person or panel, called an arbitrator or arbitration panel,
1229 considers the facts and arguments presented by parties and
1230 renders a decision which may be binding or nonbinding as
1231 provided for in chapter 44.

1232 (5) "Assisted living residence facility" or "residence"
1233 means any residential setting that provides, directly or
1234 indirectly by means of contracts or arrangements, for a period
1235 exceeding 24 hours ~~building or buildings, section or distinct~~
1236 ~~part of a building, private home, boarding home, home for the~~
1237 ~~aged, or other residential facility, whether operated for profit~~
1238 ~~or not, which undertakes through its ownership or management to~~
1239 ~~provide~~ housing, meals, and one or more personal services that
1240 meet the resident's changing needs and preferences ~~for a period~~
1241 ~~exceeding 24 hours~~ to one or more adults who are not relatives
1242 of the owner or administrator. "Residential setting" includes,
1243 but is not limited to, a building or buildings, section or
1244 distinct part of a building, private home, or other residence.

1245 (6) "Chemical restraint" means a pharmacologic drug that
1246 physically limits, restricts, or deprives an individual of
1247 movement or mobility, and is used for discipline or convenience

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1248 and not required for the treatment of medical symptoms.

1249 (7) "Community living support plan" means a written
1250 document prepared by a mental health resident and the resident's
1251 mental health case manager in consultation with the
1252 administrator, or the administrator's designee, of an assisted
1253 living residence facility with a limited mental health license
1254 ~~or the administrator's designee~~. A copy must be provided to the
1255 administrator. The plan must include information about the
1256 supports, services, and special needs of the resident which
1257 enable the resident to live in the assisted living residence
1258 ~~facility~~ and a method by which residence facility staff can
1259 recognize and respond to the signs and symptoms particular to
1260 that resident which indicate the need for professional services.

1261 (8) "Cooperative agreement" means a written statement of
1262 understanding between a mental health care provider and the
1263 administrator of the assisted living residence facility with a
1264 limited mental health license in which a mental health resident
1265 is living. The agreement must specify directions for accessing
1266 emergency and after-hours care for the mental health resident. A
1267 single cooperative agreement may service all mental health
1268 residents who are clients of the same mental health care
1269 provider.

1270 (9) "Department" means the Department of Elderly Affairs.

1271 (10) "Emergency" means a situation, physical condition, or
1272 method of operation which presents imminent danger of death or
1273 serious physical or mental harm to residence facility residents.

1274 (11) "Extended congregate care" means acts beyond those
1275 authorized in subsection (18) ~~(16)~~ that may be performed
1276 pursuant to part I of chapter 464 by persons licensed thereunder

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1277 while carrying out their professional duties, and other
1278 supportive services which may be specified by rule. The purpose
1279 of such services is to enable residents to age in place in a
1280 residential environment despite mental or physical limitations
1281 that might otherwise disqualify them from residency in a
1282 residence facility licensed pursuant to this chapter ~~under this~~
1283 ~~part.~~

1284 (12) "Guardian" means a person to whom the law has
1285 entrusted the custody and control of the person or property, or
1286 both, of a person who has been legally adjudged incapacitated.

1287 (13) "Licensed residence" means an assisted living
1288 residence for which a licensee has been issued a license
1289 pursuant to this chapter.

1290 (14) ~~(13)~~ "Limited nursing services" means acts that may be
1291 performed pursuant to part I of chapter 464 by persons licensed
1292 thereunder while carrying out their professional duties but
1293 limited to those acts which the department specifies by rule.
1294 Acts which may be specified by rule as allowable limited nursing
1295 services shall be for persons who meet the admission criteria
1296 established by the department for assisted living residences
1297 ~~facilities~~ and shall not be complex enough to require 24-hour
1298 nursing supervision and may include such services as the
1299 application and care of routine dressings, and care of casts,
1300 braces, and splints.

1301 (15) ~~(14)~~ "Managed risk" means the process by which the
1302 residence facility staff discuss the service plan and the needs
1303 of the resident with the resident and, if applicable, the
1304 resident's representative or designee or the resident's
1305 surrogate, guardian, or attorney in fact, in such a way that the

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1306 consequences of a decision, including any inherent risk, are
1307 explained to all parties and reviewed periodically in
1308 conjunction with the service plan, taking into account changes
1309 in the resident's status and the ability of the residence
1310 ~~facility~~ to respond accordingly.

1311 (16)~~(15)~~ "Mental health resident" means an individual who
1312 receives social security disability income due to a mental
1313 disorder as determined by the Social Security Administration or
1314 receives supplemental security income due to a mental disorder
1315 as determined by the Social Security Administration and receives
1316 optional state supplementation.

1317 (17) "Person" means any individual, partnership,
1318 corporation, association, or governmental unit.

1319 (18)~~(16)~~ "Personal services" means direct physical
1320 assistance with or supervision of the activities of daily living
1321 and the self-administration of medication and other similar
1322 services which the department may define by rule. "Personal
1323 services" shall not be construed to mean the provision of
1324 medical, nursing, dental, or mental health services.

1325 (19)~~(17)~~ "Physical restraint" means a device which
1326 physically limits, restricts, or deprives an individual of
1327 movement or mobility, including, but not limited to, a half-bed
1328 rail, a full-bed rail, a geriatric chair, and a posey restraint.
1329 The term "physical restraint" shall also include any device
1330 which was not specifically manufactured as a restraint but which
1331 has been altered, arranged, or otherwise used for this purpose.
1332 The term shall not include bandage material used for the purpose
1333 of binding a wound or injury.

1334 (20)~~(18)~~ "Relative" means an individual who is the father,

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1335 mother, stepfather, stepmother, son, daughter, brother, sister,
1336 grandmother, grandfather, great-grandmother, great-grandfather,
1337 grandson, granddaughter, uncle, aunt, first cousin, nephew,
1338 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
1339 daughter-in-law, brother-in-law, sister-in-law, stepson,
1340 stepdaughter, stepbrother, stepsister, half brother, or half
1341 sister of an owner or administrator.

1342 (21)~~(19)~~ "Resident" means a person 18 years of age or
1343 older, residing in and receiving care from an assisted living
1344 residence ~~a facility~~.

1345 (22)~~(20)~~ "Resident's representative or designee" means a
1346 person other than the owner, or an agent or employee of the
1347 assisted living residence ~~facility~~, designated in writing by the
1348 resident, if legally competent, to receive notice of changes in
1349 the contract executed pursuant to s. 429.24; to receive notice
1350 of and to participate in meetings between the resident and the
1351 residence ~~facility~~ owner, administrator, or staff concerning the
1352 rights of the resident; to assist the resident in contacting the
1353 ombudsman council if the resident has a complaint against the
1354 residence ~~facility~~; or to bring legal action on behalf of the
1355 resident pursuant to s. 429.29.

1356 (23)~~(21)~~ "Service plan" means a written plan, developed and
1357 agreed upon by the resident and, if applicable, the resident's
1358 representative or designee or the resident's surrogate,
1359 guardian, or attorney in fact, if any, and the administrator or
1360 the administrator's designee representing the residence
1361 ~~facility~~, which addresses the unique physical and psychosocial
1362 needs, abilities, and personal preferences of each resident
1363 receiving extended congregate care services. The plan shall

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1364 include a brief written description, in easily understood
1365 language, of what services shall be provided, who shall provide
1366 the services, when the services shall be rendered, and the
1367 purposes and benefits of the services.

1368 (24)~~(22)~~ "Shared responsibility" means exploring the
1369 options available to a resident within a residence ~~facility~~ and
1370 the risks involved with each option when making decisions
1371 pertaining to the resident's abilities, preferences, and service
1372 needs, thereby enabling the resident and, if applicable, the
1373 resident's representative or designee, or the resident's
1374 surrogate, guardian, or attorney in fact, and the residence
1375 ~~facility~~ to develop a service plan which best meets the
1376 resident's needs and seeks to improve the resident's quality of
1377 life.

1378 (25)~~(23)~~ "Supervision" means reminding residents to engage
1379 in activities of daily living and the self-administration of
1380 medication, and, when necessary, observing or providing verbal
1381 cuing to residents while they perform these activities.
1382 Supervision does not include one-on-one observation.

1383 (26)~~(24)~~ "Supplemental security income," Title XVI of the
1384 Social Security Act, means a program through which the Federal
1385 Government guarantees a minimum monthly income to every person
1386 who is age 65 or older, or disabled, or blind and meets the
1387 income and asset requirements.

1388 (27)~~(25)~~ "Supportive services" means services designed to
1389 encourage and assist residents ~~aged persons or adults with~~
1390 ~~disabilities~~ to remain in the least restrictive living
1391 environment and to maintain their independence as long as
1392 possible.

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1393 ~~(28)-(26)~~ "Twenty-four-hour nursing supervision" means
1394 services that are ordered by a physician for a resident whose
1395 condition requires the supervision of a physician and continued
1396 monitoring of vital signs and physical status. Such services
1397 shall be: medically complex enough to require constant
1398 supervision, assessment, planning, or intervention by a nurse;
1399 required to be performed by or under the direct supervision of
1400 licensed nursing personnel or other professional personnel for
1401 safe and effective performance; ~~required on a daily basis;~~ and
1402 consistent with the nature and severity of the resident's
1403 condition or the disease state or stage.

1404 Section 13. Section 429.04, Florida Statutes, is amended to
1405 read:

1406 429.04 Residences ~~Facilities~~ to be licensed; exemptions.-

1407 (1) For the administration of this part, residences
1408 ~~facilities~~ to be licensed by the agency shall include all
1409 assisted living residences ~~facilities~~ as defined in this part.

1410 (2) The following are exempt from licensure under this
1411 part:

1412 (a) Any facility, institution, or other place operated by
1413 the Federal Government or any agency of the Federal Government.

1414 (b) Any facility or part of a facility licensed under
1415 chapter 393 or chapter 394.

1416 (c) Any facility licensed as an adult family-care home
1417 under part II.

1418 (d) Any person who provides housing, meals, and one or more
1419 personal services on a 24-hour basis in the person's own home to
1420 not more than two adults who do not receive optional state
1421 supplementation. The person who provides the housing, meals, and

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1422 personal services must own or rent the home and reside therein.

1423 (e) Any home or facility approved by the United States
1424 Department of Veterans Affairs as a residential care home
1425 wherein care is provided exclusively to three or fewer veterans.

1426 (f) Any facility that has been incorporated in this state
1427 for 50 years or more on or before July 1, 1983, and the board of
1428 directors of which is nominated or elected by the residents,
1429 until the facility is sold or its ownership is transferred; or
1430 any facility, with improvements or additions thereto, which has
1431 existed and operated continuously in this state for 60 years or
1432 more on or before July 1, 1989, is directly or indirectly owned
1433 and operated by a nationally recognized fraternal organization,
1434 is not open to the public, and accepts only its own members and
1435 their spouses as residents.

1436 (g) Any facility certified under chapter 651, or a
1437 retirement community, may provide services authorized under this
1438 part ~~or part III of chapter 400~~ to its residents who live in
1439 single-family homes, duplexes, quadruplexes, or apartments
1440 located on the campus without obtaining a license to operate an
1441 assisted living residence facility if residential units within
1442 such buildings are used by residents who do not require staff
1443 supervision for that portion of the day when personal services
1444 are not being delivered and the owner obtains a home health
1445 license to provide such services. However, any building or
1446 distinct part of a building on the campus that is designated for
1447 persons who receive personal services and require supervision
1448 beyond that which is available while such services are being
1449 rendered must be licensed in accordance with this part. If a
1450 facility provides personal services to residents who do not

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1451 otherwise require supervision and the owner is not licensed as a
1452 home health agency, the buildings or distinct parts of buildings
1453 where such services are rendered must be licensed under this
1454 part. A resident of a facility that obtains a home health
1455 license may contract with a home health agency of his or her
1456 choice, provided that the home health agency provides liability
1457 insurance and workers' compensation coverage for its employees.
1458 Facilities covered by this exemption may establish policies that
1459 give residents the option of contracting for services and care
1460 beyond that which is provided by the facility to enable them to
1461 age in place. For purposes of this section, a retirement
1462 community consists of a residence facility licensed under this
1463 part or a facility licensed under part II of chapter 400, and
1464 apartments designed for independent living located on the same
1465 campus.

1466 (h) Any residential unit for independent living which is
1467 located within a facility certified under chapter 651, or any
1468 residential unit for independent living which is colocated with
1469 a nursing home licensed under part II of chapter 400 or
1470 colocated with a residence facility licensed under this part in
1471 which services are provided through an outpatient clinic or a
1472 nursing home on an outpatient basis.

1473 Section 14. Section 429.07, Florida Statutes, is amended to
1474 read:

1475 429.07 License required; fee.—

1476 (1) The requirements of part I ~~part II of chapter 400~~ apply
1477 to the provision of services that require licensure ~~pursuant to~~
1478 ~~this part and part II of chapter 400~~ and to entities licensed by
1479 or applying for such licensure from the agency pursuant to this

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1480 part. A license issued by the agency is required in order to
1481 operate an assisted living residence ~~facility~~ in this state.

1482 (2) Separate licenses shall be required for residences
1483 ~~facilities~~ maintained in separate premises, even though operated
1484 under the same management. A separate license shall not be
1485 required for separate buildings on the same grounds.

1486 (3) In addition to the requirements of part I ~~s. 408.806~~,
1487 each license granted by the agency must state the type of care
1488 for which the license is granted. Licenses shall be issued for
1489 one or more of the following categories of care: standard,
1490 extended congregate care, ~~limited nursing services~~, or limited
1491 mental health.

1492 (a) A standard license shall be issued to a licensee for a
1493 residence ~~facilities~~ providing one or more of the personal
1494 services identified in s. 429.02. ~~Such facilities may also~~
1495 ~~employ or contract with a person licensed under part I of~~
1496 ~~chapter 464 to administer medications and perform other tasks as~~
1497 ~~specified in s. 429.255.~~

1498 (b) An extended congregate care license shall be issued to
1499 a licensee for a residence ~~facilities~~ providing, directly or
1500 through contract, services beyond those authorized in paragraph
1501 (a), including services performed by persons licensed under part
1502 I of chapter 464 and supportive services, as defined by rule, to
1503 persons who would otherwise be disqualified from continued
1504 residence in a residence ~~facility~~ licensed under this part.

1505 1. In order for extended congregate care services to be
1506 provided, the agency must first determine that all requirements
1507 established in law and rule are met and must specifically
1508 designate, on the residence's ~~facility's~~ license, that such

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1509 services may be provided and whether the designation applies to
1510 all or part of the residence ~~facility~~. Such designation may be
1511 made at the time of initial licensure or relicensure, or upon
1512 request in writing by a licensee under this chapter ~~part and~~
1513 ~~part II of chapter 408~~. The notification of approval or the
1514 denial of the request shall be made in accordance with part I
1515 ~~part II of chapter 408~~. Existing facilities ~~qualifying to~~
1516 ~~provide extended congregate care services must have maintained a~~
1517 ~~standard license and may not have been subject to administrative~~
1518 ~~sanctions during the previous 2 years, or since initial~~
1519 ~~licensure if the facility has been licensed for less than 2~~
1520 ~~years, for any of the following reasons:~~

- 1521 a. ~~A class I or class II violation;~~
- 1522 b. ~~Three or more repeat or recurring class III violations~~
1523 ~~of identical or similar resident care standards from which a~~
1524 ~~pattern of noncompliance is found by the agency;~~
- 1525 c. ~~Three or more class III violations that were not~~
1526 ~~corrected in accordance with the corrective action plan approved~~
1527 ~~by the agency;~~
- 1528 d. ~~Violation of resident care standards which results in~~
1529 ~~requiring the facility to employ the services of a consultant~~
1530 ~~pharmacist or consultant dietitian;~~
- 1531 e. ~~Denial, suspension, or revocation of a license for~~
1532 ~~another facility licensed under this part in which the applicant~~
1533 ~~for an extended congregate care license has at least 25 percent~~
1534 ~~ownership interest; or~~
- 1535 f. ~~Imposition of a moratorium pursuant to this part or part~~
1536 ~~II of chapter 408 or initiation of injunctive proceedings.~~

1537 2. A licensee ~~facility~~ that is licensed to provide extended

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1538 congregate care services shall maintain a written progress
1539 report for ~~on~~ each person who receives services, and the report
1540 must describe ~~which describes~~ the type, amount, duration, scope,
1541 and outcome of services that are rendered and the general status
1542 of the resident's health. ~~A registered nurse, or appropriate~~
1543 ~~designee, representing the agency shall visit the facility at~~
1544 ~~least quarterly to monitor residents who are receiving extended~~
1545 ~~congregate care services and to determine if the facility is in~~
1546 ~~compliance with this part, part II of chapter 408, and relevant~~
1547 ~~rules. One of the visits may be in conjunction with the regular~~
1548 ~~survey. The monitoring visits may be provided through~~
1549 ~~contractual arrangements with appropriate community agencies. A~~
1550 ~~registered nurse shall serve as part of the team that inspects~~
1551 ~~the facility. The agency may waive one of the required yearly~~
1552 ~~monitoring visits for a facility that has been licensed for at~~
1553 ~~least 24 months to provide extended congregate care services,~~
1554 ~~if, during the inspection, the registered nurse determines that~~
1555 ~~extended congregate care services are being provided~~
1556 ~~appropriately, and if the facility has no class I or class II~~
1557 ~~violations and no uncorrected class III violations. The agency~~
1558 ~~must first consult with the long-term care ombudsman council for~~
1559 ~~the area in which the facility is located to determine if any~~
1560 ~~complaints have been made and substantiated about the quality of~~
1561 ~~services or care. The agency may not waive one of the required~~
1562 ~~yearly monitoring visits if complaints have been made and~~
1563 ~~substantiated.~~

1564 3. A licensee facility that is licensed to provide extended
1565 congregate care services shall ~~must~~:

1566 a. Demonstrate the capability to meet unanticipated

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1567 resident service needs.

1568 b. Offer a physical environment that promotes a homelike
1569 setting, provides for resident privacy, promotes resident
1570 independence, and allows sufficient congregate space as defined
1571 by rule.

1572 c. Have sufficient staff available, taking into account the
1573 physical plant and firesafety features of the residential
1574 setting ~~building~~, to assist with the evacuation of residents in
1575 an emergency.

1576 d. Adopt and follow policies and procedures that maximize
1577 resident independence, dignity, choice, and decisionmaking to
1578 permit residents to age in place, so that moves due to changes
1579 in functional status are minimized or avoided.

1580 e. Allow residents or, if applicable, a resident's
1581 representative, designee, surrogate, guardian, or attorney in
1582 fact to make a variety of personal choices, participate in
1583 developing service plans, and share responsibility in
1584 decisionmaking.

1585 f. Implement the concept of managed risk.

1586 g. Provide, directly or through contract, the services of a
1587 person licensed under part I of chapter 464.

1588 h. In addition to the training mandated in s. 429.52,
1589 provide specialized training as defined by rule for residence
1590 facility staff.

1591 4. A licensed residence that provides facility ~~that is~~
1592 ~~licensed to provide~~ extended congregate care services is exempt
1593 from the criteria for continued residency set forth in rules
1594 adopted under s. 429.41. A licensed residence facility must
1595 adopt its own requirements within guidelines for continued

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1596 residency set forth by rule. However, the residence ~~facility~~ may
1597 not serve residents who require 24-hour nursing supervision. A
1598 licensed residence ~~facility~~ that provides extended congregate
1599 care services must also provide each resident with a written
1600 copy of residence ~~facility~~ policies governing admission and
1601 retention.

1602 5. The primary purpose of extended congregate care services
1603 is to allow residents, as they become more impaired, the option
1604 of remaining in a familiar setting from which they would
1605 otherwise be disqualified for continued residency. A licensed
1606 residence that provides ~~facility licensed to provide~~ extended
1607 congregate care services may also admit an individual who
1608 exceeds the admission criteria for a residence ~~facility~~ with a
1609 standard license, if the individual is determined appropriate
1610 for admission to the extended congregate care residence
1611 ~~facility~~.

1612 6. Before the admission of an individual to a licensed
1613 residence that provides ~~facility licensed to provide~~ extended
1614 congregate care services, the individual must undergo a medical
1615 examination as provided in s. 429.26(4) and the licensee
1616 ~~facility~~ must develop a preliminary service plan for the
1617 individual.

1618 7. When a licensee ~~facility~~ can no longer provide or
1619 arrange for services in accordance with the resident's service
1620 plan and needs and the licensee's ~~facility's~~ policy, the
1621 licensee ~~facility~~ shall make arrangements for relocating the
1622 person in accordance with s. 429.28(1)(k).

1623 ~~8. Failure to provide extended congregate care services may~~
1624 ~~result in denial of extended congregate care license renewal.~~

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1625 ~~(c) A limited nursing services license shall be issued to a~~
1626 ~~facility that provides services beyond those authorized in~~
1627 ~~paragraph (a) and as specified in this paragraph.~~

1628 ~~1. In order for limited nursing services to be provided in~~
1629 ~~a facility licensed under this part, the agency must first~~
1630 ~~determine that all requirements established in law and rule are~~
1631 ~~met and must specifically designate, on the facility's license,~~
1632 ~~that such services may be provided. Such designation may be made~~
1633 ~~at the time of initial licensure or relicensure, or upon request~~
1634 ~~in writing by a licensee under this part and part II of chapter~~
1635 ~~408. Notification of approval or denial of such request shall be~~
1636 ~~made in accordance with part II of chapter 408. Existing~~
1637 ~~facilities qualifying to provide limited nursing services shall~~
1638 ~~have maintained a standard license and may not have been subject~~
1639 ~~to administrative sanctions that affect the health, safety, and~~
1640 ~~welfare of residents for the previous 2 years or since initial~~
1641 ~~licensure if the facility has been licensed for less than 2~~
1642 ~~years.~~

1643 ~~2. Facilities that are licensed to provide limited nursing~~
1644 ~~services shall maintain a written progress report on each person~~
1645 ~~who receives such nursing services, which report describes the~~
1646 ~~type, amount, duration, scope, and outcome of services that are~~
1647 ~~rendered and the general status of the resident's health. A~~
1648 ~~registered nurse representing the agency shall visit such~~
1649 ~~facilities at least twice a year to monitor residents who are~~
1650 ~~receiving limited nursing services and to determine if the~~
1651 ~~facility is in compliance with applicable provisions of this~~
1652 ~~part, part II of chapter 408, and related rules. The monitoring~~
1653 ~~visits may be provided through contractual arrangements with~~

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1654 ~~appropriate community agencies. A registered nurse shall also~~
1655 ~~serve as part of the team that inspects such facility.~~

1656 ~~3. A person who receives limited nursing services under~~
1657 ~~this part must meet the admission criteria established by the~~
1658 ~~agency for assisted living facilities. When a resident no longer~~
1659 ~~meets the admission criteria for a facility licensed under this~~
1660 ~~part, arrangements for relocating the person shall be made in~~
1661 ~~accordance with s. 429.28(1)(k), unless the facility is licensed~~
1662 ~~to provide extended congregate care services.~~

1663 (4) In accordance with s. 429.004 ~~408.805~~, an applicant or
1664 licensee shall pay a fee for each license application submitted
1665 under this chapter ~~part, part II of chapter 408~~, and applicable
1666 rules. The amount of the fee shall be established by rule.

1667 (a) The biennial license fee required of a residence
1668 ~~facility~~ is \$300 per license, with an additional fee of \$50 per
1669 resident based on the total licensed resident capacity of the
1670 residence facility, except that no additional fee will be
1671 assessed for beds designated for recipients of Medicaid ~~optional~~
1672 ~~state supplementation payments provided for in s. 409.212. The~~
1673 total fee may not exceed \$10,000.

1674 (b) In addition to the total fee assessed under paragraph
1675 (a), the agency shall require a licensed residence facilities
1676 ~~that provides~~ ~~are licensed to provide~~ extended congregate care
1677 services under this part to pay an additional fee per licensed
1678 residence facility. The amount of the biennial fee shall be \$400
1679 per license, with an additional fee of \$10 per resident based on
1680 the total licensed resident capacity of the residence facility.

1681 ~~(c) In addition to the total fee assessed under paragraph~~
1682 ~~(a), the agency shall require facilities that are licensed to~~

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1683 ~~provide limited nursing services under this part to pay an~~
1684 ~~additional fee per licensed facility. The amount of the biennial~~
1685 ~~fee shall be \$250 per license, with an additional fee of \$10 per~~
1686 ~~resident based on the total licensed resident capacity of the~~
1687 ~~facility.~~

1688 (5) Counties or municipalities applying for licenses under
1689 this part are exempt from the payment of license fees.

1690 (6) In order to determine whether the residence is
1691 adequately protecting residents' rights as provided in s.
1692 429.28, the agency shall conduct a biennial survey that includes
1693 private informal conversations with a sample of residents to
1694 discuss the residents' experiences within the residence.

1695 (7) An assisted living residence that has been cited within
1696 the previous 24-month period for a class I or class II
1697 violation, regardless of the status of any enforcement or
1698 disciplinary action, is subject to periodic unannounced
1699 monitoring to determine if the residence is in compliance with
1700 this part and applicable rules. Monitoring may occur through a
1701 desk review or an onsite assessment. If the class I or class II
1702 violation relates to providing or failing to provide nursing
1703 care, a registered nurse must participate in at least two onsite
1704 monitoring visits within a 12-month period.

1705 Section 15. Section 429.075, Florida Statutes, is amended
1706 to read:

1707 429.075 Limited mental health license.—A licensee operating
1708 an assisted living residence facility that serves three or more
1709 mental health residents must obtain a limited mental health
1710 license.

1711 (1) To obtain a limited mental health license, a licensee

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1712 must have facility ~~must hold~~ a standard license as an assisted
1713 living residence facility, must not have any current uncorrected
1714 ~~deficiencies or~~ violations, and must ensure that, within 6
1715 months after receiving a limited mental health license, the
1716 residence facility administrator and the staff of the residence
1717 facility who are in direct contact with mental health residents
1718 must complete training of no less than 6 hours related to their
1719 duties. Such designation may be made at the time of initial
1720 licensure or relicensure or upon request in writing by a
1721 licensee under this chapter part ~~and part II of chapter 408~~.
1722 Notification of approval or denial of such request shall be made
1723 in accordance with this chapter part, ~~part II of chapter 408~~,
1724 and applicable rules. This training will be provided by or
1725 approved by the Department of Children and Family Services.

1726 (2) A residence that is ~~Facilities~~ licensed to provide
1727 services to mental health residents shall provide appropriate
1728 supervision and staffing to provide for the health, safety, and
1729 welfare of such residents.

1730 (3) A residence facility that has a limited mental health
1731 license must:

1732 (a) Have a copy of each mental health resident's community
1733 living support plan and the cooperative agreement with the
1734 mental health care services provider. The support plan and the
1735 agreement may be combined.

1736 (b) Have documentation that is provided by the Department
1737 of Children and Family Services that each mental health resident
1738 has been assessed and determined to be able to live in the
1739 community in an assisted living residence facility with a
1740 limited mental health license.

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1741 (c) Make the community living support plan available for
1742 inspection by the resident, the resident's legal guardian, the
1743 resident's health care surrogate, and other individuals who have
1744 a lawful basis for reviewing this document.

1745 (d) Assist the mental health resident in carrying out the
1746 activities identified in the individual's community living
1747 support plan.

1748 (4) A residence facility with a limited mental health
1749 license may enter into a cooperative agreement with a private
1750 mental health provider. For purposes of the limited mental
1751 health license, the private mental health provider may act as
1752 the case manager.

1753 Section 16. Section 429.08, Florida Statutes, is amended to
1754 read:

1755 429.08 Unlicensed residences facilities; referral of person
1756 for residency to unlicensed residence facility; penalties.—

1757 (1)(a) This section applies to the unlicensed operation of
1758 an assisted living residence facility in addition to the
1759 requirements of part I ~~part II of chapter 408~~.

1760 (b) Except as provided under paragraph (d), any person who
1761 owns, operates, or maintains an ~~unlicensed~~ assisted living
1762 residence for which such person does not hold a valid license
1763 facility commits a felony of the third degree, punishable as
1764 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of
1765 continued operation is a separate offense.

1766 (c) Any person found guilty of violating paragraph (a) a
1767 second or subsequent time commits a felony of the second degree,
1768 punishable as provided under s. 775.082, s. 775.083, or s.
1769 775.084. Each day of continued operation is a separate offense.

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1770 (d) Any person who owns, operates, or maintains an
1771 ~~unlicensed~~ assisted living residence for which such person does
1772 not hold a valid license facility due to a change in this part
1773 or a modification in rule within 6 months after the effective
1774 date of such change and who, within 10 working days after
1775 receiving notification from the agency, fails to cease operation
1776 or apply for a license under this part commits a felony of the
1777 third degree, punishable as provided in s. 775.082, s. 775.083,
1778 or s. 775.084. Each day of continued operation is a separate
1779 offense.

1780 (e) The agency shall publish a list, by county, of licensed
1781 assisted living residences facilities. This information may be
1782 provided electronically or through the agency's Internet site.

1783 (2) It is unlawful to knowingly refer a person for
1784 residency to an unlicensed assisted living residence facility;
1785 to an assisted living residence for which facility the
1786 licensee's license of which is under denial or has been
1787 suspended or revoked; or to an assisted living residence
1788 facility that has a moratorium pursuant to part I part II of
1789 chapter 408.

1790 (a) Any health care practitioner, as defined in s. 456.001,
1791 or emergency medical technician or paramedic certified pursuant
1792 to part III or chapter 401, who is aware of the operation of an
1793 unlicensed residence facility shall report that residence
1794 facility to the agency. Failure to report an assisted living
1795 residence for which a facility that the practitioner knows or
1796 has reasonable cause to suspect a license has not been obtained
1797 ~~is unlicensed~~ shall be reported to the practitioner's licensing
1798 board.

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1799 ~~(b) Any provider as defined in s. 408.803 which knowingly~~
1800 ~~discharges a patient or client to an unlicensed facility is~~
1801 ~~subject to sanction by the agency.~~

1802 ~~(b)(e)~~ Any employee of the agency or department, or the
1803 Department of Children and Family Services, who knowingly refers
1804 a person for residency to an unlicensed residence facility; to a
1805 residence for which the licensee's license facility the license
1806 ~~of which~~ is under denial or has been suspended or revoked; or to
1807 a residence facility that has a moratorium pursuant to part I
1808 ~~part II of chapter 408~~ is subject to disciplinary action by the
1809 agency or department, or the Department of Children and Family
1810 Services.

1811 ~~(c)(d)~~ The employer of any person who is under contract
1812 with the agency or department, or the Department of Children and
1813 Family Services, and who knowingly refers a person for residency
1814 to an unlicensed residence facility; to a residence for which
1815 the licensee's license facility the license of which is under
1816 denial or has been suspended or revoked; or to a residence
1817 facility that has a moratorium pursuant to part I ~~part II of~~
1818 ~~chapter 408~~ shall be fined and required to prepare a corrective
1819 action plan designed to prevent such referrals.

1820 Section 17. Section 429.11, Florida Statutes, is amended to
1821 read:

1822 429.11 Initial application for license; provisional
1823 license.-

1824 (1) Each applicant for licensure must comply with all
1825 provisions of part I ~~part II of chapter 408~~ and must:

1826 (a) Identify all other homes or residences facilities,
1827 including the addresses and the license or licenses under which

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1828 they operate, if applicable, which are currently operated by the
1829 applicant or administrator and which provide housing, meals, and
1830 personal services to residents.

1831 (b) Provide the location of the residence ~~faeility~~ for
1832 which a license is sought and documentation, signed by the
1833 appropriate local government official, which states that the
1834 applicant has met local zoning requirements.

1835 (c) Provide the name, address, date of birth, social
1836 security number, education, and experience of the administrator,
1837 if different from the applicant.

1838 (2) The applicant shall provide proof of liability
1839 insurance as defined in s. 624.605.

1840 (3) If the applicant is a community residential home, the
1841 applicant must provide proof that it has met the requirements
1842 specified in chapter 419.

1843 (4) The applicant must furnish proof that the residence
1844 ~~facility~~ has received a satisfactory firesafety inspection. The
1845 local authority having jurisdiction or the State Fire Marshal
1846 must conduct the inspection within 30 days after written request
1847 by the applicant.

1848 (5) The applicant must furnish documentation of a
1849 satisfactory sanitation inspection of the residence ~~faeility~~ by
1850 the county health department.

1851 ~~(6) In addition to the license categories available in s.~~
1852 ~~408.808,~~ A provisional license may be issued to an applicant
1853 making initial application for licensure or making application
1854 for a change of ownership. A provisional license shall be
1855 limited in duration to a specific period of time not to exceed 6
1856 months, as determined by the agency.

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1857 (7) A county or municipality may not issue an occupational
1858 license that is being obtained for the purpose of operating a
1859 residence facility regulated under this part without first
1860 ascertaining that the applicant has been licensed to operate
1861 such residence facility at the specified location or locations
1862 by the agency. The agency shall furnish to local agencies
1863 responsible for issuing occupational licenses sufficient
1864 instruction for making such determinations.

1865 Section 18. Section 429.12, Florida Statutes, is amended to
1866 read:

1867 429.12 Sale or transfer of ownership of a residence
1868 facility. ~~It is the intent of the Legislature To protect the~~
1869 ~~rights of the residents of an assisted living residence facility~~
1870 ~~when the facility is sold or the ownership thereof is~~
1871 ~~transferred. Therefore, in addition to the requirements of part~~
1872 ~~I part II of chapter 408, whenever a residence facility is sold~~
1873 ~~or the ownership thereof is transferred, including leasing:~~

1874 (1) The transferee shall notify the residents, in writing,
1875 of the change of ownership within 7 days after receipt of the
1876 new license.

1877 (2) The transferor of a residence facility the license of
1878 which is denied pending an administrative hearing shall, as a
1879 part of the written change-of-ownership contract, advise the
1880 transferee of such action ~~that a plan of correction must be~~
1881 ~~submitted by the transferee and approved by the agency at least~~
1882 ~~7 days before the change of ownership and that failure to~~
1883 ~~correct the condition which resulted in the moratorium pursuant~~
1884 ~~to part II of chapter 408 or denial of licensure is grounds for~~
1885 ~~denial of the transferee's license.~~

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1886 Section 19. Section 429.14, Florida Statutes, is amended to
1887 read:

1888 429.14 Administrative penalties.—

1889 (1) In addition to the requirements of part I ~~part II of~~
1890 ~~chapter 408~~, the agency may deny, revoke, and suspend any
1891 license issued under this chapter part ~~part~~ and impose an
1892 administrative fine in the manner provided in chapter 120
1893 against a licensee for a violation of any provision of this
1894 chapter part ~~part, part II of chapter 408~~, or applicable rules, or
1895 for any of the following actions by a licensee, or for the
1896 actions of any person subject to level 2 background screening
1897 under s. 429.008 ~~408.809~~, ~~or for the actions of any facility~~
1898 ~~employee:~~

1899 (a) An intentional or negligent act seriously affecting the
1900 health, safety, or welfare of a resident of the residence
1901 facility.

1902 (b) The determination by the agency that the owner lacks
1903 the financial ability to provide continuing adequate care to
1904 residents.

1905 ~~(c) Misappropriation or conversion of the property of a~~
1906 ~~resident of the facility.~~

1907 ~~(d) Failure to follow the criteria and procedures provided~~
1908 ~~under part I of chapter 394 relating to the transportation,~~
1909 ~~voluntary admission, and involuntary examination of a facility~~
1910 ~~resident.~~

1911 ~~(c)(e)~~ A citation of any of the following violations
1912 ~~deficiencies~~ as specified in s. 429.19:

- 1913 1. One or more cited class I violations ~~deficiencies~~.
- 1914 2. Three or more cited class II violations ~~deficiencies~~.

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1915 3. Five or more cited class III violations ~~deficiencies~~
1916 that have been cited on a single survey and have not been
1917 corrected within the times specified.

1918 (d) ~~(f)~~ Failure to comply with the background screening
1919 standards of this part, s. 429.008 ~~408.809(1)~~, or chapter 435.

1920 (e) ~~(g)~~ Violation of a moratorium.

1921 (f) ~~(h)~~ Failure of the license applicant, the licensee
1922 during relicensure, or a licensee that holds a provisional
1923 license to meet the minimum license requirements of this part,
1924 or related rules, at the time of license application or renewal.

1925 (g) ~~(i)~~ An intentional or negligent life-threatening act in
1926 violation of the uniform firesafety standards for assisted
1927 living residences ~~facilities~~ or other firesafety standards that
1928 threatens the health, safety, or welfare of a resident of a
1929 residence facility, as communicated to the agency by the local
1930 authority having jurisdiction or the State Fire Marshal.

1931 (h) ~~(j)~~ Knowingly operating any unlicensed residence
1932 ~~facility or providing without a license any service that must be~~
1933 ~~licensed under this chapter or chapter 400.~~

1934 (i) ~~(k)~~ Any act constituting a ground upon which application
1935 for a license may be denied.

1936 (2) Upon notification by the local authority having
1937 jurisdiction or by the State Fire Marshal, the agency may deny
1938 or revoke the license of a licensee of an assisted living
1939 residence facility that fails to correct cited fire code
1940 violations that affect or threaten the health, safety, or
1941 welfare of a resident of the residence ~~a facility~~.

1942 (3) The agency may deny a license to any applicant or
1943 controlling interest that ~~as defined in part II of chapter 408~~

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1944 which has or had a 51 percent ~~25-percent~~ or greater financial or
1945 ownership interest in any other residence facility licensed
1946 under this part, or in any entity licensed by this state or
1947 another state to provide health or residential care, which
1948 facility or entity during the 5 years prior to the application
1949 for a license closed due to financial inability to operate; had
1950 a receiver appointed or a license denied, suspended, or revoked;
1951 was subject to a moratorium; or had an injunctive proceeding
1952 initiated against it.

1953 ~~(4) The agency shall deny or revoke the license of an~~
1954 ~~assisted living facility that has two or more class I violations~~
1955 ~~that are similar or identical to violations identified by the~~
1956 ~~agency during a survey, inspection, monitoring visit, or~~
1957 ~~complaint investigation occurring within the previous 2 years.~~

1958 (4) ~~(5)~~ An action taken by the agency to suspend, deny, or
1959 revoke a licensee's facility's license under this part or part I
1960 ~~part II of chapter 408~~, in which the agency claims that the
1961 residence facility owner or a staff member ~~an employee~~ of the
1962 residence facility has threatened the health, safety, or welfare
1963 of a resident of the residence facility be heard by the Division
1964 of Administrative Hearings of the Department of Management
1965 Services within 120 days after receipt of the residence's
1966 facility's request for a hearing, unless that time limitation is
1967 waived by both parties. The administrative law judge must render
1968 a decision within 30 days after receipt of a proposed
1969 recommended order.

1970 ~~(6) The agency shall provide to the Division of Hotels and~~
1971 ~~Restaurants of the Department of Business and Professional~~
1972 ~~Regulation, on a monthly basis, a list of those assisted living~~

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1973 ~~facilities that have had their licenses denied, suspended, or~~
1974 ~~revoked or that are involved in an appellate proceeding pursuant~~
1975 ~~to s. 120.60 related to the denial, suspension, or revocation of~~
1976 ~~a license.~~

1977 ~~(5)-(7)~~ Agency notification of a license suspension or
1978 revocation, or denial of a license renewal, shall be posted and
1979 visible to the public at the residence facility.

1980 Section 20. Section 429.17, Florida Statutes, is amended to
1981 read:

1982 429.17 Expiration of license; renewal; conditional
1983 license.-

1984 (1) ~~Limited nursing,~~ Extended congregate care, and limited
1985 mental health licenses shall expire at the same time as the
1986 residence's ~~facility's~~ standard license, regardless of when
1987 issued.

1988 (2) A license shall be renewed in accordance with part I
1989 ~~part II of chapter 408~~ and upon the provision of satisfactory
1990 proof ~~of ability to operate and conduct the facility in~~
1991 ~~accordance with the requirements of this part and adopted rules,~~
1992 ~~including proof that the~~ residence facility has received a
1993 satisfactory firesafety inspection, conducted by the local
1994 authority having jurisdiction or the State Fire Marshal, within
1995 the preceding 12 months.

1996 (3) In addition to the requirements of part I ~~part II of~~
1997 ~~chapter 408,~~ each residence facility must report to the agency
1998 any adverse court action concerning the residence's ~~facility's~~
1999 financial viability, within 7 days after its occurrence. The
2000 agency shall have access to books, records, and any other
2001 financial documents maintained by the residence facility to the

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2002 extent necessary to determine the residence's facility's
2003 financial stability.

2004 (4) In addition to the license categories available in part
2005 I s. 408.808, a conditional license may be issued to an
2006 applicant for license renewal if the applicant fails to meet all
2007 standards and requirements for licensure. A conditional license
2008 issued under this subsection shall be limited in duration to a
2009 specific period of time not to exceed 6 months, as determined by
2010 the agency, and shall be accompanied by an agency-approved plan
2011 of correction.

2012 (5) When an extended congregate care or limited nursing
2013 license is requested during a residence's facility's biennial
2014 license period, the fee shall be prorated in order to permit the
2015 additional license to expire at the end of the biennial license
2016 period. The fee shall be calculated as of the date the
2017 additional license application is received by the agency.

2018 (6) The department may by rule establish renewal
2019 procedures, identify forms, and specify documentation necessary
2020 to administer this section. ~~The agency, in consultation with the~~
2021 ~~department, may adopt rules to administer the requirements of~~
2022 ~~part II of chapter 408.~~

2023 Section 21. Section 429.174, Florida Statutes, is amended
2024 to read:

2025 429.174 Background screening.—The agency shall require
2026 level 2 background screening for personnel as required in s.
2027 429.008 (1) (e) ~~408.809 (1) (e)~~ pursuant to chapter 435 and s.
2028 429.008 ~~408.809~~.

2029 Section 22. Section 429.177, Florida Statutes, is amended
2030 to read:

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2031 429.177 Patients with Alzheimer's disease or other related
2032 disorders; certain disclosures.—A licensed residence that
2033 ~~facility licensed under this part which~~ claims that it provides
2034 special care for persons who have Alzheimer's disease or other
2035 related disorders must disclose in its advertisements or in a
2036 separate document those services that distinguish the care as
2037 being especially applicable to, or suitable for, such persons.
2038 The residence ~~facility~~ must give a copy of all such
2039 advertisements or a copy of the document to each person who
2040 requests information about programs and services for persons
2041 with Alzheimer's disease or other related disorders offered by
2042 the residence ~~facility~~ and must maintain a copy of all such
2043 advertisements and documents in its records. The agency shall
2044 examine all such advertisements and documents in the residence's
2045 ~~facility's~~ records as part of the license renewal procedure.

2046 Section 23. Section 429.178, Florida Statutes, is amended
2047 to read:

2048 429.178 Special care for persons with Alzheimer's disease
2049 or other related disorders.—

2050 (1) A residence that ~~facility which~~ advertises that it
2051 provides special care for persons with Alzheimer's disease or
2052 other related disorders must meet the following standards of
2053 operation:

2054 (a)1. ~~If the facility has 17 or more residents,~~ Have an
2055 awake staff member on duty at all hours of the day and night for
2056 each secured unit of the residence that houses any residents
2057 with Alzheimer's disease or other related disorders. ~~;~~ ~~or~~

2058 2. ~~If the facility has fewer than 17 residents,~~ have an
2059 awake staff member on duty at all hours of the day and night ~~or~~

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2060 ~~have mechanisms in place to monitor and ensure the safety of the~~
2061 ~~facility's residents.~~

2062 (b) Offer activities specifically designed for persons who
2063 are cognitively impaired.

2064 (c) Have a physical environment that provides for the
2065 safety and welfare of the ~~facility's~~ residents of the residence.

2066 (d) Employ staff who have completed the training and
2067 continuing education required in subsection (2).

2068
2069 For the safety and protection of residents with Alzheimer's
2070 disease, related disorders, or dementia, a secured locked unit
2071 may be designated. The unit may consist of the entire building
2072 or a distinct part of the building. Exit doors shall be equipped
2073 with an operating alarm system which releases upon activation of
2074 the fire alarm. These units are exempt from specific life safety
2075 requirements to which assisted living residences are normally
2076 subject. A staff member must be awake and present in the secured
2077 unit at all times.

2078 (2) (a) A staff member ~~An individual~~ who is employed by a
2079 residence facility that provides special care for residents with
2080 Alzheimer's disease or other related disorders, and who has
2081 regular contact with such residents, must complete up to 4 hours
2082 of initial dementia-specific training developed or approved by
2083 the department. The training shall be completed within 3 months
2084 after beginning employment and shall satisfy the core training
2085 requirements of s. 429.52(2)(g).

2086 (b) A direct care staff member ~~caregiver~~ who is employed by
2087 a residence facility that provides special care for residents
2088 with Alzheimer's disease or other related disorders, and who

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2089 provides direct care to such residents, must complete the
2090 ~~required~~ initial training required in paragraph (a) and 4
2091 additional hours of training developed or approved by the
2092 department. The training shall be completed within 9 months
2093 after beginning employment and shall satisfy the core training
2094 requirements of s. 429.52(2)(g).

2095 (c) A staff member ~~An individual~~ who is employed by a
2096 residence facility that provides special care for residents with
2097 Alzheimer's disease or other related disorders, but who only has
2098 incidental contact with such residents, must be given, at a
2099 minimum, general information on interacting with individuals
2100 with Alzheimer's disease or other related disorders, within 3
2101 months after beginning employment.

2102 (3) In addition to the training required under subsection
2103 (2), a direct care staff member ~~caregiver~~ must participate in a
2104 minimum of 4 contact hours of continuing education each calendar
2105 year. The continuing education must include one or more topics
2106 included in the dementia-specific training developed or approved
2107 by the department, ~~in which the caregiver has not received~~
2108 ~~previous training~~.

2109 (4) Upon completing any training listed in subsection (2),
2110 the staff member ~~employee~~ or direct care staff member ~~caregiver~~
2111 shall be issued a certificate that includes the name of the
2112 training provider, the topic covered, and the date and signature
2113 of the training provider. The certificate is evidence of
2114 completion of training in the identified topic, and the staff
2115 member ~~employee~~ or direct care staff member ~~caregiver~~ is not
2116 required to repeat training in that topic if the staff member
2117 ~~employee~~ or direct care staff member ~~caregiver~~ changes

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2118 employment to a different residence facility. The staff member
2119 ~~employee~~ or direct care staff member caregiver must comply with
2120 other applicable continuing education requirements.

2121 (5) The department, or its designee, shall approve the
2122 initial and continuing education courses and providers.

2123 (6) The department shall maintain and post on its website
2124 ~~keep~~ a current list of providers who are approved to provide
2125 initial and continuing education for staff and direct care staff
2126 members of residences facilities that provide special care for
2127 persons with Alzheimer's disease or other related disorders.

2128 ~~(7) Any facility more than 90 percent of whose residents~~
2129 ~~receive monthly optional supplementation payments is not~~
2130 ~~required to pay for the training and education programs required~~
2131 ~~under this section. A facility that has one or more such~~
2132 ~~residents shall pay a reduced fee that is proportional to the~~
2133 ~~percentage of such residents in the facility. A facility that~~
2134 ~~does not have any residents who receive monthly optional~~
2135 ~~supplementation payments must pay a reasonable fee, as~~
2136 ~~established by the department, for such training and education~~
2137 ~~programs.~~

2138 (7) ~~(8)~~ The department shall adopt rules to establish
2139 standards for trainers and training and to implement this
2140 section.

2141 Section 24. Section 429.18, Florida Statutes, is amended to
2142 read:

2143 429.18 Disposition of fees and administrative fines.—Income
2144 from fees and fines collected under this part shall be directed
2145 to and used by the agency for the following purposes:

2146 (1) Up to 50 percent of the trust funds accrued each fiscal

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2147 year under this part may be used to offset the expenses of
2148 receivership, pursuant to s. 429.22, if the court determines
2149 that the income and assets of the residence facility are
2150 insufficient to provide for adequate management and operation.

2151 (2) An amount of \$5,000 of the trust funds accrued each
2152 year under this part shall be allocated to pay for inspection-
2153 related physical and mental health examinations requested by the
2154 agency pursuant to s. 429.26 for residents who are either
2155 recipients of supplemental security income or have monthly
2156 incomes not in excess of the maximum combined federal and state
2157 cash subsidies available to supplemental security income
2158 recipients, as provided for in s. 409.212. Such funds shall only
2159 be used where the resident is ineligible for Medicaid.

2160 (3) Any trust funds accrued each year under this part and
2161 not used for the purposes specified in subsections (1) and (2)
2162 shall be used to offset the costs of the licensure program,
2163 verifying information submitted, defraying the costs of
2164 processing the names of applicants, and conducting inspections
2165 and monitoring visits pursuant to this part and part I ~~part II~~
2166 ~~of chapter 408~~.

2167 Section 25. Section 429.19, Florida Statutes, is amended to
2168 read:

2169 429.19 Violations; imposition of administrative fines;
2170 grounds.—

2171 (1) ~~In addition to the requirements of part II of chapter~~
2172 ~~408,~~ The agency shall impose an administrative fine in the
2173 manner provided in chapter 120 for the violation of any
2174 provision of this chapter ~~part,~~ ~~part II of chapter 408,~~ and
2175 applicable rules by an assisted living residence facility, for

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2176 the actions of any person subject to level 2 background
2177 screening under s. 429.008 ~~408.809~~, ~~for the actions of any~~
2178 ~~facility employee~~, or for an intentional or negligent act
2179 seriously affecting the health, safety, or welfare of a resident
2180 of the residence facility.

2181 (2) Each violation of this part and adopted rules shall be
2182 classified according to the nature of the violation and the
2183 gravity of its probable effect on residents of the residence
2184 ~~facility residents~~. The agency shall indicate the classification
2185 on the written notice of the violation as follows:

2186 (a) Class "I" violations are those conditions or
2187 occurrences related to the operation and maintenance of a
2188 residence or to the care of residents which the agency
2189 determines present an imminent danger to the residents or a
2190 substantial probability that death or serious physical or
2191 emotional harm would result therefrom. The condition or practice
2192 constituting a class I violation shall be abated or eliminated
2193 within 24 hours, unless a fixed period, as determined by the
2194 agency, is required for correction defined in s. ~~408.813~~. The
2195 agency shall impose an administrative fine for a cited class I
2196 violation in an amount not less than \$5,000 and not exceeding
2197 \$10,000 for each violation. A fine shall be levied
2198 notwithstanding the correction of the violation.

2199 (b) Class "II" violations are those conditions or
2200 occurrences related to the operation and maintenance of a
2201 residence or to the care of residents which the agency
2202 determines directly threaten the physical or emotional health,
2203 safety, or security of the residents, other than class I
2204 violations defined in s. ~~408.813~~. The agency shall impose an

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2205 administrative fine for a cited class II violation in an amount
2206 not less than \$1,000 and not exceeding \$5,000 for each
2207 violation. A fine shall be levied notwithstanding the correction
2208 of the violation.

2209 (c) Class "III" violations are those conditions or
2210 occurrences related to the operation and maintenance of a
2211 residence or to the care of residents which the agency
2212 determines indirectly or potentially threaten the physical or
2213 emotional health, safety, or security of residents, other than
2214 class I or class II violations defined in s. 408.813. The agency
2215 shall impose an administrative fine for a cited class III
2216 violation in an amount not less than \$500 and not exceeding
2217 \$1,000 for each violation. If a class III violation is corrected
2218 within the time specified, a fine may not be imposed.

2219 (d) Class "IV" violations are those conditions or
2220 occurrences related to the operation and maintenance of a
2221 residence or to required reports, forms, or documents that do
2222 not have the potential of negatively affecting residents. These
2223 violations are of a type that the agency determines do not
2224 threaten the health, safety, or security of residents defined in
2225 s. 408.813. The agency shall impose an administrative fine for a
2226 cited class IV violation in an amount not less than \$100 and not
2227 exceeding \$200 for each violation. A citation for a class IV
2228 violation must specify the time within which the violation is
2229 required to be corrected. If a class IV violation is corrected
2230 within the time specified, a fine may not be imposed.

2231 (3) For purposes of this section, in determining if a
2232 penalty is to be imposed and in fixing the amount of the fine,
2233 the agency shall consider the following factors:

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2234 (a) The gravity of the violation, including the probability
2235 that death or serious physical or emotional harm to a resident
2236 will result or has resulted, the severity of the action or
2237 potential harm, and the extent to which the provisions of the
2238 applicable laws or rules were violated.

2239 (b) Actions taken by the owner or administrator to correct
2240 violations.

2241 (c) Any previous violations.

2242 (d) The financial benefit to the residence facility of
2243 committing or continuing the violation.

2244 (e) The licensed capacity of the residence facility.

2245 (4) Each day of continuing violation after the date fixed
2246 for termination of the violation, as ordered by the agency,
2247 constitutes an additional, separate, and distinct violation.

2248 (5) Any action taken to correct a violation shall be
2249 documented in writing by the licensee ~~owner~~ or administrator of
2250 the residence facility and verified through followup visits by
2251 agency personnel or desk review. The agency may impose a fine
2252 and, in the case of an owner-operated residence facility, revoke
2253 or deny a licensee's facility's license when the agency has
2254 documented that a residence facility administrator has
2255 fraudulently misrepresented ~~misrepresents~~ action taken to
2256 correct a violation.

2257 (6) Any residence facility whose owner fails to apply for a
2258 change-of-ownership license in accordance with part I ~~part II~~ of
2259 ~~chapter 408~~ and operates the residence facility under the new
2260 ownership is subject to a fine of \$5,000.

2261 (7) In addition to any administrative fines imposed, the
2262 agency may assess a survey fee, equal to the lesser of one half

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2263 of the residence's ~~facility's~~ biennial license and bed fee or
2264 \$500, to cover the cost of conducting initial complaint
2265 investigations that result in the finding of a violation that
2266 was the subject of the complaint ~~or monitoring visits conducted~~
2267 ~~under s. 429.28(3)(c) to verify the correction of the~~
2268 ~~violations.~~

2269 (8) During an inspection, the agency shall ~~make a~~
2270 ~~reasonable attempt to~~ discuss each violation with the owner or
2271 administrator of the residence, before ~~facility, prior to~~
2272 written notification.

2273 ~~(9) The agency shall develop and disseminate an annual list~~
2274 ~~of all facilities sanctioned or fined for violations of state~~
2275 ~~standards, the number and class of violations involved, the~~
2276 ~~penalties imposed, and the current status of cases. The list~~
2277 ~~shall be disseminated, at no charge, to the Department of~~
2278 ~~Elderly Affairs, the Department of Health, the Department of~~
2279 ~~Children and Family Services, the Agency for Persons with~~
2280 ~~Disabilities, the area agencies on aging, the Florida Statewide~~
2281 ~~Advocacy Council, and the state and local ombudsman councils.~~
2282 ~~The Department of Children and Family Services shall disseminate~~
2283 ~~the list to service providers under contract to the department~~
2284 ~~who are responsible for referring persons to a facility for~~
2285 ~~residency. The agency may charge a fee commensurate with the~~
2286 ~~cost of printing and postage to other interested parties~~
2287 ~~requesting a copy of this list. This information may be provided~~
2288 ~~electronically or through the agency's Internet site.~~

2289 Section 26. Section 429.195, Florida Statutes, is amended
2290 to read:

2291 429.195 Rebates prohibited; penalties.-

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2292 (1) It is unlawful for the licensee of any assisted living
2293 residence facility licensed under this chapter ~~part~~ to contract
2294 or promise to pay or receive any commission, bonus, kickback, or
2295 rebate or engage in any split-fee arrangement in any form
2296 whatsoever with any physician, surgeon, organization, agency, or
2297 person, either directly or indirectly, for residents referred to
2298 a licensed ~~an~~ assisted living residence facility ~~licensed under~~
2299 ~~this part~~. A licensee for a residence facility may employ or
2300 contract with persons to market the residence facility, provided
2301 the employee or contract provider clearly indicates that he or
2302 she represents the residence facility. A person or agency
2303 independent of the residence facility may provide placement or
2304 referral services for a fee to individuals seeking assistance in
2305 finding a suitable residence facility; however, any fee paid for
2306 placement or referral services must be paid by the individual
2307 looking for a residence facility, not by the residence facility.

2308 (2) A violation of this section shall be considered patient
2309 brokering and is punishable as provided in s. 817.505.

2310 (3) This section does not apply to residents of an assisted
2311 living residence who refer friends, family members, or other
2312 individuals with whom they have a personal relationship to the
2313 assisted living residence, and does not prohibit the licensee of
2314 the assisted living residence from providing a monetary reward
2315 to the resident for making such a referral.

2316 Section 27. Section 429.20, Florida Statutes, is amended to
2317 read:

2318 429.20 Certain solicitation prohibited; third-party
2319 supplementation.-

2320 (1) A person may not, in connection with the solicitation

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2321 of contributions by or on behalf of an assisted living residence
2322 ~~facility~~ or residences ~~facilities~~, misrepresent or mislead any
2323 person, by any manner, means, practice, or device whatsoever, to
2324 believe that the receipts of such solicitation will be used for
2325 charitable purposes, if that is not the fact.

2326 (2) Solicitation of contributions of any kind in a
2327 threatening, coercive, or unduly forceful manner by or on behalf
2328 of an assisted living residence ~~facility~~ or residences
2329 ~~facilities~~ by any agent, employee, owner, or representative of
2330 any assisted living residence ~~facility~~ or residences ~~facilities~~
2331 is prohibited ~~grounds for denial, suspension, or revocation of~~
2332 ~~the license of the assisted living facility or facilities by or~~
2333 ~~on behalf of which such contributions were solicited.~~

2334 (3) The admission or maintenance of assisted living
2335 residence ~~facility~~ residents whose care is supported, in whole
2336 or in part, by state funds may not be conditioned upon the
2337 receipt of any manner of contribution or donation from any
2338 person. ~~The solicitation or receipt of contributions in~~
2339 ~~violation of this subsection is grounds for denial, suspension,~~
2340 ~~or revocation of license, as provided in s. 429.14, for any~~
2341 ~~assisted living facility by or on behalf of which such~~
2342 ~~contributions were solicited.~~

2343 (4) An assisted living residence ~~facility~~ may accept
2344 additional supplementation from third parties on behalf of
2345 residents receiving optional state supplementation in accordance
2346 with s. 409.212.

2347 Section 28. Section 429.22, Florida Statutes, is amended to
2348 read:

2349 429.22 Receivership proceedings.—

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2350 (1) As an alternative to or in conjunction with an
2351 injunctive proceeding, the agency may petition a court of
2352 competent jurisdiction for the appointment of a receiver, if
2353 suitable alternate placements are not available, when any of the
2354 following conditions exist:

2355 (a) The residence facility is operating without a license
2356 having been obtained by a licensee and refuses to make
2357 application for a license as required by ss. 429.07 and 429.08.

2358 (b) The residence facility is closing or has informed the
2359 agency that it intends to close and adequate arrangements have
2360 not been made for relocation of the residents within 7 days,
2361 exclusive of weekends and holidays, of the closing of the
2362 residence facility.

2363 (c) The agency determines there exist in the residence
2364 facility conditions which present an imminent danger to the
2365 health, safety, or welfare of the residents of the residence
2366 facility or a substantial probability that death or serious
2367 physical harm would result therefrom.

2368 (d) The licensee of the residence facility cannot meet its
2369 financial obligation for providing food, shelter, care, and
2370 utilities.

2371 (2) Petitions for receivership shall take precedence over
2372 other court business unless the court determines that some other
2373 pending proceeding, having similar statutory precedence, shall
2374 have priority. A hearing shall be conducted within 5 days of the
2375 filing of the petition, at which time all interested parties
2376 shall have the opportunity to present evidence pertaining to the
2377 petition. The agency shall notify, by certified mail, the
2378 licensee, owner or administrator of the residence facility named

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2379 in the petition, and the residence ~~facility~~ resident or, if
2380 applicable, the resident's representative or designee, or the
2381 resident's surrogate, guardian, or attorney in fact, of its
2382 filing, the substance of the violation, and the date and place
2383 set for the hearing. The court shall grant the petition only
2384 upon finding that the health, safety, or welfare of residence
2385 ~~facility~~ residents would be threatened if a condition existing
2386 at the time the petition was filed is permitted to continue. A
2387 receiver shall not be appointed ex parte unless the court
2388 determines that one or more of the conditions in subsection (1)
2389 exist; that the residence licensee, ~~facility~~ owner, or
2390 administrator cannot be found; that all reasonable means of
2391 locating the licensee, owner, or administrator and notifying him
2392 or her of the petition and hearing have been exhausted; or that
2393 the licensee, owner, or administrator after notification of the
2394 hearing chooses not to attend. After such findings, the court
2395 may appoint any qualified person as a receiver, except it may
2396 not appoint any owner or affiliate of the residence that
2397 ~~facility which~~ is in receivership. The receiver may be selected
2398 from a list of persons qualified to act as receivers developed
2399 by the agency and presented to the court with each petition for
2400 receivership. Under no circumstances may the agency or
2401 designated agency employee be appointed as a receiver for more
2402 than 60 days; however, the receiver may petition the court, one
2403 time only, for a 30-day extension. The court shall grant the
2404 extension upon a showing of good cause.

2405 (3) The receiver must make provisions for the continued
2406 health, safety, and welfare of all residents of the residence
2407 ~~facility~~ and:

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2408 (a) Shall exercise those powers and perform those duties
2409 set out by the court.

2410 (b) Shall operate the residence ~~facility~~ in such a manner
2411 as to assure safety and adequate health care for the residents.

2412 (c) Shall take such action as is reasonably necessary to
2413 protect or conserve the assets or property of the residence
2414 ~~facility~~ for which the receiver is appointed, or the proceeds
2415 from any transfer thereof, and may use them only in the
2416 performance of the powers and duties set forth in this section
2417 and by order of the court.

2418 (d) May use the building, fixtures, furnishings, and any
2419 accompanying consumable goods in the provision of care and
2420 services to residents and to any other persons receiving
2421 services from the residence ~~facility~~ at the time the petition
2422 for receivership was filed. The receiver shall collect payments
2423 for all goods and services provided to residents or others
2424 during the period of the receivership at the same rate of
2425 payment charged by the owners at the time the petition for
2426 receivership was filed, or at a fair and reasonable rate
2427 otherwise approved by the court.

2428 (e) May correct or eliminate any deficiency in the
2429 structure or furnishings of the residence ~~facility~~ which
2430 endangers the safety or health of residents while they remain in
2431 the residence ~~facility~~, if the total cost of correction does not
2432 exceed \$10,000. The court may order expenditures for this
2433 purpose in excess of \$10,000 on application from the receiver
2434 after notice to the owner and a hearing.

2435 (f) May let contracts and hire agents and employees to
2436 carry out the powers and duties of the receiver.

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2437 (g) Shall honor all leases, mortgages, and secured
2438 transactions governing the building or buildings in which the
2439 residence facility is located and all goods and fixtures in the
2440 building or buildings of which the receiver has taken
2441 possession, but only to the extent of payments which, in the
2442 case of a rental agreement, are for the use of the property
2443 during the period of the receivership, or which, in the case of
2444 a purchase agreement, become due during the period of the
2445 receivership.

2446 (h) Shall have full power to direct and manage and to
2447 discharge employees of the residence facility, subject to any
2448 contract rights they may have. The receiver shall pay employees
2449 at the rate of compensation, including benefits, approved by the
2450 court. A receivership does not relieve the licensee or owner of
2451 any obligation to employees made prior to the appointment of a
2452 receiver and not carried out by the receiver.

2453 (i) Shall be entitled to and take possession of all
2454 property or assets of residents which are in the possession of a
2455 residence, licensee, facility or its owner. The receiver shall
2456 preserve all property, assets, and records of residents of which
2457 the receiver takes possession and shall provide for the prompt
2458 transfer of the property, assets, and records to the new
2459 placement of any transferred resident. An inventory list
2460 certified by the licensee or owner and receiver shall be made
2461 immediately at the time the receiver takes possession of the
2462 residence facility.

2463 (4) (a) A person who is served with notice of an order of
2464 the court appointing a receiver and of the receiver's name and
2465 address shall be liable to pay the receiver for any goods or

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2466 services provided by the receiver after the date of the order if
2467 the person would have been liable for the goods or services as
2468 supplied by the licensee or owner. The receiver shall give a
2469 receipt for each payment and shall keep a copy of each receipt
2470 on file. The receiver shall deposit accounts received in a
2471 separate account and shall use this account for all
2472 disbursements.

2473 (b) The receiver may bring an action to enforce the
2474 liability created by paragraph (a).

2475 (c) A payment to the receiver of any sum owing to the
2476 residence, licensee, facility or its owner shall discharge any
2477 obligation to the residence facility to the extent of the
2478 payment.

2479 (5) (a) A receiver may petition the court that he or she not
2480 be required to honor any lease, mortgage, secured transaction,
2481 or other wholly or partially executory contract entered into by
2482 the licensee or owner of the residence facility if the rent,
2483 price, or rate of interest required to be paid under the
2484 agreement was substantially in excess of a reasonable rent,
2485 price, or rate of interest at the time the contract was entered
2486 into, or if any material provision of the agreement was
2487 unreasonable, when compared to contracts negotiated under
2488 similar conditions. Any relief in this form provided by the
2489 court shall be limited to the life of the receivership, unless
2490 otherwise determined by the court.

2491 (b) If the receiver is in possession of real estate or
2492 goods subject to a lease, mortgage, or security interest which
2493 the receiver has obtained a court order to avoid under paragraph
2494 (a), and if the real estate or goods are necessary for the

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2495 continued operation of the residence ~~facility~~ under this
2496 section, the receiver may apply to the court to set a reasonable
2497 rental, price, or rate of interest to be paid by the receiver
2498 during the duration of the receivership. The court shall hold a
2499 hearing on the application within 15 days. The receiver shall
2500 send notice of the application to any known persons who own the
2501 property involved at least 10 days prior to the hearing. Payment
2502 by the receiver of the amount determined by the court to be
2503 reasonable is a defense to any action against the receiver for
2504 payment or for possession of the goods or real estate subject to
2505 the lease, security interest, or mortgage involved by any person
2506 who received such notice, but the payment does not relieve the
2507 licensee or owner of the residence ~~facility~~ of any liability for
2508 the difference between the amount paid by the receiver and the
2509 amount due under the original lease, security interest, or
2510 mortgage involved.

2511 (6) The court shall set the compensation of the receiver,
2512 which will be considered a necessary expense of a receivership.

2513 (7) A receiver may be held liable in a personal capacity
2514 only for the receiver's own gross negligence, intentional acts,
2515 or breach of fiduciary duty.

2516 (8) The court may require a receiver to post a bond.

2517 (9) The court may direct the agency to allocate funds from
2518 the Health Care Trust Fund to the receiver, subject to the
2519 provisions of s. 429.18.

2520 (10) The court may terminate a receivership when:

2521 (a) The court determines that the receivership is no longer
2522 necessary because the conditions which gave rise to the
2523 receivership no longer exist or the agency grants the licensee

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2524 of the residence facility a new license; or

2525 (b) All of the residents in the residence facility have
2526 been transferred or discharged.

2527 (11) Within 30 days after termination, the receiver shall
2528 give the court a complete accounting of all property of which
2529 the receiver has taken possession, of all funds collected, and
2530 of the expenses of the receivership.

2531 (12) Nothing in this section shall be deemed to relieve any
2532 licensee, owner, administrator, or employee of a residence
2533 facility placed in receivership of any civil or criminal
2534 liability incurred, or any duty imposed by law, by reason of
2535 acts or omissions of the licensee, owner, administrator, or
2536 employee prior to the appointment of a receiver; nor shall
2537 anything contained in this section be construed to suspend
2538 during the receivership any obligation of the owner,
2539 administrator, or employee for payment of taxes or other
2540 operating and maintenance expenses of the residence facility or
2541 of the licensee, owner, administrator, employee, or any other
2542 person for the payment of mortgages or liens. The owner shall
2543 retain the right to sell or mortgage any residence facility
2544 under receivership, subject to approval of the court which
2545 ordered the receivership.

2546 Section 29. Section 429.23, Florida Statutes, is amended to
2547 read:

2548 429.23 Internal risk management and quality assurance
2549 program; adverse incidents and reporting requirements.—

2550 (1) Every licensed residence facility ~~licensed under this~~
2551 ~~part~~ may, as part of its administrative functions, voluntarily
2552 establish a risk management and quality assurance program, the

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2553 purpose of which is to assess resident care practices, residence
2554 ~~facility~~ incident reports, violations ~~deficiencies~~ cited by the
2555 agency, adverse incident reports, and resident grievances and
2556 develop plans of action to correct and respond quickly to
2557 identify quality differences.

2558 (2) Every licensed residence ~~facility licensed under this~~
2559 ~~part~~ is required to maintain adverse incident reports. For
2560 purposes of this section, the term, "adverse incident" means:

2561 (a) An event over which residence staff ~~facility personnel~~
2562 could exercise control rather than as a result of the resident's
2563 condition and results in:

2564 1. Death;

2565 2. Brain or spinal damage;

2566 3. Permanent disfigurement;

2567 4. Fracture or dislocation of bones or joints;

2568 5. Any condition that required medical attention to which
2569 the resident has not given his or her consent, excluding
2570 proceedings governed by part I of chapter 394, but including
2571 failure to honor advanced directives;

2572 6. Any condition that requires the transfer of the resident
2573 from the residence ~~facility~~ to a unit providing more acute care
2574 due to the incident rather than the resident's condition before
2575 the incident; or

2576 7. An event that is reported to law enforcement ~~or its~~
2577 ~~personnel~~ for investigation; or

2578 (b) Resident elopement, if the elopement places the
2579 resident at risk of harm or injury.

2580 ~~(3) Licensed facilities shall provide within 1 business day~~
2581 ~~after the occurrence of an adverse incident, by electronic mail,~~

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2582 ~~facsimile, or United States mail, a preliminary report to the~~
2583 ~~agency on all adverse incidents specified under this section.~~
2584 ~~The report must include information regarding the identity of~~
2585 ~~the affected resident, the type of adverse incident, and the~~
2586 ~~status of the facility's investigation of the incident.~~

2587 (3)~~(4)~~ Licensed residences ~~facilities~~ shall provide within
2588 7 business ~~15~~ days after the occurrence of an adverse incident,
2589 by electronic mail, facsimile, or United States mail, a full
2590 report to the agency on the all adverse incident, including
2591 information regarding the identity of the affected resident, the
2592 type of adverse incident, and incidents specified in this
2593 ~~section. The report must include the results of the~~ residence's
2594 ~~facility's~~ investigation into the adverse incident.

2595 ~~(5) Each facility shall report monthly to the agency any~~
2596 ~~liability claim filed against it. The report must include the~~
2597 ~~name of the resident, the dates of the incident leading to the~~
2598 ~~claim, if applicable, and the type of injury or violation of~~
2599 ~~rights alleged to have occurred. This report is not discoverable~~
2600 ~~in any civil or administrative action, except in such actions~~
2601 ~~brought by the agency to enforce the provisions of this part.~~

2602 (4)~~(6)~~ Abuse, neglect, or exploitation must be reported to
2603 the Department of Children and Family Services as required under
2604 chapter 415.

2605 (5)~~(7)~~ The information reported to the agency pursuant to
2606 subsection (3) which relates to persons licensed under chapter
2607 458, chapter 459, chapter 461, chapter 464, or chapter 465 shall
2608 be reviewed by the agency. The agency shall determine whether
2609 any of the incidents potentially involved conduct by a health
2610 care professional who is subject to disciplinary action, in

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2611 which case the provisions of s. 456.073 apply. The agency may
2612 investigate, as it deems appropriate, any such incident and
2613 prescribe measures that must or may be taken in response to the
2614 incident. The agency shall review each incident and determine
2615 whether it potentially involved conduct by a health care
2616 professional who is subject to disciplinary action, in which
2617 case the provisions of s. 456.073 apply.

2618 (6)~~(8)~~ If the agency, through its receipt of the adverse
2619 incident reports prescribed in this part or through any
2620 investigation, has reasonable belief that conduct by a staff
2621 member ~~or employee~~ of a licensed residence facility is grounds
2622 for disciplinary action by the appropriate board, the agency
2623 shall report this fact to such regulatory board.

2624 (7)~~(9)~~ The adverse incident report ~~reports and preliminary~~
2625 ~~adverse incident reports~~ required under this section is ~~are~~
2626 confidential as provided by law and is ~~are~~ not discoverable or
2627 admissible in any civil or administrative action, except in
2628 disciplinary proceedings by the agency or appropriate regulatory
2629 board.

2630 (8)~~(10)~~ The Department of Elderly Affairs may adopt rules
2631 necessary to administer this section.

2632 Section 30. Section 429.24, Florida Statutes, is amended to
2633 read:

2634 429.24 Contracts.—

2635 (1) The presence of each resident in a residence facility
2636 shall be covered by a contract, executed at the time of
2637 admission or prior thereto, between the licensee and the
2638 resident or his or her designee or legal representative. Each
2639 party to the contract shall be provided with a duplicate

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2640 original thereof, and the licensee shall keep on file in the
2641 residence facility all such contracts. The licensee may not
2642 destroy or otherwise dispose of any such contract until 5 years
2643 after its expiration.

2644 (2) Each contract must contain express provisions
2645 specifically setting forth the services and accommodations to be
2646 provided by the residence facility; the rates or charges;
2647 provision for at least 30 days' written notice of a rate
2648 increase; the rights, duties, and obligations of the residents,
2649 other than those specified in s. 429.28; and other matters that
2650 the parties deem appropriate. Whenever money is deposited or
2651 advanced by a resident in a contract as security for performance
2652 of the contract agreement or as advance rent for other than the
2653 next immediate rental period:

2654 (a) Such funds shall be deposited in a banking institution
2655 in this state that is located, if possible, in the same
2656 community in which the residence facility is located; shall be
2657 kept separate from the funds and property of the residence
2658 facility; may not be represented as part of the assets of the
2659 residence facility on financial statements; and shall be used,
2660 or otherwise expended, only for the account of the resident.

2661 (b) The licensee shall, within 30 days of receipt of
2662 advance rent or a security deposit, notify the resident or
2663 residents in writing of the manner in which the licensee is
2664 holding the advance rent or security deposit and state the name
2665 and address of the depository where the moneys are being held.
2666 The licensee shall notify residents of the residence's
2667 facility's policy on disposition of advance deposits.

2668 (3) (a) The contract shall include a refund policy to be

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2669 implemented at the time of a resident's transfer, discharge, or
2670 death. The refund policy shall provide that the resident or
2671 responsible party is entitled to a prorated refund based on the
2672 daily rate for any unused portion of payment beyond the
2673 termination date after all charges, including the cost of
2674 damages to the residential unit resulting from circumstances
2675 other than normal use, have been paid to the licensee. For the
2676 purpose of this paragraph, the termination date shall be the
2677 date the unit is vacated by the resident and cleared of all
2678 personal belongings. If the amount of belongings does not
2679 preclude renting the unit, the residence ~~facility~~ may clear the
2680 unit and charge the resident or his or her estate for moving and
2681 storing the items at a rate equal to the actual cost to the
2682 residence ~~facility~~, not to exceed 20 percent of the regular rate
2683 for the unit, provided that 14 days' advance written
2684 notification is given. If the resident's possessions are not
2685 claimed within 45 days after notification, the residence
2686 ~~facility~~ may dispose of them. The contract shall also specify
2687 any other conditions under which claims will be made against the
2688 refund due the resident. Except in the case of death or a
2689 discharge due to medical reasons, the refunds shall be computed
2690 in accordance with the notice of relocation requirements
2691 specified in the contract. However, a resident may not be
2692 required to provide the licensee with more than 30 days' notice
2693 of termination. If after a contract is terminated, the licensee
2694 ~~facility~~ intends to make a claim against a refund due the
2695 resident, the licensee ~~facility~~ shall notify the resident or
2696 responsible party in writing of the claim and shall provide said
2697 party with a reasonable time period of no less than 14 calendar

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2698 days to respond. The licensee ~~facility~~ shall provide a refund to
2699 the resident or responsible party within 45 days after the
2700 transfer, discharge, or death of the resident. The agency shall
2701 impose a fine upon a licensee ~~facility~~ that fails to comply with
2702 the refund provisions of the paragraph, which fine shall be
2703 equal to three times the amount due to the resident. One-half of
2704 the fine shall be remitted to the resident or his or her estate,
2705 and the other half to the Health Care Trust Fund to be used for
2706 the purpose specified in s. 429.18.

2707 (b) If a licensee agrees to reserve a bed for a resident
2708 who is admitted to a medical facility, including, but not
2709 limited to, a nursing home, health care facility, or psychiatric
2710 facility, the resident or his or her responsible party shall
2711 notify the licensee of any change in status that would prevent
2712 the resident from returning to the residence ~~facility~~. Until
2713 such notice is received, the agreed-upon daily rate may be
2714 charged by the licensee.

2715 (c) The purpose of any advance payment and a refund policy
2716 for such payment, including any advance payment for housing,
2717 meals, or personal services, shall be covered in the contract.

2718 (4) The contract shall state whether or not the residence
2719 ~~facility~~ is affiliated with any religious organization and, if
2720 so, which organization and its general responsibility to the
2721 residence ~~facility~~.

2722 (5) Neither the contract nor any provision thereof relieves
2723 any licensee of any requirement or obligation imposed upon the
2724 licensee ~~it~~ by this part or rules adopted under this part.

2725 (6) In lieu of the provisions of this section, facilities
2726 certified under chapter 651 shall comply with the requirements

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2727 of s. 651.055.

2728 (7) Notwithstanding the provisions of this section,
2729 residences facilities which consist of 60 or more dwelling units
2730 ~~apartments~~ may require refund policies and termination notices
2731 in accordance with the provisions of part II of chapter 83,
2732 provided that the lease is terminated automatically without
2733 financial penalty in the event of a resident's death or
2734 relocation due to psychiatric hospitalization or to medical
2735 reasons which necessitate services or care beyond which the
2736 licensee facility is licensed to provide. The date of
2737 termination in such instances shall be the date the unit is
2738 fully vacated. A lease may be substituted for the contract if it
2739 meets the disclosure requirements of this section. For the
2740 purpose of this section, the term "apartment" means a room or
2741 set of rooms with a kitchen or kitchenette and lavatory located
2742 within one or more buildings containing other similar or like
2743 residential units.

2744 (8) The department may by rule clarify terms, establish
2745 procedures, clarify refund policies and contract provisions, and
2746 specify documentation as necessary to administer this section.

2747 Section 31. Section 429.255, Florida Statutes, is amended
2748 to read:

2749 429.255 Use of personnel; emergency care.—

2750 (1) (a) Persons under contract to the residence facility, or
2751 residence facility staff, ~~or volunteers~~, who are licensed
2752 according to part I of chapter 464, or those persons exempt
2753 under s. 464.022(1), and others as defined by rule, may
2754 administer medications to residents, take residents' vital
2755 signs, manage individual weekly pill organizers for residents

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2756 who self-administer medication, give prepackaged enemas ordered
2757 by a physician, observe residents, document observations on the
2758 appropriate resident's record, report observations to the
2759 resident's physician, and contract or allow residents or a
2760 resident's representative, designee, surrogate, guardian, or
2761 attorney in fact to contract with a third party, provided
2762 residents meet the criteria for appropriate placement as defined
2763 in s. 429.26. Nursing assistants certified pursuant to part II
2764 of chapter 464 may take residents' vital signs as directed by a
2765 licensed nurse or physician. Persons under contract to the
2766 residence or residence staff who are licensed under part I of
2767 chapter 464 may provide limited nursing services.

2768 (b) All staff in residences ~~facilities~~ licensed under this
2769 part shall exercise their ~~professional~~ responsibility to observe
2770 residents, to document observations on the appropriate
2771 resident's record, and to report the observations to the
2772 administrator or the administrator's designee ~~resident's~~
2773 ~~physician.~~ The ~~However, the owner or~~ administrator of the
2774 residence ~~facility~~ shall be responsible for determining that the
2775 resident receiving services is appropriate for residence in the
2776 assisted living residence ~~facility~~.

2777 ~~(c) In an emergency situation, licensed personnel may carry~~
2778 ~~out their professional duties pursuant to part I of chapter 464~~
2779 ~~until emergency medical personnel assume responsibility for~~
2780 ~~care.~~

2781 (2) In residences for which a licensee has been ~~facilities~~
2782 licensed to provide extended congregate care, persons under
2783 contract to the residence ~~facility~~, or residence ~~facility~~ staff,
2784 ~~or volunteers~~, who are licensed according to part I of chapter

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2785 464, or those persons exempt under s. 464.022(1), or those
2786 persons certified as nursing assistants pursuant to part II of
2787 chapter 464, may also perform all duties within the scope of
2788 their license or certification, as approved by the residence
2789 ~~facility~~ administrator and pursuant to this part.

2790 (3) Residence Facility staff may withhold or withdraw
2791 cardiopulmonary resuscitation if presented with an order not to
2792 resuscitate executed pursuant to s. 401.45. ~~The department shall~~
2793 ~~adopt rules providing for the implementation of such orders.~~
2794 Residence Facility staff and residences facilities shall not be
2795 subject to criminal prosecution or civil liability, nor be
2796 considered to have engaged in negligent or unprofessional
2797 conduct, for withholding or withdrawing cardiopulmonary
2798 resuscitation pursuant to such an order and rules adopted by the
2799 department. The absence of an order to resuscitate executed
2800 pursuant to s. 401.45 does not preclude a physician from
2801 withholding or withdrawing cardiopulmonary resuscitation as
2802 otherwise permitted by law.

2803 Section 32. Section 429.256, Florida Statutes, is amended
2804 to read:

2805 429.256 Assistance with self-administration of medication.—

2806 (1) For the purposes of this section, the term:

2807 (a) "Informed consent" means advising the resident, or the
2808 resident's surrogate, guardian, or attorney in fact, that an
2809 assisted living residence facility is not required to have a
2810 licensed nurse on staff, that the resident may be receiving
2811 assistance with self-administration of medication from an
2812 unlicensed person, and that such assistance, if provided by an
2813 unlicensed person, will or will not be overseen by a licensed

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2814 nurse.

2815 (b) "Unlicensed person" means an individual not currently
2816 licensed to practice nursing or medicine who is employed by or
2817 under contract to an assisted living residence ~~facility~~ and who
2818 has received training with respect to assisting with the self-
2819 administration of medication in an assisted living residence
2820 ~~facility~~ as provided under s. 429.52 prior to providing such
2821 assistance as described in this section.

2822 (2) Residents who are capable of self-administering their
2823 own medications without assistance shall be encouraged and
2824 allowed to do so. However, an unlicensed person may, consistent
2825 with a dispensed prescription's label or the package directions
2826 of an over-the-counter medication, assist a resident whose
2827 condition is medically stable with the self-administration of
2828 routine, regularly scheduled medications that are intended to be
2829 self-administered. Assistance with self-medication by an
2830 unlicensed person may occur only upon a documented request by,
2831 and the written informed consent of, a resident or the
2832 resident's surrogate, guardian, or attorney in fact. To minimize
2833 the potential risk for improper dosage administration of
2834 prescription drugs, a residence may require standard medication
2835 dispensing systems for residents' prescriptions. For the
2836 purposes of this section, self-administered medications include
2837 both legend and over-the-counter oral dosage forms, topical
2838 dosage forms and topical ophthalmic, otic, and nasal dosage
2839 forms including solutions, suspensions, sprays, and inhalers.

2840 (3) Assistance with self-administration of medication
2841 includes:

2842 (a) Taking the medication, in its previously dispensed,

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2843 properly labeled container, from where it is stored, and
2844 bringing it to the resident.

2845 (b) In the presence of the resident, reading the label,
2846 opening the container, removing a prescribed amount of
2847 medication from the container, and closing the container.

2848 (c) Placing an oral dosage in the resident's hand or
2849 placing the dosage in another container and helping the resident
2850 by lifting the container to his or her mouth.

2851 (d) Applying topical medications.

2852 (e) Returning the medication container to proper storage.

2853 (f) Keeping a record of when a resident receives assistance
2854 with self-administration under this section.

2855 (g) Preparing syringes for injection or the administration
2856 of medications by any injectable route.

2857 (h) Administering medications through intermittent positive
2858 pressure breathing machines or a nebulizer.

2859 (i) Using a glucometer to perform blood glucose checks.

2860 (j) Assisting with the putting on and taking off ted hose.

2861 (4) Assistance with self-administration does not include:

2862 (a) Mixing, compounding, converting, or calculating
2863 medication doses, except for measuring a prescribed amount of
2864 liquid medication or breaking a scored tablet or crushing a
2865 tablet as prescribed.

2866 ~~(b) The preparation of syringes for injection or the~~
2867 ~~administration of medications by any injectable route.~~

2868 ~~(c) Administration of medications through intermittent~~
2869 ~~positive pressure breathing machines or a nebulizer.~~

2870 (b) ~~(d)~~ Administration of medications by way of a tube
2871 inserted in a cavity of the body.

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2872 (c)~~(e)~~ Administration of parenteral preparations.

2873 (d)~~(f)~~ Irrigations or debriding agents used in the

2874 treatment of a skin condition.

2875 (e)~~(g)~~ Rectal, urethral, or vaginal preparations.

2876 (f)~~(h)~~ Medications ordered by the physician or health care

2877 professional with prescriptive authority to be given "as

2878 needed," unless the order is written with specific parameters

2879 that preclude independent judgment on the part of the unlicensed

2880 person, and at the request of a competent resident.

2881 (g)~~(i)~~ Medications for which the time of administration,

2882 the amount, the strength of dosage, the method of

2883 administration, or the reason for administration requires

2884 judgment or discretion on the part of the unlicensed person.

2885 (5) Assistance with the self-administration of medication

2886 by an unlicensed person as described in this section shall not

2887 be considered administration as defined in s. 465.003.

2888 (6) The department may by rule establish residence facility

2889 procedures and interpret terms as necessary to implement this

2890 section.

2891 Section 33. Section 429.26, Florida Statutes, is amended to

2892 read:

2893 429.26 Appropriateness of placements; examinations of

2894 residents.—

2895 (1) The ~~owner or~~ administrator of a residence facility is

2896 responsible for determining the appropriateness of admission of

2897 an individual to the residence facility and for determining the

2898 continued appropriateness of residency ~~residence of an~~

2899 ~~individual~~ in the residence facility. A determination shall be

2900 based upon an assessment of the strengths, needs, and

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2901 preferences of the resident, the care and services offered or
2902 arranged for by the residence facility in accordance with
2903 residence facility policy, and any limitations in law or rule
2904 related to admission criteria or continued residency for the
2905 type of license held by the licensee of the residence facility
2906 ~~under this part~~. A resident may not be moved from one residence
2907 facility to another without consultation with and agreement from
2908 the resident or, if applicable, the resident's representative or
2909 designee or the resident's family, guardian, surrogate, or
2910 attorney in fact. In the case of a resident who has been placed
2911 by the department or the Department of Children and Family
2912 Services, the administrator must notify the appropriate contact
2913 person in the applicable department.

2914 (2) A physician, physician assistant, or nurse practitioner
2915 who is employed by an assisted living residence facility to
2916 provide an initial examination for admission purposes may not
2917 have financial interest in the residence facility.

2918 (3) Persons licensed under part I of chapter 464 who are
2919 employed by or under contract with a residence facility shall,
2920 on a routine basis or at least monthly, perform a nursing
2921 assessment of the residents for whom they are providing nursing
2922 services ordered by a physician, except administration of
2923 medication, and shall document such assessment, including any
2924 significant change ~~substantial changes~~ in a resident's status
2925 which may necessitate relocation to a nursing home, hospital, or
2926 specialized health care facility. Such records shall be
2927 maintained in the residence facility for inspection by the
2928 agency and shall be forwarded to the resident's case manager, if
2929 applicable.

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2930 (4) If possible, each resident shall have been examined by
2931 a licensed physician, a licensed physician assistant, or a
2932 licensed nurse practitioner within 60 days before admission to
2933 the residence facility. The signed and completed medical
2934 examination report shall be submitted to the owner or
2935 administrator of the residence facility who shall use the
2936 information contained therein to assist in the determination of
2937 the appropriateness of the resident's admission and continued
2938 stay in the residence facility. The medical examination report
2939 shall become a permanent part of the record of the resident at
2940 the residence facility and shall be made available to the agency
2941 during inspection or upon request. An assessment that has been
2942 completed through the Comprehensive Assessment and Review for
2943 Long-Term Care Services (CARES) Program fulfills the
2944 requirements for a medical examination under this subsection and
2945 s. 429.07(3)(b)6.

2946 (5) Except as provided in s. 429.07, if a medical
2947 examination has not been completed within 60 days before the
2948 admission of the resident to the residence facility, a licensed
2949 physician, licensed physician assistant, or licensed nurse
2950 practitioner shall examine the resident and complete a medical
2951 examination form provided by the agency within 30 days following
2952 the admission to the residence facility to enable the residence
2953 licensee, facility owner or administrator to determine the
2954 appropriateness of the admission. The medical examination form
2955 shall become a permanent part of the record of the resident at
2956 the residence facility and shall be made available to the agency
2957 during inspection by the agency or upon request.

2958 (6) Any resident accepted in a residence facility and

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2959 placed by the department or the Department of Children and
2960 Family Services shall have been examined by medical personnel
2961 within 30 days before placement in the residence ~~facility~~. The
2962 examination shall include an assessment of the appropriateness
2963 of placement in a residence ~~facility~~. The findings of this
2964 examination shall be recorded on the examination form provided
2965 by the agency. The completed form shall accompany the resident
2966 and shall be submitted to the residence ~~facility owner or~~
2967 administrator. Additionally, in the case of a mental health
2968 resident, the Department of Children and Family Services must
2969 provide documentation that the individual has been assessed by a
2970 psychiatrist, clinical psychologist, clinical social worker, or
2971 psychiatric nurse, or an individual who is supervised by one of
2972 these professionals, and determined to be appropriate to reside
2973 in an assisted living residence ~~facility~~. The documentation must
2974 be in the residence ~~facility~~ within 30 days after the mental
2975 health resident has been admitted to the residence ~~facility~~. An
2976 evaluation completed upon discharge from a state mental hospital
2977 meets the requirements of this subsection related to
2978 appropriateness for placement as a mental health resident
2979 providing it was completed within 90 days prior to admission to
2980 the residence ~~facility~~. The applicable department shall provide
2981 to the residence ~~facility~~ administrator any information about
2982 the resident that would help the administrator meet his or her
2983 responsibilities under subsection (1). Further, department
2984 personnel shall explain to the residence administrator ~~facility~~
2985 ~~operator~~ any special needs of the resident and advise the
2986 administrator ~~operator~~ whom to call should problems arise. The
2987 applicable department shall advise and assist the residence

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2988 facility administrator where the special needs of residents who
2989 are recipients of optional state supplementation require such
2990 assistance.

2991 ~~(7) The facility must notify a licensed physician when a~~
2992 ~~resident exhibits signs of dementia or cognitive impairment or~~
2993 ~~has a change of condition in order to rule out the presence of~~
2994 ~~an underlying physiological condition that may be contributing~~
2995 ~~to such dementia or impairment. The notification must occur~~
2996 ~~within 30 days after the acknowledgment of such signs by~~
2997 ~~facility staff. If an underlying condition is determined to~~
2998 ~~exist, the facility shall arrange, with the appropriate health~~
2999 ~~care provider, the necessary care and services to treat the~~
3000 ~~condition.~~

3001 (7)~~(8)~~ The Department of Children and Family Services may
3002 require an examination for supplemental security income and
3003 optional state supplementation recipients residing in facilities
3004 at any time and shall provide the examination whenever a
3005 resident's condition requires it. Any facility administrator;
3006 personnel of the agency, the department, or the Department of
3007 Children and Family Services; ~~or long-term care ombudsman~~
3008 ~~council member~~ who believes a resident needs to be evaluated
3009 shall notify the resident's case manager, who shall take
3010 appropriate action. A report of the examination findings shall
3011 be provided to the resident's case manager and the facility
3012 administrator to help the administrator meet his or her
3013 responsibilities under subsection (1).

3014 (8)~~(9)~~ A terminally ill resident who no longer meets the
3015 criteria for continued residency may remain in the residence
3016 facility if the arrangement is mutually agreeable to the

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3017 resident and the administrator, ~~facility~~; additional care is
3018 rendered through a licensed hospice, and the resident is under
3019 the care of a physician who agrees that the physical needs of
3020 the resident are being met.

3021 ~~(9)-(10)~~ Residences ~~Facilities~~ licensed to provide extended
3022 congregate care services shall promote aging in place by
3023 determining appropriateness of continued residency based on a
3024 comprehensive review of the resident's physical and functional
3025 status; the ability of the residence ~~facility~~, family members,
3026 friends, or any other pertinent individuals or agencies to
3027 provide the care and services required; and documentation that a
3028 written service plan consistent with residence ~~facility~~ policy
3029 has been developed and implemented to ensure that the resident's
3030 needs and preferences are addressed.

3031 ~~(10)-(11)~~ A ~~No~~ resident who requires 24-hour nursing
3032 supervision, except for a resident who is an enrolled hospice
3033 patient pursuant to part IV of chapter 400, may not ~~shall~~ be
3034 retained in a licensed residence ~~facility licensed under this~~
3035 ~~part~~.

3036 Section 34. Section 429.27, Florida Statutes, is amended to
3037 read:

3038 429.27 Property and personal affairs of residents.—

3039 (1) (a) A resident shall be given the option of using his or
3040 her own belongings, as space permits; choosing his or her
3041 roommate; and, whenever possible, unless the resident is
3042 adjudicated incompetent or incapacitated under state law,
3043 managing his or her own affairs.

3044 (b) The admission of a resident to a residence ~~facility~~ and
3045 his or her presence therein shall not give ~~confer~~ on the

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3046 residence facility or its licensee, owner, administrator,
3047 employees, or representatives ~~any authority~~ to manage, use, or
3048 dispose of any property of the resident; nor shall such
3049 admission or presence confer on any of such persons any
3050 authority or responsibility for the personal affairs of the
3051 resident, except that which may be necessary for the safe
3052 management of the residence facility or for the safety of the
3053 resident.

3054 (2) The licensee, ~~A facility, or an~~ owner, administrator,
3055 or employee of an assisted living residence, or representative
3056 thereof, may not act as the guardian, trustee, or conservator
3057 for any resident of the residence assisted living facility or
3058 any of such resident's property. A licensee, ~~An~~ owner,
3059 administrator, or staff member, or representative thereof, may
3060 not act as a competent resident's payee for social security,
3061 veteran's, or railroad benefits without the consent of the
3062 resident. Any residence facility whose licensee, owner,
3063 administrator, or staff, or representative thereof, serves as
3064 representative payee for any resident of the residence facility
3065 shall file a surety bond with the agency in an amount equal to
3066 twice the average monthly aggregate income or personal funds due
3067 to residents, or expendable for their account, which are
3068 received by a residence facility. Any residence facility whose
3069 licensee, owner, administrator, or staff, or a representative
3070 thereof, is granted power of attorney for any resident of the
3071 residence facility shall file a surety bond with the agency for
3072 each resident for whom such power of attorney is granted. The
3073 surety bond shall be in an amount equal to twice the average
3074 monthly income of the resident, plus the value of any resident's

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3075 property under the control of the attorney in fact. The bond
3076 shall be executed by the residence's licensee, owner,
3077 administrator, or staff, or a representative thereof, facility
3078 as principal and a licensed surety company. The bond shall be
3079 conditioned upon the faithful compliance of the licensee, owner,
3080 administrator, or staff, or a representative thereof, of the
3081 residence facility with this section and shall run to the agency
3082 for the benefit of any resident who suffers a financial loss as
3083 a result of the misuse or misappropriation by a licensee, owner,
3084 administrator, or staff, or representative thereof, of the
3085 residence facility of funds held pursuant to this subsection.
3086 Any surety company that cancels or does not renew the bond of
3087 any licensee shall notify the agency in writing not less than 30
3088 days in advance of such action, giving the reason for the
3089 cancellation or nonrenewal. Any residence's licensee, facility
3090 owner, administrator, or staff, or representative thereof, who
3091 is granted power of attorney for any resident of the residence
3092 facility shall, on a monthly basis, be required to provide the
3093 resident a written statement of any transaction made on behalf
3094 of the resident pursuant to this subsection, and a copy of such
3095 statement given to the resident shall be retained in each
3096 resident's file and available for agency inspection.

3097 (3) A residence administrator facility, upon mutual consent
3098 with the resident, shall provide for the safekeeping in the
3099 residence facility of personal effects, including funds, not in
3100 excess of \$500 ~~and funds of the resident not in excess of \$200~~
3101 ~~cash,~~ and shall keep complete and accurate records of all such
3102 funds and personal effects received. If a resident is absent
3103 from a residence facility for 24 hours or more, the residence

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3104 ~~facility~~ may provide for the safekeeping of the resident's
3105 personal effects, including funds, in excess of \$500.

3106 (4) Any funds or other property belonging to or due to a
3107 resident, or expendable for his or her account, which is
3108 received by the administrator ~~a facility~~ shall be trust funds
3109 which shall be kept separate from the funds and property of the
3110 residence ~~facility~~ and other residents or shall be specifically
3111 credited to such resident. Such trust funds shall be used or
3112 otherwise expended only for the account of the resident. Upon
3113 written request, at least once every 3 months, unless upon order
3114 of a court of competent jurisdiction, the administrator ~~facility~~
3115 shall furnish the resident and his or her guardian, trustee, or
3116 conservator, if any, a complete and verified statement of all
3117 funds and other property to which this subsection applies,
3118 detailing the amount and items received, together with their
3119 sources and disposition. In any event, the administrator
3120 ~~facility~~ shall furnish such statement annually and upon the
3121 discharge or transfer of a resident. ~~Any governmental agency or~~
3122 ~~private charitable agency contributing funds or other property~~
3123 ~~to the account of a resident shall also be entitled to receive~~
3124 ~~such statement annually and upon the discharge or transfer of~~
3125 ~~the resident.~~

3126 (5) Any personal funds available to residence ~~facility~~
3127 residents may be used by residents as they choose to obtain
3128 clothing, personal items, leisure activities, and other supplies
3129 and services for their personal use. An administrator ~~A facility~~
3130 may not demand, require, or contract for payment of all or any
3131 part of the personal funds in satisfaction of the residence
3132 ~~facility~~ rate for supplies and services beyond that amount

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3133 agreed to in writing ~~and may not levy an additional charge to~~
3134 ~~the individual or the account for any supplies or services that~~
3135 ~~the facility has agreed by contract to provide as part of the~~
3136 ~~standard monthly rate.~~ Any service or supplies provided by the
3137 residence facility which are charged separately to the
3138 individual or the account may be provided only with the specific
3139 written consent of the individual, who shall be furnished in
3140 advance of the provision of the services or supplies with an
3141 itemized written statement to be attached to the contract
3142 setting forth the charges for the services or supplies.

3143 (6) (a) In addition to any damages or civil penalties to
3144 which a person is subject, any person who:

3145 1. Intentionally withholds a resident's personal funds,
3146 personal property, or personal needs allowance, or who demands,
3147 beneficially receives, or contracts for payment of all or any
3148 part of a resident's personal property or personal needs
3149 allowance in satisfaction of the residence facility rate for
3150 supplies and services; or

3151 2. Borrows from or pledges any personal funds of a
3152 resident, other than the amount agreed to by written contract
3153 under s. 429.24,

3154
3155 commits a misdemeanor of the first degree, punishable as
3156 provided in s. 775.082 or s. 775.083.

3157 (b) Any residence, licensee, facility owner, administrator,
3158 or staff, or representative thereof, who is granted power of
3159 attorney for any resident of the residence facility and who
3160 misuses or misappropriates funds obtained through this power
3161 commits a felony of the third degree, punishable as provided in

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3162 s. 775.082, s. 775.083, or s. 775.084.

3163 (7) In the event of the death of a resident, a licensee
3164 shall return all refunds, funds, and property held in trust to
3165 the resident's personal representative, if one has been
3166 appointed at the time the residence ~~facility~~ disburses such
3167 funds, and, if not, to the resident's spouse or adult next of
3168 kin named in a beneficiary designation form provided by the
3169 licensee ~~facility~~ to the resident. If the resident has no spouse
3170 or adult next of kin or such person cannot be located, funds due
3171 the resident shall be placed in an interest-bearing account, and
3172 all property held in trust by the licensee ~~facility~~ shall be
3173 safeguarded until such time as the funds and property are
3174 disbursed pursuant to the Florida Probate Code. Such funds shall
3175 be kept separate from the funds and property of the residence
3176 ~~facility~~ and other residents of the residence ~~facility~~. If the
3177 funds of the deceased resident are not disbursed pursuant to the
3178 Florida Probate Code within 2 years after the resident's death,
3179 the funds shall be deposited in the Health Care Trust Fund
3180 administered by the agency.

3181 (8) The department may by rule clarify terms and specify
3182 procedures and documentation necessary to administer the
3183 provisions of this section relating to the proper management of
3184 residents' funds and personal property and the execution of
3185 surety bonds.

3186 Section 35. Section 429.275, Florida Statutes, is amended
3187 to read:

3188 429.275 Business practice; personnel records; liability
3189 insurance.—The assisted living residence ~~facility~~ shall be
3190 administered on a sound financial basis that is consistent with

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3191 good business practices.

3192 (1) The licensee, administrator, or owner of a residence
3193 ~~facility~~ shall maintain accurate business records that identify,
3194 summarize, and classify funds received and expenses disbursed
3195 and shall use written accounting procedures and a recognized
3196 accounting system.

3197 (2) The licensee, administrator, or owner of a residence
3198 ~~facility~~ shall maintain personnel records for each staff member
3199 which contain, at a minimum, documentation of background
3200 screening, if applicable, documentation of compliance with all
3201 training requirements of this part or applicable rule, and a
3202 copy of all licenses or certification held by each staff who
3203 performs services for which licensure or certification is
3204 required under this part or rule.

3205 (3) The licensee, administrator, or owner of a residence
3206 ~~facility~~ shall maintain liability insurance coverage that is in
3207 force at all times.

3208 ~~(4) The department may by rule clarify terms, establish~~
3209 ~~requirements for financial records, accounting procedures,~~
3210 ~~personnel procedures, insurance coverage, and reporting~~
3211 ~~procedures, and specify documentation as necessary to implement~~
3212 ~~the requirements of this section.~~

3213 Section 36. Section 429.28, Florida Statutes, is amended to
3214 read:

3215 429.28 Resident bill of rights.—

3216 (1) No resident of a residence ~~facility~~ shall be deprived
3217 of any civil or legal rights, benefits, or privileges guaranteed
3218 by law, the Constitution of the State of Florida, or the
3219 Constitution of the United States as a resident of an assisted

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3220 living residence ~~a facility~~. Every resident of a residence
3221 ~~facility~~ shall have the right to:

3222 (a) Live in a safe and decent living environment, free from
3223 abuse and neglect.

3224 (b) Be treated with consideration and respect and with due
3225 recognition of personal dignity, individuality, and the need for
3226 privacy.

3227 (c) Retain and use his or her own clothes and other
3228 personal property in his or her immediate living quarters, so as
3229 to maintain individuality and personal dignity, except when the
3230 residence facility can demonstrate that such would be unsafe,
3231 impractical, or an infringement upon the rights of other
3232 residents.

3233 (d) Unrestricted private communication, including receiving
3234 and sending unopened correspondence, access to a telephone, and
3235 visiting with any person of his or her choice, at any time
3236 between the hours of 9 a.m. and 9 p.m. at a minimum. Upon
3237 request, the administrator facility shall make provisions to
3238 extend visiting hours for caregivers and out-of-town guests, and
3239 in other similar situations.

3240 (e) Freedom to participate in and benefit from community
3241 services and activities and to achieve the highest possible
3242 level of independence, autonomy, and interaction within the
3243 community.

3244 (f) Manage his or her financial affairs unless the resident
3245 or, if applicable, the resident's representative, designee,
3246 surrogate, guardian, or attorney in fact authorizes the
3247 administrator of the residence facility to provide safekeeping
3248 for funds as provided in s. 429.27.

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3249 (g) Share a room with his or her spouse if both are
3250 residents of the residence facility.

3251 (h) Reasonable opportunity for regular exercise several
3252 times a week and to be outdoors at regular and frequent
3253 intervals except when prevented by inclement weather.

3254 (i) Exercise civil and religious liberties, including the
3255 right to independent personal decisions. No religious beliefs or
3256 practices, nor any attendance at religious services, shall be
3257 imposed upon any resident.

3258 (j) Access to adequate and appropriate health care
3259 consistent with established and recognized standards within the
3260 community.

3261 (k) At least 30 ~~45~~ days' notice of relocation or
3262 termination of residency from the residence facility unless, for
3263 medical reasons, the resident is certified by a physician to
3264 require an emergency relocation to a facility providing a more
3265 skilled level of care or the resident engages in a pattern of
3266 conduct that is harmful or offensive to other residents. In the
3267 case of a resident who has been adjudicated mentally
3268 incapacitated, the guardian shall be given at least 30 ~~45~~ days'
3269 notice of a nonemergency relocation or residency termination.
3270 Reasons for relocation shall be set forth in writing. ~~In order~~
3271 ~~for a facility to terminate the residency of an individual~~
3272 ~~without notice as provided herein, the facility shall show good~~
3273 ~~cause in a court of competent jurisdiction.~~

3274 (l) Present grievances and recommend changes in policies,
3275 procedures, and services to the staff of the residence facility,
3276 governing officials, or any other person without restraint,
3277 interference, coercion, discrimination, or reprisal. The

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3278 administrator of each residence ~~Each facility~~ shall establish a
3279 grievance procedure to facilitate the residents' exercise of
3280 this right. This right includes access to ombudsman volunteers
3281 and advocates and the right to be a member of, to be active in,
3282 and to associate with advocacy or special interest groups.

3283 (2) The administrator of a residence ~~facility~~ shall ensure
3284 that a written notice of the rights, obligations, and
3285 prohibitions set forth in this part is posted in a prominent
3286 place in each residence ~~facility~~ and read or explained to
3287 residents who cannot read. This notice shall include the name,
3288 address, and telephone numbers of the local ombudsman council
3289 and central abuse hotline and, when applicable, the Advocacy
3290 Center for Persons with Disabilities, Inc., and the Florida
3291 local advocacy council, where complaints may be lodged. The
3292 administrator ~~facility~~ must ensure a resident's access to a
3293 telephone to call the local ombudsman council, central abuse
3294 hotline, Advocacy Center for Persons with Disabilities, Inc.,
3295 and the Florida local advocacy council.

3296 ~~(3)(a) The agency shall conduct a survey to determine~~
3297 ~~general compliance with facility standards and compliance with~~
3298 ~~residents' rights as a prerequisite to initial licensure or~~
3299 ~~licensure renewal.~~

3300 ~~(b) In order to determine whether the facility is~~
3301 ~~adequately protecting residents' rights, the biennial survey~~
3302 ~~shall include private informal conversations with a sample of~~
3303 ~~residents and consultation with the ombudsman council in the~~
3304 ~~planning and service area in which the facility is located to~~
3305 ~~discuss residents' experiences within the facility.~~

3306 ~~(c) During any calendar year in which no survey is~~

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3307 ~~conducted, the agency shall conduct at least one monitoring~~
3308 ~~visit of each facility cited in the previous year for a class I~~
3309 ~~or class II violation, or more than three uncorrected class III~~
3310 ~~violations.~~

3311 ~~(d) The agency may conduct periodic followup inspections as~~
3312 ~~necessary to monitor the compliance of facilities with a history~~
3313 ~~of any class I, class II, or class III violations that threaten~~
3314 ~~the health, safety, or security of residents.~~

3315 ~~(e) The agency may conduct complaint investigations as~~
3316 ~~warranted to investigate any allegations of noncompliance with~~
3317 ~~requirements required under this part or rules adopted under~~
3318 ~~this part.~~

3319 ~~(3)(4) The administrator shall ensure that facility shall~~
3320 ~~not hamper or prevent residents are not hampered or prevented~~
3321 ~~from exercising their rights as specified in this section.~~

3322 ~~(4)(5) No staff member facility or employee of a residence~~
3323 ~~facility may serve notice upon a resident to leave the premises~~
3324 ~~or take any other retaliatory action against any person who:~~

3325 (a) Exercises any right set forth in this section.

3326 (b) Appears as a witness in any hearing, inside or outside
3327 the residence facility.

3328 (c) Files a civil action alleging a violation of the
3329 provisions of this part ~~or notifies a state attorney or the~~
3330 ~~Attorney General of a possible violation of such provisions.~~

3331 ~~(5)(6) An administrator shall not terminate Any facility~~
3332 ~~which terminates the residency of an individual who participated~~
3333 ~~in activities specified in subsection (4)(5) shall show good~~
3334 ~~cause in a court of competent jurisdiction.~~

3335 ~~(6)(7) Any person who submits or reports a complaint~~

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3336 concerning a suspected violation of the provisions of this part
3337 or concerning services and conditions in residences ~~facilities~~,
3338 or who testifies in any administrative or judicial proceeding
3339 arising from such a complaint, shall have immunity from any
3340 civil or criminal liability therefor, unless such person has
3341 acted in bad faith or with malicious purpose or the court finds
3342 that there was a complete absence of a justiciable issue of
3343 either law or fact raised by the losing party.

3344 Section 37. Section 429.293, Florida Statutes, is amended
3345 to read:

3346 429.293 Presuit notice; investigation; notification of
3347 violation of residents' rights or alleged negligence; claims
3348 evaluation procedure; informal discovery; review; settlement
3349 offer; mediation.—

3350 (1) As used in this section, the term:

3351 (a) "Claim for residents' rights violation or negligence"
3352 means a negligence claim alleging injury to or the death of a
3353 resident arising out of an asserted violation of the rights of a
3354 resident under s. 429.28 or an asserted deviation from the
3355 applicable standard of care.

3356 (b) "Insurer" means any self-insurer authorized under s.
3357 627.357, liability insurance carrier, joint underwriting
3358 association, or uninsured prospective defendant.

3359 (2) Prior to filing a claim for a violation of a resident's
3360 rights or a claim for negligence, a claimant alleging injury to
3361 or the death of a resident shall notify each prospective
3362 defendant by certified mail, return receipt requested, of an
3363 asserted violation of a resident's rights provided in s. 429.28
3364 or deviation from the standard of care. Such notification shall

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3365 include an identification of the rights the prospective
3366 defendant has violated and the negligence alleged to have caused
3367 the incident or incidents and a brief description of the
3368 injuries sustained by the resident which are reasonably
3369 identifiable at the time of notice. The notice shall contain a
3370 certificate of counsel that counsel's reasonable investigation
3371 gave rise to a good faith belief that grounds exist for an
3372 action against each prospective defendant.

3373 (3) (a) No suit may be filed for a period of 75 days after
3374 notice is mailed to any prospective defendant. During the 75-day
3375 period, the prospective defendants or their insurers shall
3376 conduct an evaluation of the claim to determine the liability of
3377 each defendant and to evaluate the damages of the claimants.
3378 Each defendant or insurer of the defendant shall have a
3379 procedure for the prompt evaluation of claims during the 75-day
3380 period. The procedure shall include one or more of the
3381 following:

3382 1. Internal review by a duly qualified ~~facility~~ risk
3383 manager or claims adjuster;

3384 2. Internal review by counsel for each prospective
3385 defendant;

3386 3. A quality assurance committee authorized under any
3387 applicable state or federal statutes or regulations; or

3388 4. Any other similar procedure that fairly and promptly
3389 evaluates the claims.

3390
3391 Each defendant or insurer of the defendant shall evaluate the
3392 claim in good faith.

3393 (b) At or before the end of the 75 days, the defendant or

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3394 insurer of the defendant shall provide the claimant with a
3395 written response:

- 3396 1. Rejecting the claim; or
- 3397 2. Making a settlement offer.

3398 (c) The response shall be delivered to the claimant if not
3399 represented by counsel or to the claimant's attorney, by
3400 certified mail, return receipt requested. Failure of the
3401 prospective defendant or insurer of the defendant to reply to
3402 the notice within 75 days after receipt shall be deemed a
3403 rejection of the claim for purposes of this section.

3404 (4) The notification of a violation of a resident's rights
3405 or alleged negligence shall be served within the applicable
3406 statute of limitations period; however, during the 75-day
3407 period, the statute of limitations is tolled as to all
3408 prospective defendants. Upon written stipulation by the parties,
3409 the 75-day period may be extended and the statute of limitations
3410 is tolled during any such extension. Upon receiving written
3411 notice by certified mail, return receipt requested, of
3412 termination of negotiations in an extended period, the claimant
3413 shall have 30 ~~60~~ days or the remainder of the period of the
3414 statute of limitations, whichever is greater, within which to
3415 file suit.

3416 (5) No statement, discussion, written document, report, or
3417 other work product generated by presuit claims evaluation
3418 procedures under this section is discoverable or admissible in
3419 any civil action for any purpose by the opposing party. All
3420 participants, including, but not limited to, physicians,
3421 investigators, witnesses, and employees or associates of the
3422 defendant, are immune from civil liability arising from

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3423 participation in the presuit claims evaluation procedure. Any
3424 licensed physician or registered nurse may be retained by either
3425 party to provide an opinion regarding the reasonable basis of
3426 the claim. The presuit opinions of the expert are not
3427 discoverable or admissible in any civil action for any purpose
3428 by the opposing party.

3429 (6) Upon receipt by a prospective defendant of a notice of
3430 claim, the parties shall make discoverable information available
3431 without formal discovery as provided in subsection (7).

3432 (7) Informal discovery may be used by a party to obtain
3433 unsworn statements and the production of documents or things, as
3434 follows:

3435 (a) *Unsworn statements.*—Any party may require other parties
3436 to appear for the taking of an unsworn statement. Such
3437 statements may be used only for the purpose of claims evaluation
3438 and are not discoverable or admissible in any civil action for
3439 any purpose by any party. A party seeking to take the unsworn
3440 statement of any party must give reasonable notice in writing to
3441 all parties. The notice must state the time and place for taking
3442 the statement and the name and address of the party to be
3443 examined. Unless otherwise impractical, the examination of any
3444 party must be done at the same time by all other parties. Any
3445 party may be represented by counsel at the taking of an unsworn
3446 statement. An unsworn statement may be recorded electronically,
3447 stenographically, or on videotape. The taking of unsworn
3448 statements is subject to the provisions of the Florida Rules of
3449 Civil Procedure and may be terminated for abuses.

3450 (b) *Documents or things.*—Any party may request discovery of
3451 relevant documents or things relevant to evaluating the merits

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3452 of the claim. The documents or things must be produced, at the
3453 expense of the requesting party, within 20 days after the date
3454 of receipt of the request. A party is required to produce
3455 relevant and discoverable documents or things within that
3456 party's possession or control, if in good faith it can
3457 reasonably be done within the timeframe of the claims evaluation
3458 process.

3459 (8) Each request for and notice concerning informal
3460 discovery pursuant to this section must be in writing, and a
3461 copy thereof must be sent to all parties. Such a request or
3462 notice must bear a certificate of service identifying the name
3463 and address of the person to whom the request or notice is
3464 served, the date of the request or notice, and the manner of
3465 service thereof.

3466 (9) If a prospective defendant makes a written settlement
3467 offer, the claimant shall have 15 days from the date of receipt
3468 to accept the offer. An offer shall be deemed rejected unless
3469 accepted by delivery of a written notice of acceptance.

3470 (10) To the extent not inconsistent with this part, the
3471 provisions of the Florida Mediation Code, Florida Rules of Civil
3472 Procedure, shall be applicable to such proceedings.

3473 (11) An arbitration process as provided for in chapter 44
3474 may be used to resolve a claim filed pursuant to this section.

3475 (12)~~(11)~~ Within 30 days after the claimant's receipt of
3476 defendant's response to the claim, the parties or their
3477 designated representatives shall meet in mediation to discuss
3478 the issues of liability and damages in accordance with the
3479 mediation rules of practice and procedures adopted by the
3480 Supreme Court. Upon written stipulation of the parties, this 30-

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3481 day period may be extended and the statute of limitations is
3482 tolled during the mediation and any such extension. At the
3483 conclusion of mediation, the claimant shall have 30 ~~60~~ days or
3484 the remainder of the period of the statute of limitations,
3485 whichever is greater, within which to file suit.

3486 Section 38. Section 429.294, Florida Statutes, is amended
3487 to read:

3488 429.294 Availability of residence facility records for
3489 investigation of resident's rights violations and defenses;
3490 penalty.—

3491 (1) Unless expressly prohibited by a legally competent
3492 resident, an assisted living residence licensed under this part
3493 shall furnish to the spouse, guardian, surrogate, proxy, or
3494 attorney in fact, as provided in chapters 744 and 765, of a
3495 current resident, within 7 working days after receipt of a
3496 written request, or of a former resident, within 10 working days
3497 after receipt of a written request, a copy of that resident's
3498 records that are in the possession of the residence. Such
3499 records shall include medical and psychiatric records and any
3500 records concerning the care and treatment of the resident
3501 performed by the residence, except progress notes and
3502 consultation report sections of a psychiatric nature. Copies of
3503 such records shall not be considered part of a deceased
3504 resident's estate and may be made available before the
3505 administration of an estate, upon request, to the spouse,
3506 guardian, surrogate, proxy, or attorney in fact, as provided in
3507 chapters 744 and 765. A residence may charge a reasonable fee
3508 for the copying of resident records. Such fee shall not exceed
3509 \$1 per page for the first 25 pages and 25 cents per page for

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3510 each additional page in excess of 25 pages. The residence shall
3511 further allow any such spouse, guardian, surrogate, proxy, or
3512 attorney in fact, as provided in chapters 744 and 765, to
3513 examine the original records in its possession, or microfilms or
3514 other suitable reproductions of the records, upon such
3515 reasonable terms as shall be imposed, to help ensure that the
3516 records are not damaged, destroyed, or altered.

3517 (2) No person shall be allowed to obtain copies of
3518 residents' records pursuant to this section more often than once
3519 per month, except that physician's reports in the residents'
3520 records may be obtained as often as necessary to effectively
3521 monitor the residents' condition.

3522 (3)~~(1)~~ Failure to provide complete copies of a resident's
3523 records, including, but not limited to, all medical records and
3524 the resident's chart, within the control or possession of the
3525 residence facility within 10 days, in accordance with the
3526 provisions of this section ~~s. 400.145~~, shall constitute evidence
3527 of failure of that party to comply with good faith discovery
3528 requirements and shall waive the good faith certificate and
3529 presuit notice requirements under this part by the requesting
3530 party.

3531 (4)~~(2)~~ No licensee facility shall be held liable for any
3532 civil damages as a result of complying with this section.

3533 Section 39. Section 429.298, Florida Statutes, is amended
3534 to read:

3535 429.298 Punitive damages; limitation.-

3536 (1) (a) ~~Except as provided in paragraphs (b) and (c),~~ An
3537 award of punitive damages may not exceed the greater of:

3538 1. Three times the amount of compensatory damages awarded

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3539 to each claimant entitled thereto, consistent with the remaining
3540 provisions of this section; or

3541 2. The sum of \$250,000 ~~\$1 million~~.

3542 ~~(b) Where the fact finder determines that the wrongful~~
3543 ~~conduct proven under this section was motivated primarily by~~
3544 ~~unreasonable financial gain and determines that the unreasonably~~
3545 ~~dangerous nature of the conduct, together with the high~~
3546 ~~likelihood of injury resulting from the conduct, was actually~~
3547 ~~known by the managing agent, director, officer, or other person~~
3548 ~~responsible for making policy decisions on behalf of the~~
3549 ~~defendant, it may award an amount of punitive damages not to~~
3550 ~~exceed the greater of:~~

3551 1. ~~Four times the amount of compensatory damages awarded to~~
3552 ~~each claimant entitled thereto, consistent with the remaining~~
3553 ~~provisions of this section; or~~

3554 2. ~~The sum of \$4 million.~~

3555 ~~(c) Where the fact finder determines that at the time of~~
3556 ~~injury the defendant had a specific intent to harm the claimant~~
3557 ~~and determines that the defendant's conduct did in fact harm the~~
3558 ~~claimant, there shall be no cap on punitive damages.~~

3559 (b) ~~(d)~~ This subsection is not intended to prohibit an
3560 appropriate court from exercising its jurisdiction under s.
3561 768.74 in determining the reasonableness of an award of punitive
3562 damages that is less than three times the amount of compensatory
3563 damages.

3564 ~~(e) In any case in which the findings of fact support an~~
3565 ~~award of punitive damages pursuant to paragraph (b) or paragraph~~
3566 ~~(c), the clerk of the court shall refer the case to the~~
3567 ~~appropriate law enforcement agencies, to the state attorney in~~

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3568 ~~the circuit where the long-term care facility that is the~~
3569 ~~subject of the underlying civil cause of action is located, and,~~
3570 ~~for multijurisdictional facility owners, to the Office of the~~
3571 ~~Statewide Prosecutor; and such agencies, state attorney, or~~
3572 ~~Office of the Statewide Prosecutor shall initiate a criminal~~
3573 ~~investigation into the conduct giving rise to the award of~~
3574 ~~punitive damages. All findings by the trier of fact which~~
3575 ~~support an award of punitive damages under this paragraph shall~~
3576 ~~be admissible as evidence in any subsequent civil or criminal~~
3577 ~~proceeding relating to the acts giving rise to the award of~~
3578 ~~punitive damages under this paragraph.~~

3579 (2) The claimant's attorney's fees, if payable from the
3580 judgment, are, to the extent that the fees are based on the
3581 punitive damages, calculated based on the final judgment for
3582 punitive damages. This subsection does not limit the payment of
3583 attorney's fees based upon an award of damages other than
3584 punitive damages.

3585 (3) The jury may neither be instructed nor informed as to
3586 the provisions of this section.

3587 (4) Notwithstanding any other law to the contrary, the
3588 amount of punitive damages awarded pursuant to this section
3589 shall be ~~equally~~ divided between the claimant and the Health
3590 Care Quality of Long-Term Care Facility Improvement Trust Fund,
3591 in accordance with the following provisions:

3592 (a) The clerk of the court shall transmit a copy of the
3593 jury verdict to the Chief Financial Officer by certified mail.
3594 In the final judgment, the court shall order the percentages of
3595 the award, payable as provided herein.

3596 (b) A settlement agreement entered into between the

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3597 original parties to the action after a verdict has been returned
3598 must provide a ~~proportionate~~ share payable to the Health Care
3599 ~~Quality of Long-Term Care Facility Improvement~~ Trust Fund
3600 specified herein. For purposes of this paragraph, the a
3601 ~~proportionate~~ share payable to the Health Care Trust Fund must
3602 be is a 75 percent ~~50-percent~~ share of that percentage of the
3603 settlement amount which the punitive damages portion of the
3604 verdict bore to the total of the compensatory and punitive
3605 damages in the verdict.

3606 (c) The Department of Financial Services shall collect or
3607 cause to be collected all payments due the state under this
3608 section. Such payments are made to the Chief Financial Officer
3609 and deposited in the appropriate fund specified in this
3610 subsection.

3611 (d) If the full amount of punitive damages awarded cannot
3612 be collected, the claimant and the other recipient designated
3613 pursuant to this subsection are each entitled to a proportionate
3614 share of the punitive damages collected.

3615 (5) This section is remedial in nature and shall take
3616 effect upon becoming a law.

3617 Section 40. Section 429.31, Florida Statutes, is amended to
3618 read:

3619 429.31 Closing of residence facility; notice; penalty.—

3620 (1) In addition to the requirements of part I ~~part II of~~
3621 ~~chapter 408~~, the administrator of the residence facility shall
3622 inform each resident or the next of kin, legal representative,
3623 or agency acting on each resident's behalf, of the fact and the
3624 proposed time of discontinuance of operation, after ~~following~~
3625 the notification requirements provided in s. 429.28(1)(k). In

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3626 the event a resident has no person to represent him or her, the
3627 administrator of the residence facility shall be responsible for
3628 referral to an appropriate social service agency for placement.

3629 (2) Immediately upon the notice by the agency of the
3630 voluntary or involuntary termination of such operation, the
3631 agency or its receiver shall monitor the transfer of residents
3632 to other facilities and ensure that residents' rights are being
3633 protected. The agency department, in consultation with the
3634 Department of Children and Family Services, shall specify
3635 procedures for ensuring that all residents who receive services
3636 are appropriately relocated.

3637 (3) All charges shall be prorated as of the date on which
3638 the residence facility discontinues operation, and if any
3639 payments have been made in advance, the payments for services
3640 not received shall be refunded to the resident or the resident's
3641 guardian within 10 working days after ~~of~~ voluntary or
3642 involuntary closure of the residence facility, whether or not
3643 such refund is requested by the resident or guardian.

3644 (4) The agency may levy a fine in an amount no greater than
3645 \$5,000 upon the licensee and each person or business entity that
3646 owns any interest in a residence facility that terminates
3647 operation without providing notice to the agency and the
3648 residents of the residence facility at least 30 days before
3649 operation ceases. This fine shall not be levied against any
3650 licensee of a residence facility involuntarily closed at the
3651 initiation of the agency. The agency shall use the proceeds of
3652 the fines to operate the residence facility until all residents
3653 of the residence facility are relocated.

3654 Section 41. Section 429.34, Florida Statutes, is amended to

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3655 read:

3656 429.34 Right of entry and inspection.—In addition to the
3657 requirements of s. 429.0105 ~~s. 408.811~~, any duly designated
3658 officer or employee of the department, the Department of
3659 Children and Family Services, the Medicaid Fraud Control Unit of
3660 the Office of the Attorney General, or the state or local fire
3661 marshal, ~~or a member of the state or local long-term care~~
3662 ~~ombudsman council~~ shall have the right to enter unannounced upon
3663 and into the premises of any licensed residence facility
3664 ~~licensed pursuant to this part~~ in order to determine the state
3665 of compliance with the provisions of this part, part I ~~part II~~
3666 ~~of chapter 408~~, and applicable rules. ~~Data collected by the~~
3667 ~~state or local long-term care ombudsman councils or the state or~~
3668 ~~local advocacy councils may be used by the agency in~~
3669 ~~investigations involving violations of regulatory standards.~~

3670 Section 42. Section 429.35, Florida Statutes, is amended to
3671 read:

3672 429.35 Maintenance of records; reports.—

3673 (1) Every administrator facility shall maintain, as public
3674 information available for public inspection under such
3675 conditions as the agency shall prescribe, records containing
3676 copies of all inspection reports pertaining to the residence
3677 ~~facility~~ that have been issued by the agency to the residence
3678 ~~facility~~. Copies of inspection reports shall be retained in the
3679 records for 5 years from the date the reports are filed or
3680 issued.

3681 ~~(2) Within 60 days after the date of the biennial~~
3682 ~~inspection visit required under s. 408.811 or within 30 days~~
3683 ~~after the date of any interim visit, the agency shall forward~~

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3684 ~~the results of the inspection to the local ombudsman council in~~
3685 ~~whose planning and service area, as defined in part II of~~
3686 ~~chapter 400, the facility is located; to at least one public~~
3687 ~~library or, in the absence of a public library, the county seat~~
3688 ~~in the county in which the inspected assisted living facility is~~
3689 ~~located; and, when appropriate, to the district Adult Services~~
3690 ~~and Mental Health Program Offices.~~

3691 (2)~~(3)~~ The administrator of a residence ~~Every facility~~
3692 shall post a copy of the last inspection report of the agency
3693 for that residence ~~facility~~ in a prominent location within the
3694 residence ~~facility~~ so as to be accessible to all residents and
3695 to the public. Upon request, the administrator ~~facility~~ shall
3696 also provide a copy of the report to any resident of the
3697 residence ~~facility~~ or to an applicant for admission to the
3698 residence ~~facility~~.

3699 Section 43. Section 429.41, Florida Statutes, is amended to
3700 read:

3701 429.41 Rules establishing standards.—

3702 (1) It is the intent of the Legislature that rules
3703 published and enforced pursuant to this section shall include
3704 criteria by which a reasonable and consistent quality of
3705 resident care and quality of life may be ensured and the results
3706 of such resident care may be demonstrated. Such rules shall also
3707 ensure a safe and sanitary environment that is residential and
3708 noninstitutional in design or nature. It is further intended
3709 that reasonable efforts be made to accommodate the needs and
3710 preferences of residents to enhance the quality of life in a
3711 residence ~~facility~~. ~~The agency, in consultation with the~~
3712 ~~department, may adopt rules to administer the requirements of~~

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3713 ~~part II of chapter 408.~~ In order to provide safe and sanitary
3714 residences facilities and the highest quality of resident care
3715 accommodating the needs and preferences of residents, the
3716 department, in consultation with the agency, the Department of
3717 Children and Family Services, and the Department of Health,
3718 shall adopt rules, policies, and procedures to administer this
3719 section part, which must include reasonable and fair minimum
3720 standards in relation to:

3721 (a) The requirements for and maintenance of residences
3722 ~~facilities~~, not in conflict with the provisions of chapter 553,
3723 relating to plumbing, heating, cooling, lighting, ventilation,
3724 living space, and other housing conditions, which will ensure
3725 the health, safety, and comfort of residents and protection from
3726 fire hazard, including adequate provisions for fire alarm and
3727 other fire protection suitable to the size of the structure.
3728 Uniform firesafety standards shall be ~~established and enforced~~
3729 by the State Fire Marshal in cooperation with the agency, ~~the~~
3730 ~~department, and the Department of Health.~~

3731 1. Evacuation capability determination.—

3732 a. The provisions of the National Fire Protection
3733 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used
3734 for determining the ability of the residents, with or without
3735 staff assistance, to relocate from or within a licensed
3736 residence facility to a point of safety as provided in the fire
3737 codes adopted herein. An evacuation capability evaluation for
3738 initial licensure shall be conducted within 6 months after the
3739 date of licensure. For existing licensed residences facilities
3740 that are not equipped with an automatic fire sprinkler system,
3741 the administrator shall evaluate the evacuation capability of

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3742 residents at least annually. The evacuation capability
3743 evaluation for each residence facility not equipped with an
3744 automatic fire sprinkler system shall be validated, without
3745 liability, by the State Fire Marshal, by the local fire marshal,
3746 or by the local authority having jurisdiction over firesafety,
3747 before the license renewal date. If the State Fire Marshal,
3748 local fire marshal, or local authority having jurisdiction over
3749 firesafety has reason to believe that the evacuation capability
3750 of a residence facility as reported by the administrator may
3751 have changed, it may, with assistance from the residence
3752 facility administrator, reevaluate the evacuation capability
3753 through timed exiting drills. Translation of timed fire exiting
3754 drills to evacuation capability may be determined:

3755 (I) Three minutes or less: prompt.

3756 (II) More than 3 minutes, but not more than 13 minutes:
3757 slow.

3758 (III) More than 13 minutes: impractical.

3759 ~~b. The Office of the State Fire Marshal shall provide or~~
3760 ~~cause the provision of training and education on the proper~~
3761 ~~application of Chapter 5, NFPA 101A, 1995 edition, to its~~
3762 ~~employees, to staff of the Agency for Health Care Administration~~
3763 ~~who are responsible for regulating facilities under this part,~~
3764 ~~and to local governmental inspectors. The Office of the State~~
3765 ~~Fire Marshal shall provide or cause the provision of this~~
3766 ~~training within its existing budget, but may charge a fee for~~
3767 ~~this training to offset its costs. The initial training must be~~
3768 ~~delivered within 6 months after July 1, 1995, and as needed~~
3769 ~~thereafter.~~

3770 ~~e. The Office of the State Fire Marshal, in cooperation~~

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3771 ~~with provider associations, shall provide or cause the provision~~
3772 ~~of a training program designed to inform facility operators on~~
3773 ~~how to properly review bid documents relating to the~~
3774 ~~installation of automatic fire sprinklers. The Office of the~~
3775 ~~State Fire Marshal shall provide or cause the provision of this~~
3776 ~~training within its existing budget, but may charge a fee for~~
3777 ~~this training to offset its costs. The initial training must be~~
3778 ~~delivered within 6 months after July 1, 1995, and as needed~~
3779 ~~thereafter.~~

3780 b.d. The administrator of a licensed residence facility
3781 shall sign an affidavit verifying the number of residents
3782 occupying the residence facility at the time of the evacuation
3783 capability evaluation.

3784 2. Firesafety requirements.-

3785 a. Except for the special applications provided herein,
3786 effective January 1, 1996, the provisions of the National Fire
3787 Protection Association, Life Safety Code, NFPA 101, 1994
3788 edition, Chapter 22 for new residences facilities and Chapter 23
3789 for existing residences facilities shall be the uniform fire
3790 code applied by the State Fire Marshal for assisted living
3791 residences facilities, pursuant to s. 633.022.

3792 b. Any new residence facility, ~~regardless of size, that~~
3793 ~~applies for a license on or after January 1, 1996,~~ must be
3794 equipped with an automatic fire sprinkler system. The exceptions
3795 as provided in s. 22-2.3.5.1, NFPA 101, 1994 edition, as adopted
3796 herein, apply to any new residence facility housing eight or
3797 fewer residents. ~~On July 1, 1995, local governmental entities~~
3798 ~~responsible for the issuance of permits for construction shall~~
3799 ~~inform, without liability, any facility whose permit for~~

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3800 ~~construction is obtained prior to January 1, 1996, of this~~
3801 ~~automatic fire sprinkler requirement.~~ As used in this part, the
3802 term "a new residence facility" does not mean an existing
3803 residence facility that has undergone change of ownership.

3804 c. Notwithstanding any provision of s. 633.022 or of the
3805 National Fire Protection Association, NFPA 101A, Chapter 5, 1995
3806 edition, to the contrary, any existing residence facility
3807 housing eight or fewer residents is not required to install an
3808 automatic fire sprinkler system, nor to comply with any other
3809 requirement in Chapter 23, NFPA 101, 1994 edition, that exceeds
3810 the firesafety requirements of NFPA 101, 1988 edition, that
3811 applies to this size residence facility, unless the residence
3812 facility has been classified as impractical to evacuate. Any
3813 existing residence facility housing eight or fewer residents
3814 that is classified as impractical to evacuate must install an
3815 automatic fire sprinkler system within the timeframes mutually
3816 agreed to by the local fire marshal and the agency granted in
3817 this section.

3818 ~~d. Any existing facility that is required to install an~~
3819 ~~automatic fire sprinkler system under this paragraph need not~~
3820 ~~meet other firesafety requirements of Chapter 23, NFPA 101, 1994~~
3821 ~~edition, which exceed the provisions of NFPA 101, 1988 edition.~~
3822 ~~The mandate contained in this paragraph which requires certain~~
3823 ~~facilities to install an automatic fire sprinkler system~~
3824 ~~supersedes any other requirement.~~

3825 d.e. This paragraph does not supersede the exceptions
3826 granted in NFPA 101, 1988 edition or 1994 edition.

3827 e.f. This paragraph does not exempt residences facilities
3828 from other firesafety provisions adopted under s. 633.022 and

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3829 local building code requirements in effect before July 1, 1995.

3830 ~~g. A local government may charge fees only in an amount not~~
3831 ~~to exceed the actual expenses incurred by local government~~
3832 ~~relating to the installation and maintenance of an automatic~~
3833 ~~fire sprinkler system in an existing and properly licensed~~
3834 ~~assisted living facility structure as of January 1, 1996.~~

3835 ~~h. If a licensed facility undergoes major reconstruction or~~
3836 ~~addition to an existing building on or after January 1, 1996,~~
3837 ~~the entire building must be equipped with an automatic fire~~
3838 ~~sprinkler system. Major reconstruction of a building means~~
3839 ~~repair or restoration that costs in excess of 50 percent of the~~
3840 ~~value of the building as reported on the tax rolls, excluding~~
3841 ~~land, before reconstruction. Multiple reconstruction projects~~
3842 ~~within a 5-year period the total costs of which exceed 50~~
3843 ~~percent of the initial value of the building at the time the~~
3844 ~~first reconstruction project was permitted are to be considered~~
3845 ~~as major reconstruction. Application for a permit for an~~
3846 ~~automatic fire sprinkler system is required upon application for~~
3847 ~~a permit for a reconstruction project that creates costs that go~~
3848 ~~over the 50-percent threshold.~~

3849 ~~i. Any facility licensed before January 1, 1996, that is~~
3850 ~~required to install an automatic fire sprinkler system shall~~
3851 ~~ensure that the installation is completed within the following~~
3852 ~~timeframes based upon evacuation capability of the facility as~~
3853 ~~determined under subparagraph 1.:~~

3854 ~~(I) Impractical evacuation capability, 24 months.~~

3855 ~~(II) Slow evacuation capability, 48 months.~~

3856 ~~(III) Prompt evacuation capability, 60 months.~~

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3858 ~~The beginning date from which the deadline for the automatic~~
3859 ~~fire sprinkler installation requirement must be calculated is~~
3860 ~~upon receipt of written notice from the local fire official that~~
3861 ~~an automatic fire sprinkler system must be installed. The local~~
3862 ~~fire official shall send a copy of the document indicating the~~
3863 ~~requirement of a fire sprinkler system to the Agency for Health~~
3864 ~~Care Administration.~~

3865 ~~j. It is recognized that the installation of an automatic~~
3866 ~~fire sprinkler system may create financial hardship for some~~
3867 ~~facilities. The appropriate local fire official shall, without~~
3868 ~~liability, grant two 1-year extensions to the timeframes for~~
3869 ~~installation established herein, if an automatic fire sprinkler~~
3870 ~~installation cost estimate and proof of denial from two~~
3871 ~~financial institutions for a construction loan to install the~~
3872 ~~automatic fire sprinkler system are submitted. However, for any~~
3873 ~~facility with a class I or class II, or a history of uncorrected~~
3874 ~~class III, firesafety deficiencies, an extension must not be~~
3875 ~~granted. The local fire official shall send a copy of the~~
3876 ~~document granting the time extension to the Agency for Health~~
3877 ~~Care Administration.~~

3878 ~~k. A facility owner whose facility is required to be~~
3879 ~~equipped with an automatic fire sprinkler system under Chapter~~
3880 ~~23, NFPA 101, 1994 edition, as adopted herein, must disclose to~~
3881 ~~any potential buyer of the facility that an installation of an~~
3882 ~~automatic fire sprinkler requirement exists. The sale of the~~
3883 ~~facility does not alter the timeframe for the installation of~~
3884 ~~the automatic fire sprinkler system.~~

3885 ~~l. Existing facilities required to install an automatic~~
3886 ~~fire sprinkler system as a result of construction type~~

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3887 ~~restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted~~
3888 ~~herein, or evacuation capability requirements shall be notified~~
3889 ~~by the local fire official in writing of the automatic fire~~
3890 ~~sprinkler requirement, as well as the appropriate date for final~~
3891 ~~compliance as provided in this subparagraph. The local fire~~
3892 ~~official shall send a copy of the document to the Agency for~~
3893 ~~Health Care Administration.~~

3894 ~~f.m.~~ Except in cases of life-threatening fire hazards, if
3895 an existing residence facility experiences a change in the
3896 evacuation capability, or if the local authority having
3897 jurisdiction identifies a construction-type restriction, such
3898 that an automatic fire sprinkler system is required, it shall be
3899 afforded time for installation as provided in this subparagraph.

3900
3901 Residences Facilities that are fully sprinkled and in compliance
3902 with other firesafety standards are not required to conduct more
3903 than one of the required fire drills between the hours of 11
3904 p.m. and 7 a.m., per year. In lieu of the remaining drills,
3905 staff responsible for residents during such hours may be
3906 required to participate in a mock drill that includes a review
3907 of evacuation procedures. Such standards must be included or
3908 referenced in the rules adopted by the State Fire Marshal.
3909 Pursuant to s. 633.022(1)(b), the State Fire Marshal is the
3910 final administrative authority for firesafety standards
3911 established and enforced pursuant to this section. All licensed
3912 residences facilities must have an annual fire inspection
3913 conducted by the local fire marshal or authority having
3914 jurisdiction.

3915 3. Resident elopement requirements. ~~Residences Facilities~~

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3916 are required to conduct a minimum of two resident elopement
3917 ~~prevention and~~ response drills per year. All administrators and
3918 direct care staff must participate in the drills which shall
3919 include a review of procedures to address resident elopement.
3920 Residence administrators ~~Facilities~~ must document the
3921 implementation of the drills and ensure that the drills are
3922 conducted in a manner consistent with the residence's ~~facility's~~
3923 resident elopement policies and procedures.

3924 (b) The preparation and annual update of a comprehensive
3925 emergency management plan. Such standards must be included in
3926 the rules adopted by the department after consultation with the
3927 Department of Community Affairs. At a minimum, the rules must
3928 provide for plan components that address emergency evacuation
3929 transportation; adequate sheltering arrangements; postdisaster
3930 activities, including provision of emergency power, food, and
3931 water; postdisaster transportation; supplies; staffing;
3932 emergency equipment; individual identification of residents and
3933 transfer of records; communication with families; and responses
3934 to family inquiries. The comprehensive emergency management plan
3935 is subject to review and approval by the local emergency
3936 management agency. ~~During its review, the local emergency~~
3937 ~~management agency shall ensure that the following agencies, at a~~
3938 ~~minimum, are given the opportunity to review the plan: the~~
3939 ~~Department of Elderly Affairs, the Department of Health, the~~
3940 ~~Agency for Health Care Administration, and the Department of~~
3941 ~~Community Affairs. Also, appropriate volunteer organizations~~
3942 ~~must be given the opportunity to review the plan.~~ The local
3943 emergency management agency shall complete its review within 60
3944 days and either approve the plan or advise the residence

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3945 administrator ~~faecility~~ of necessary revisions.

3946 (c) The number, training, and qualifications of all staff
3947 responsible ~~personnel having responsibility~~ for the care of
3948 residents. The rules must require adequate staff to provide for
3949 the safety of all residents. Residences ~~Facilities~~ licensed for
3950 17 or more residents are required to maintain an alert staff for
3951 24 hours per day.

3952 (d) All sanitary conditions within the residence ~~faecility~~
3953 and its surroundings which will ensure the health and comfort of
3954 residents.

3955 (e) To ensure that inspections are not duplicative, the
3956 rules must clearly delineate the responsibilities of the agency
3957 regarding ~~agency's~~ licensure and survey inspections ~~staff,~~ the
3958 county health departments regarding food safety and sanitary
3959 inspections, and the local fire marshal regarding firesafety
3960 inspections ~~authority having jurisdiction over firesafety and~~
3961 ~~ensure that inspections are not duplicative. The agency may~~
3962 ~~collect fees for food service inspections conducted by the~~
3963 ~~county health departments and transfer such fees to the~~
3964 ~~Department of Health.~~

3965 (f)-(e) License application and license renewal, transfer of
3966 ownership, proper management of resident funds and personal
3967 property, surety bonds, resident contracts, refund policies,
3968 financial ability to operate, and residence ~~faecility~~ and staff
3969 records.

3970 (g)-(f) Inspections, complaint investigations, moratoriums,
3971 classification of deficiencies, levying and enforcement of
3972 penalties, and use of income from fees and fines.

3973 (h)-(g) The enforcement of the resident bill of rights

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3974 specified in s. 429.28.

3975 (i)~~(h)~~ The care ~~and maintenance~~ of residents, which must
3976 include, but is not limited to:

3977 1. The supervision of residents;

3978 2. The provision of personal services;

3979 3. The provision of, or arrangement for, social and leisure
3980 activities;

3981 4. The arrangement for appointments and transportation to
3982 appropriate medical, dental, nursing, or mental health services,
3983 as needed by residents;

3984 5. The management of medication;

3985 6. The food service ~~nutritional~~ needs of residents; and

3986 7. Resident records; ~~and~~

3987 ~~8. Internal risk management and quality assurance.~~

3988 (j)~~(i)~~ Residences ~~Facilities~~ holding an ~~a~~ limited nursing,
3989 extended congregate care, ~~or~~ limited mental health license.

3990 (k)~~(j)~~ The establishment of specific criteria to define
3991 appropriateness of resident admission and continued residency in
3992 a resident facility holding a standard, ~~limited nursing,~~
3993 extended congregate care, and limited mental health license.

3994 (l)~~(k)~~ The use of physical or chemical restraints. The use
3995 of physical restraints is limited to half-bed rails as
3996 prescribed and documented by the resident's physician with the
3997 consent of the resident or, if applicable, the resident's
3998 representative or designee or the resident's surrogate,
3999 guardian, or attorney in fact. The use of chemical restraints is
4000 limited to prescribed dosages of medications authorized by the
4001 resident's physician and must be consistent with the resident's
4002 diagnosis. Residents who are receiving medications that can

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4003 serve as chemical restraints must be evaluated by their
4004 physician at least annually to assess:

- 4005 1. The continued need for the medication.
- 4006 2. The level of the medication in the resident's blood.
- 4007 3. The need for adjustments in the prescription.

4008 ~~(1) The establishment of specific policies and procedures~~
4009 ~~on resident elopement. Facilities shall conduct a minimum of two~~
4010 ~~resident elopement drills each year. All administrators and~~
4011 ~~direct care staff shall participate in the drills. Facilities~~
4012 ~~shall document the drills.~~

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

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4032 emergency reside on the first floor. The department, in
4033 conjunction with the agency, may make other distinctions among
4034 types of residences ~~facilities~~ as necessary to enforce the
4035 provisions of this part. Where appropriate, the agency shall
4036 offer alternate solutions for complying with established
4037 standards, based on distinctions made by the department and the
4038 agency relative to the physical characteristics of residences
4039 ~~facilities~~ and the types of care offered therein.

4040 ~~(3) The department shall submit a copy of proposed rules to~~
4041 ~~the Speaker of the House of Representatives, the President of~~
4042 ~~the Senate, and appropriate committees of substance for review~~
4043 ~~and comment prior to the promulgation thereof. Rules promulgated~~
4044 ~~by the department shall encourage the development of homelike~~
4045 ~~facilities which promote the dignity, individuality, personal~~
4046 ~~strengths, and decisionmaking ability of residents.~~

4047 (3) ~~(4)~~ The agency, in consultation with the department, may
4048 waive rules promulgated pursuant to this part in order to
4049 demonstrate and evaluate innovative or cost-effective congregate
4050 care alternatives which enable individuals to age in place. Such
4051 waivers may be granted only in instances where there is
4052 reasonable assurance that the health, safety, or welfare of
4053 residents will not be endangered. To apply for a waiver, the
4054 licensee shall submit to the agency a written description of the
4055 concept to be demonstrated, including goals, objectives, and
4056 anticipated benefits; the number and types of residents who will
4057 be affected, if applicable; a brief description of how the
4058 demonstration will be evaluated; and any other information
4059 deemed appropriate by the agency. Any residence ~~facility~~ granted
4060 a waiver shall submit a report of findings to the agency and the

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4061 department within 12 months. At such time, the agency may renew
4062 or revoke the waiver or pursue any regulatory or statutory
4063 changes necessary to allow other residences ~~facilities~~ to adopt
4064 the same practices. The department may by rule clarify terms and
4065 establish waiver application procedures, criteria for reviewing
4066 waiver proposals, and procedures for reporting findings, as
4067 necessary to implement this subsection.

4068 (4)~~(5)~~ The agency shall ~~may~~ use an abbreviated biennial
4069 standard licensure inspection that consists of a review of key
4070 quality-of-care standards in lieu of a full inspection in a
4071 residence ~~facility~~ that has a good record of past performance.
4072 However, a full inspection must be conducted in a residence
4073 ~~facility~~ that has a history of class I or class II violations,
4074 uncorrected class III violations, ~~confirmed ombudsman council~~
4075 ~~complaints~~, or confirmed licensure complaints, within the
4076 previous licensure period immediately preceding the inspection
4077 or if a potentially serious problem is identified during the
4078 abbreviated inspection. The agency, in consultation with the
4079 department, shall develop, maintain, and update the key quality-
4080 of-care standards with input from ~~the State Long-Term Care~~
4081 ~~Ombudsman Council~~ and representatives of associations and
4082 organizations representing assisted living residences ~~provider~~
4083 ~~groups~~ for incorporation into its rules.

4084 Section 44. Section 429.42, Florida Statutes, is amended to
4085 read:

4086 429.42 Pharmacy and dietary services.—

4087 (1) Any assisted living residence for ~~facility in~~ which the
4088 agency has documented a class I or class II violation ~~deficiency~~
4089 or uncorrected class III violations ~~deficiencies~~ regarding

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4090 medicinal drugs or over-the-counter preparations, including
4091 their storage, use, delivery, or administration, or dietary
4092 services, or both, during a biennial survey or a monitoring
4093 visit or an investigation in response to a complaint, shall, in
4094 addition to or as an alternative to any penalties imposed under
4095 s. 429.19, be required to employ the consultant services of a
4096 licensed pharmacist, a licensed registered nurse, or a
4097 registered or licensed dietitian, as applicable. The consultant
4098 shall, at a minimum, provide onsite quarterly consultation until
4099 the inspection team from the agency determines that such
4100 consultation services are no longer required.

4101 ~~(2) A corrective action plan for deficiencies related to~~
4102 ~~assistance with the self-administration of medication or the~~
4103 ~~administration of medication must be developed and implemented~~
4104 ~~by the facility within 48 hours after notification of such~~
4105 ~~deficiency, or sooner if the deficiency is determined by the~~
4106 ~~agency to be life-threatening.~~

4107 ~~(3) The agency shall employ at least two pharmacists~~
4108 ~~licensed pursuant to chapter 465 among its personnel who~~
4109 ~~biennially inspect assisted living facilities licensed under~~
4110 ~~this part, to participate in biennial inspections or consult~~
4111 ~~with the agency regarding deficiencies relating to medicinal~~
4112 ~~drugs or over-the-counter preparations.~~

4113 (2)~~(4)~~ The department may by rule establish procedures and
4114 specify documentation as necessary to implement this section.

4115 Section 45. Section 429.44, Florida Statutes, is amended to
4116 read:

4117 429.44 Construction and renovation; requirements.—

4118 (1) The requirements for the construction and renovation of

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4119 a residence ~~facility~~ shall comply with the provisions of chapter
4120 553 which pertain to building construction standards, including
4121 plumbing, electrical code, glass, manufactured buildings,
4122 accessibility for persons with disabilities, and the state
4123 minimum building code and with the provisions of s. 633.022,
4124 which pertain to uniform firesafety standards.

4125 (2) Upon notification by the local authority having
4126 jurisdiction over life-threatening violations which seriously
4127 threaten the health, safety, or welfare of a resident of a
4128 residence ~~facility~~, the agency shall take action as specified in
4129 s. 429.14.

4130 (3) The department may adopt rules to establish procedures
4131 and specify the documentation necessary to implement this
4132 section.

4133 Section 46. Section 429.445, Florida Statutes, is amended
4134 to read:

4135 429.445 Compliance with local zoning requirements. ~~No~~
4136 ~~facility licensed under this part may commence any construction~~
4137 ~~which will expand the size of the existing structure unless the~~
4138 ~~licensee first submits to the agency proof that such~~
4139 ~~construction will be in compliance with applicable local zoning~~
4140 ~~requirements.~~ Residences ~~Facilities~~ with a licensed capacity of
4141 less than 15 persons shall comply with the provisions of chapter
4142 419.

4143 Section 47. Section 429.47, Florida Statutes, is amended to
4144 read:

4145 429.47 Prohibited acts; penalties for violation.—

4146 (1) While an assisted living residence ~~a facility~~ is under
4147 construction, the owner may advertise to the public prior to

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4148 obtaining a license. Facilities that are certified under chapter
4149 651 shall comply with the advertising provisions of s. 651.095
4150 rather than those provided for in this subsection.

4151 (2) A freestanding residence ~~facility~~ shall not advertise
4152 or imply that any part of it is a nursing home. For the purpose
4153 of this subsection, "freestanding residence ~~facility~~" means a
4154 residence ~~facility~~ that is not operated in conjunction with a
4155 nursing home to which residents of the residence ~~facility~~ are
4156 given priority when nursing care is required. A person who
4157 violates this subsection is subject to fine as specified in s.
4158 429.19.

4159 (3) Any residence ~~facility~~ which is affiliated with any
4160 religious organization or which has a name implying religious
4161 affiliation shall include in its advertising whether or not it
4162 is affiliated with any religious organization and, if so, which
4163 organization.

4164 (4) A licensed residence ~~facility licensed under this part~~
4165 which is not part of a facility authorized under chapter 651
4166 shall include the residence's ~~facility's~~ license number as given
4167 by the agency in all advertising. A company or person owning
4168 more than one residence ~~facility~~ shall include at least one
4169 license number per advertisement. All advertising shall include
4170 the term "assisted living residence" or "ALR ~~facility~~" before
4171 the license number.

4172 Section 48. Section 429.49, Florida Statutes, is amended to
4173 read:

4174 429.49 Resident records; penalties for alteration.—

4175 (1) Any person who fraudulently alters, defaces, or
4176 falsifies any medical or other resident record of an assisted

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4177 living residence ~~facility~~, or causes or procures any such
4178 offense to be committed, commits a misdemeanor of the second
4179 degree, punishable as provided in s. 775.082 or s. 775.083.

4180 (2) A conviction under subsection (1) is also grounds for
4181 restriction, suspension, or termination of license privileges.

4182 Section 49. Section 429.52, Florida Statutes, is amended to
4183 read:

4184 429.52 Staff training and educational programs; core
4185 educational requirement.—

4186 (1) Administrators and other assisted living residence
4187 ~~facility~~ staff must meet minimum training and education
4188 requirements established by the Department of Elderly Affairs by
4189 rule. This training and education is intended to assist
4190 residences ~~facilities~~ to appropriately respond to the needs of
4191 residents, to maintain resident care and residence ~~facility~~
4192 standards, and to meet licensure requirements.

4193 (2) The department shall establish a competency test and a
4194 minimum required score to indicate successful completion of the
4195 training and educational requirements. The competency test must
4196 be developed by the department in conjunction with the agency
4197 and providers. The required training and education must cover at
4198 least the following topics:

4199 (a) State law and rules relating to assisted living
4200 residences ~~facilities~~.

4201 (b) Resident rights and identifying and reporting abuse,
4202 neglect, and exploitation.

4203 (c) Special needs of elderly persons, persons with mental
4204 illness, and persons with developmental disabilities and how to
4205 meet those needs.

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4206 (d) Nutrition and food service, including acceptable
4207 sanitation practices for preparing, storing, and serving food.

4208 (e) Medication management, recordkeeping, and proper
4209 techniques for assisting residents with self-administered
4210 medication.

4211 (f) Firesafety requirements, including fire evacuation
4212 drill procedures and other emergency procedures.

4213 (g) Care of persons with Alzheimer's disease and related
4214 disorders.

4215 (3) Effective January 1, 2004, a new residence facility
4216 administrator must complete the required training and education,
4217 including the competency test, within a reasonable time after
4218 being employed as an administrator, as determined by the
4219 department. Failure to do so is a violation of this part and
4220 subjects the violator to an administrative fine as prescribed in
4221 s. 429.19. ~~Administrators licensed in accordance with part II of~~
4222 ~~chapter 468 are exempt from this requirement. Other licensed~~
4223 ~~professionals may be exempted, as determined by the department~~
4224 ~~by rule.~~

4225 (4) Administrators are required to participate in
4226 continuing education for a minimum of 12 contact hours every 2
4227 years.

4228 (5) Staff involved with the management of medications and
4229 assisting with the self-administration of medications under s.
4230 429.256 must complete a minimum of 4 additional hours of
4231 training provided by a registered nurse, licensed pharmacist, or
4232 department staff, and must complete 2 hours of continuing
4233 education training annually. ~~The department shall establish by~~
4234 ~~rule the minimum requirements of this additional training.~~

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4235 (6) Other residence facility staff shall participate in
4236 training relevant to their job duties as specified by rule of
4237 the department.

4238 (7) If the ~~department or the~~ agency determines that there
4239 are problems in a residence facility that could be reduced
4240 through specific staff training or education beyond that already
4241 required under this section, ~~the department or the~~ agency may
4242 require, and provide, or cause to be provided, the training or
4243 education of any direct personal care staff in the residence
4244 facility.

4245 (8) The department shall adopt rules related to these
4246 training requirements, the competency test, necessary
4247 procedures, and competency test fees and shall adopt or contract
4248 with another entity to develop a curriculum, which shall be used
4249 as the minimum core training requirements. The department shall
4250 consult with representatives of ~~stakeholder~~ associations and
4251 organizations representing assisted living residences and
4252 agencies in the development of the curriculum.

4253 (9) The training required by this section shall be
4254 conducted by persons registered with the department as having
4255 the requisite experience and credentials to conduct the
4256 training. A person seeking to register as a trainer must provide
4257 the department with proof of completion of the minimum core
4258 training education requirements, successful passage of the
4259 competency test established under this section, and proof of
4260 compliance with the continuing education requirement in
4261 subsection (4).

4262 (10) A person seeking to register as a trainer must also:

4263 (a) Provide proof of completion of a 4-year degree from an

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4264 accredited college or university and must have worked in a
4265 management position in an assisted living residence facility for
4266 3 years after being core certified;

4267 (b) Have worked in a management position in an assisted
4268 living residence facility for 5 years after being core certified
4269 and have 1 year of teaching experience as an educator or staff
4270 trainer for persons who work in assisted living residences
4271 ~~facilities~~ or other long-term care settings;

4272 (c) Have been previously employed as a core trainer for the
4273 department; or

4274 (d) Meet other qualification criteria as defined in rule,
4275 which the department is authorized to adopt.

4276 (11) A trainer certified by the department must continue to
4277 meet continuing education requirements and other standards as
4278 set forth in rules adopted by the department. Noncompliance with
4279 the standards set forth in the rules may result in suspension or
4280 revocation of a trainer's certificate.

4281 (12)~~(11)~~ The department shall adopt rules to establish
4282 trainer registration requirements.

4283 Section 50. Section 429.53, Florida Statutes, is amended to
4284 read:

4285 429.53 Consultation by the agency.—

4286 (1) ~~The area offices of licensure and certification of the~~
4287 agency shall provide consultation to the following upon request:

4288 (a) A licensee of a residence facility.

4289 (b) A person interested in obtaining a license to operate a
4290 residence facility under this part.

4291 (2) As used in this section, "consultation" includes:

4292 (a) An explanation of the requirements of this part and

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4293 rules adopted pursuant thereto;

4294 (b) An explanation of the license application and renewal
4295 procedures;

4296 ~~(c) The provision of a checklist of general local and state~~
4297 ~~approvals required prior to constructing or developing a~~
4298 ~~facility and a listing of the types of agencies responsible for~~
4299 ~~such approvals;~~

4300 ~~(d) An explanation of benefits and financial assistance~~
4301 ~~available to a recipient of supplemental security income~~
4302 ~~residing in a facility;~~

4303 (c)~~(e)~~ Any other information which the agency deems
4304 necessary to promote compliance with the requirements of this
4305 part. ~~;~~ and

4306 ~~(f) A preconstruction review of a facility to ensure~~
4307 ~~compliance with agency rules and this part.~~

4308 (3) The agency may charge a fee commensurate with the cost
4309 of providing consultation under this section.

4310 Section 51. Section 429.54, Florida Statutes, is repealed.

4311 Section 52. Section 429.65, Florida Statutes, is amended to
4312 read:

4313 429.65 Definitions.—As used in this part, the term:

4314 (1) "Activities of daily living" means functions and tasks
4315 for self-care, including eating, bathing, grooming, dressing,
4316 ambulating, and other similar tasks.

4317 (2) "Adult family-care home" means a full-time, family-type
4318 living arrangement, in a private home, under which a person who
4319 owns or rents the home provides room, board, and personal care,
4320 on a 24-hour basis, for no more than five disabled adults or
4321 frail elders who are not relatives. The following family-type

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4322 living arrangements are not required to be licensed as an adult
4323 family-care home:

4324 (a) An arrangement whereby the person who owns or rents the
4325 home provides room, board, and personal services for not more
4326 than two adults who do not receive optional state
4327 supplementation under s. 409.212. The person who provides the
4328 housing, meals, and personal care must own or rent the home and
4329 reside therein.

4330 (b) An arrangement whereby the person who owns or rents the
4331 home provides room, board, and personal services only to his or
4332 her relatives.

4333 (c) An establishment that is licensed as an assisted living
4334 residence facility under this chapter.

4335 ~~(3) "Agency" means the Agency for Health Care~~
4336 ~~Administration.~~

4337 (3)~~(4)~~ "Aging in place" means remaining in a
4338 noninstitutional living environment despite the physical or
4339 mental changes that may occur in a person who is aging. For
4340 aging in place to occur, needed services are added, increased,
4341 or adjusted to compensate for a person's physical or mental
4342 changes.

4343 (4)~~(5)~~ "Appropriate placement" means that the resident's
4344 needs can be met by the adult family-care home or can be met by
4345 services arranged by the adult family-care home or the resident.

4346 (5)~~(6)~~ "Chemical restraint" means a pharmacologic drug that
4347 physically limits, restricts, or deprives an individual of
4348 movement or mobility, and is used for discipline or convenience
4349 and not required for the treatment of medical symptoms.

4350 (6)~~(7)~~ "Department" means the Department of Elderly

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4351 Affairs.

4352 (7)~~(8)~~ "Disabled adult" means any person between 18 and 59
4353 years of age, inclusive, who is a resident of the state and who
4354 has one or more permanent physical or mental limitations that
4355 restrict the person's ability to perform the normal activities
4356 of daily living.

4357 (8)~~(9)~~ "Frail elder" means a functionally impaired elderly
4358 person who is 60 years of age or older and who has physical or
4359 mental limitations that restrict the person's ability to perform
4360 the normal activities of daily living and that impede the
4361 person's capacity to live independently.

4362 (9)~~(10)~~ "Personal services" or "personal care" includes
4363 individual assistance with or supervision of the activities of
4364 daily living and the self-administration of medication, and
4365 other similar services.

4366 ~~(11) "Provider" means a person who is licensed to operate
4367 an adult family care home.~~

4368 (10)~~(12)~~ "Relative" means an individual who is the father,
4369 mother, son, daughter, brother, sister, grandfather,
4370 grandmother, great-grandfather, great-grandmother, uncle, aunt,
4371 first cousin, nephew, niece, husband, wife, father-in-law,
4372 mother-in-law, son-in-law, daughter-in-law, brother-in-law,
4373 sister-in-law, stepfather, stepmother, stepson, stepdaughter,
4374 stepbrother, stepsister, half brother, or half sister of a
4375 licensee provider.

4376 (11)~~(13)~~ "Relief person" means an adult designated by the
4377 licensee provider to supervise the residents during the
4378 licensee's provider's absence.

4379 (12)~~(14)~~ "Resident" means a person receiving room, board,

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4380 and personal care in an adult family-care home.

4381 Section 53. Section 429.67, Florida Statutes, is amended to
4382 read:

4383 429.67 Licensure.—

4384 (1) The requirements of part I ~~part II of chapter 408~~ apply
4385 to the provision of services that require licensure pursuant to
4386 this chapter ~~part and part II of chapter 408~~ and to entities
4387 licensed by or applying for such licensure from the agency ~~for~~
4388 ~~Health Care Administration~~ pursuant to this part. A license
4389 issued by the agency is required in order to operate an adult
4390 family-care home in this state.

4391 (2) A person who applies for licensure as ~~intends to be~~ an
4392 adult family-care home ~~provider~~ must own or rent the adult
4393 family-care home that is to be licensed and reside therein.

4394 (3) In accordance with s. 429.004 ~~s. 408.805~~, an applicant
4395 or licensee shall pay a fee for each license application
4396 submitted under this chapter ~~part, part II of chapter 408~~, and
4397 applicable rules. The amount of the fee shall be \$200 per
4398 biennium.

4399 (4) The agency shall require level 2 background screening
4400 for personnel as required in s. 429.008(1)(e) ~~s. 408.809(1)(e)~~,
4401 including the adult family-care home licensee ~~provider~~, the
4402 designated relief person, and all adult household members,
4403 pursuant to chapter 435 and s. 429.008 ~~s. 408.809~~.

4404 (5) Unless the adult family-care home is a community
4405 residential home subject to chapter 419, the applicant must
4406 provide documentation, signed by the appropriate governmental
4407 official, that the home has met local zoning requirements for
4408 the location for which the license is sought.

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4409 (6) In addition to the requirements of s. 429.020 ~~s.~~
4410 ~~408.811~~, access to a licensed adult family-care home must be
4411 provided at reasonable times for the appropriate officials of
4412 the department, the Department of Health, the Department of
4413 Children and Family Services, the agency, and the State Fire
4414 Marshal, who are responsible for the development and maintenance
4415 of fire, health, sanitary, and safety standards, to inspect the
4416 adult family-care home facility to assure compliance with these
4417 standards. In addition, access to a licensed adult family-care
4418 home must be provided at reasonable times for the local long-
4419 term care ombudsman council.

4420 (7) The licensed maximum capacity of each adult family-care
4421 home is based on the service needs of the residents and the
4422 capability of the licensee provider to meet the needs of the
4423 residents. Any relative who lives in the adult family-care home
4424 and who is a disabled adult or frail elder must be included in
4425 that limitation.

4426 (8) Each adult family-care home must designate at least one
4427 licensed space for a resident receiving optional state
4428 supplementation. The Department of Children and Family Services
4429 shall specify by rule the procedures to be followed for
4430 referring residents who receive optional state supplementation
4431 to adult family-care homes. Those homes licensed as adult foster
4432 homes or assisted living residences ~~facilities~~ prior to January
4433 1, 1994, that convert to adult family-care homes, are exempt
4434 from this requirement.

4435 (9) In addition to the license categories available in s.
4436 429.007 ~~s. 408.808~~, the agency may issue a conditional license
4437 to a licensee provider for the purpose of bringing the adult

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4438 family-care home into compliance with licensure requirements. A
4439 conditional license must be limited to a specific period, not
4440 exceeding 6 months. The department shall, by rule, establish
4441 criteria for issuing conditional licenses.

4442 (10) The department may adopt rules to establish
4443 procedures, identify forms, specify documentation, and clarify
4444 terms, as necessary, to administer this section.

4445 ~~(11) The agency may adopt rules to administer the~~
4446 ~~requirements of part II of chapter 408.~~

4447 Section 54. Section 429.69, Florida Statutes, is amended to
4448 read:

4449 429.69 Denial, revocation, and suspension of a license.—In
4450 addition to the requirements of part I ~~part II of chapter 408~~,
4451 the agency may deny, suspend, and revoke a license for any of
4452 the following reasons:

4453 (1) Failure to comply with the background screening
4454 standards of this part, s. 429.008 ~~s. 408.809(1)~~, or chapter
4455 435.

4456 (2) Failure to correct cited fire code violations that
4457 threaten the health, safety, or welfare of residents.

4458 Section 55. Section 429.71, Florida Statutes, is amended to
4459 read:

4460 429.71 Classification of deficiencies; administrative
4461 fines.—

4462 (1) In addition to the requirements of part I ~~part II of~~
4463 ~~chapter 408~~ and ~~in addition to~~ any other liability or penalty
4464 provided by law, the agency may impose an administrative fine on
4465 a licensee provider according to the following classification:

4466 (a) Class I violations are those conditions or practices

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4467 related to the operation and maintenance of an adult family-care
4468 home or to the care of residents which the agency determines
4469 present an imminent danger to the residents or guests of the
4470 adult family-care home ~~facility~~ or a substantial probability
4471 that death or serious physical or emotional harm would result
4472 therefrom. The condition or practice that constitutes a class I
4473 violation must be abated or eliminated within 24 hours, unless a
4474 fixed period, as determined by the agency, is required for
4475 correction. A class I violation ~~deficiency~~ is subject to an
4476 administrative fine in an amount not less than \$500 and not
4477 exceeding \$1,000 for each violation. A fine may be levied
4478 notwithstanding the correction of the violation ~~deficiency~~.

4479 (b) Class II violations are those conditions or practices
4480 related to the operation and maintenance of an adult family-care
4481 home or to the care of residents which the agency determines
4482 directly threaten the physical or emotional health, safety, or
4483 security of the residents, other than class I violations. A
4484 class II violation is subject to an administrative fine in an
4485 amount not less than \$250 and not exceeding \$500 for each
4486 violation. A citation for a class II violation must specify the
4487 time within which the violation is required to be corrected. If
4488 a class II violation is corrected within the time specified, no
4489 civil penalty shall be imposed, unless it is a repeated offense.

4490 (c) Class III violations are those conditions or practices
4491 related to the operation and maintenance of an adult family-care
4492 home or to the care of residents which the agency determines
4493 indirectly or potentially threaten the physical or emotional
4494 health, safety, or security of residents, other than class I or
4495 class II violations. A class III violation is subject to an

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4496 administrative fine in an amount not less than \$100 and not
4497 exceeding \$250 for each violation. A citation for a class III
4498 violation shall specify the time within which the violation is
4499 required to be corrected. If a class III violation is corrected
4500 within the time specified, no civil penalty shall be imposed,
4501 unless it is a repeated offense.

4502 (d) Class IV violations are those conditions or occurrences
4503 related to the operation and maintenance of an adult family-care
4504 home, or related to the required reports, forms, or documents,
4505 which do not have the potential of negatively affecting the
4506 residents. A licensee ~~provider~~ that does not correct a class IV
4507 violation within the time limit specified by the agency is
4508 subject to an administrative fine in an amount not less than \$50
4509 and not exceeding \$100 for each violation. Any class IV
4510 violation that is corrected during the time the agency survey is
4511 conducted will be identified as an agency finding and not as a
4512 violation.

4513 (2) The agency may impose an administrative fine for
4514 violations which do not qualify as class I, class II, class III,
4515 or class IV violations. The amount of the fine shall not exceed
4516 \$250 for each violation or \$2,000 in the aggregate. Unclassified
4517 violations may include:

4518 (a) Violating any term or condition of a license.

4519 (b) Violating any provision of this chapter ~~part, part II~~
4520 ~~of chapter 408,~~ or applicable rules.

4521 (c) Failure to follow the criteria and procedures provided
4522 under part I of chapter 394 relating to the transportation,
4523 voluntary admission, and involuntary examination of adult
4524 family-care home residents.

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- 4525 (d) Exceeding licensed capacity.
- 4526 (e) Providing services beyond the scope of the license.
- 4527 (f) Violating a moratorium.
- 4528 (3) Each day during which a violation occurs constitutes a
4529 separate offense.
- 4530 (4) In determining whether a penalty is to be imposed, and
4531 in fixing the amount of any penalty to be imposed, the agency
4532 must consider:
- 4533 (a) The gravity of the violation.
- 4534 (b) Actions taken by the licensee ~~provider~~ to correct a
4535 violation.
- 4536 (c) Any previous violation by the licensee ~~provider~~.
- 4537 (d) The financial benefit to the licensee ~~provider~~ of
4538 committing or continuing the violation.
- 4539 ~~(5) As an alternative to or in conjunction with an
4540 administrative action against a provider, the agency may request
4541 a plan of corrective action that demonstrates a good faith
4542 effort to remedy each violation by a specific date, subject to
4543 the approval of the agency.~~
- 4544 (5)-(6) The department shall set forth, by rule, notice
4545 requirements and procedures for correction of violations
4546 deficiencies.
- 4547 Section 56. Section 429.73, Florida Statutes, is amended to
4548 read:
- 4549 429.73 Rules and standards relating to adult family-care
4550 homes.—
- 4551 ~~(1) The agency, in consultation with the department, may
4552 adopt rules to administer the requirements of part II of chapter
4553 408.~~ The department, in consultation with the Department of

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4554 Health, the Department of Children and Family Services, and the
4555 agency shall, by rule, establish minimum standards to ensure the
4556 health, safety, and well-being of each resident in the adult
4557 family-care home pursuant to this part. The rules must address:

4558 (a) Requirements for the physical site and maintenance of
4559 the adult family-care home ~~facility and facility maintenance~~.

4560 (b) Services that must be provided to all residents of an
4561 adult family-care home and standards for such services, which
4562 must include, but need not be limited to:

4563 1. Room and board.

4564 2. Assistance necessary to perform the activities of daily
4565 living.

4566 3. Assistance necessary to administer medication.

4567 4. Supervision of residents.

4568 5. Health monitoring.

4569 6. Social and leisure activities.

4570 (c) Standards and procedures for license application and
4571 annual license renewal, advertising, proper management of each
4572 resident's funds and personal property and personal affairs,
4573 financial ability to operate, medication management,
4574 inspections, complaint investigations, and adult family-care
4575 home ~~facility~~, staff, and resident records.

4576 (d) Qualifications, training, standards, and
4577 responsibilities for licensees ~~providers~~ and staff.

4578 (e) Compliance with chapter 419, relating to community
4579 residential homes.

4580 (f) Criteria and procedures for determining the
4581 appropriateness of a resident's placement and continued
4582 residency in an adult family-care home. A resident who requires

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4583 24-hour nursing supervision may not be retained in an adult
4584 family-care home unless such resident is an enrolled hospice
4585 patient and the resident's continued residency is mutually
4586 agreeable to the resident and the licensee ~~provider~~.

4587 (g) Procedures for providing notice and assuring the least
4588 possible disruption of residents' lives when residents are
4589 relocated, an adult family-care home is closed, or the ownership
4590 of an adult family-care home is transferred.

4591 (h) Procedures to protect the residents' rights as provided
4592 in s. 429.85.

4593 (i) Procedures to promote the growth of adult family-care
4594 homes as a component of a long-term care system.

4595 (j) Procedures to promote the goal of aging in place for
4596 residents of adult family-care homes.

4597 (2) The department shall by rule provide minimum standards
4598 and procedures for emergencies. Pursuant to s. 633.022, the
4599 State Fire Marshal, in consultation with the department and the
4600 agency, shall adopt uniform firesafety standards for adult
4601 family-care homes.

4602 (3) The department shall adopt rules providing for the
4603 implementation of orders not to resuscitate. The licensee
4604 ~~provider~~ may withhold or withdraw cardiopulmonary resuscitation
4605 if presented with an order not to resuscitate executed pursuant
4606 to s. 401.45. The licensee ~~provider~~ shall not be subject to
4607 criminal prosecution or civil liability, nor be considered to
4608 have engaged in negligent or unprofessional conduct, for
4609 withholding or withdrawing cardiopulmonary resuscitation
4610 pursuant to such an order and applicable rules.

4611 Section 57. Section 429.75, Florida Statutes, is amended to

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4612 read:

4613 429.75 Training and education programs.—

4614 (1) Each adult family-care home licensee ~~provider~~ shall
4615 complete training and education programs.4616 (2) Training and education programs must include
4617 information relating to:4618 (a) State law and rules governing adult family-care homes,
4619 with emphasis on appropriateness of placement of residents in an
4620 adult family-care home.4621 (b) Identifying and reporting abuse, neglect, and
4622 exploitation.4623 (c) Identifying and meeting the special needs of disabled
4624 adults and frail elders.4625 (d) Monitoring the health of residents, including
4626 guidelines for prevention and care of pressure ulcers.4627 (3) Licensees ~~Effective January 1, 2004, providers~~ must
4628 complete the training and education program within a reasonable
4629 time determined by the department. Failure to complete the
4630 training and education program within the time set by the
4631 department is a violation of this part and subjects the licensee
4632 ~~provider~~ to revocation of the license.4633 (4) If the Department of Children and Family Services, the
4634 agency, or the department determines that there are problems in
4635 an adult family-care home which could be reduced through
4636 specific training or education beyond that required under this
4637 section, the agency may require the licensee ~~provider~~ or staff
4638 to complete such training or education.4639 (5) The department may adopt rules as necessary to
4640 administer this section.

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4641 Section 58. Section 429.81, Florida Statutes, is amended to
4642 read:

4643 429.81 Residency agreements.—

4644 (1) Each resident must be covered by a residency agreement,
4645 executed before or at the time of admission, between the
4646 licensee ~~provider~~ and the resident or the resident's designee or
4647 legal representative. Each party to the contract must be
4648 provided a duplicate copy of the original agreement, and the
4649 licensee ~~provider~~ must keep the residency agreement on file for
4650 5 years after expiration of the agreement.

4651 (2) Each residency agreement must specify the personal care
4652 and accommodations to be provided by the adult family-care home,
4653 the rates or charges, a requirement of at least 30 days' notice
4654 before a rate increase, and any other provisions required by
4655 rule of the department.

4656 (3) Each residency agreement must specify that the resident
4657 must give the provider a 30 days' written notice of intent to
4658 terminate his or her residency from the adult family-care home.

4659 Section 59. Section 429.83, Florida Statutes, is amended to
4660 read:

4661 429.83 Residents with Alzheimer's disease or other related
4662 disorders; certain disclosures.—An adult family-care home
4663 licensed under this part which claims that it provides special
4664 care for persons who have Alzheimer's disease or other related
4665 disorders must disclose in its advertisements or in a separate
4666 document those services that distinguish the care as being
4667 especially applicable to, or suitable for, such persons. The
4668 adult family-care home must give a copy of all such
4669 advertisements or a copy of the document to each person who

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4670 requests information about programs and services for persons
4671 with Alzheimer's disease or other related disorders offered by
4672 the adult family-care home and must maintain a copy of all such
4673 advertisements and documents in its records. The agency shall
4674 examine all such advertisements and documents in the adult
4675 family-care home's records as part of the license renewal
4676 procedure.

4677 Section 60. Section 429.85, Florida Statutes, is amended to
4678 read:

4679 429.85 Residents' bill of rights.—

4680 (1) A resident of an adult family-care home may not be
4681 deprived of any civil or legal rights, benefits, or privileges
4682 guaranteed by law, the State Constitution, or the Constitution
4683 of the United States solely by reason of status as a resident of
4684 the adult family-care home. Each resident has the right to:

4685 (a) Live in a safe and decent living environment, free from
4686 abuse and neglect.

4687 (b) Be treated with consideration and respect and with due
4688 recognition of personal dignity, individuality, and privacy.

4689 (c) Keep and use the resident's own clothes and other
4690 personal property in the resident's immediate living quarters,
4691 so as to maintain individuality and personal dignity, except
4692 when the licensee ~~provider~~ can demonstrate that to do so would
4693 be unsafe or an infringement upon the rights of other residents.

4694 (d) Have unrestricted private communication, including
4695 receiving and sending unopened correspondence, having access to
4696 a telephone, and visiting with any person of his or her choice,
4697 at any time between the hours of 9 a.m. and 9 p.m. at a minimum.

4698 (e) Be free to participate in and benefit from community

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4699 services and activities and to achieve the highest possible
4700 level of independence, autonomy, and interaction within the
4701 community.

4702 (f) Manage the resident's own financial affairs unless the
4703 resident or the resident's guardian authorizes the licensee
4704 ~~provider~~ to provide safekeeping for funds in accordance with
4705 procedures equivalent to those provided in s. 429.27.

4706 (g) Share a room with the resident's spouse if both are
4707 residents of the adult family-care home.

4708 (h) Have reasonable opportunity for regular exercise
4709 several times a week and to be outdoors at regular and frequent
4710 intervals.

4711 (i) Exercise civil and religious liberties, including the
4712 right to independent personal decisions. Religious beliefs or
4713 practices and attendance at religious services may not be
4714 imposed upon a resident.

4715 (j) Have access to adequate and appropriate health care.

4716 (k) Be free from chemical and physical restraints.

4717 (l) Have at least 30 days' notice of relocation or
4718 termination of residency from the adult family-care home unless,
4719 for medical reasons, the resident is certified by a physician to
4720 require an emergency relocation to a facility providing a more
4721 skilled level of care or the resident engages in a pattern of
4722 conduct that is harmful or offensive to other residents. If a
4723 resident has been adjudicated mentally incompetent, the
4724 resident's guardian must be given at least 30 days' notice,
4725 except in an emergency, of the relocation of a resident or of
4726 the termination of a residency. The reasons for relocating a
4727 resident must be set forth in writing.

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4728 (m) Present grievances and recommend changes to the
4729 licensee provider, to staff, or to any other person without
4730 restraint, interference, coercion, discrimination, or reprisal.
4731 This right includes the right to have access to ombudsman
4732 volunteers and advocates and the right to be a member of, to be
4733 active in, and to associate with advocacy or special interest
4734 groups.

4735 (2) The licensee provider shall ensure that residents and
4736 their legal representatives are made aware of the rights,
4737 obligations, and prohibitions set forth in this part. Residents
4738 must also be given the names, addresses, and telephone numbers
4739 of the local ombudsman council and the central abuse hotline
4740 where they may lodge complaints.

4741 (3) The adult family-care home may not hamper or prevent
4742 residents from exercising the rights specified in this section.

4743 (4) A licensee provider or staff of an adult family-care
4744 home may not serve notice upon a resident to leave the premises
4745 or take any other retaliatory action against any person who:

4746 (a) Exercises any right set forth in this section.

4747 (b) Appears as a witness in any hearing, in or out of the
4748 adult family-care home.

4749 (c) Files a civil action alleging a violation of this part
4750 or notifies a state attorney or the Attorney General of a
4751 possible violation of this part.

4752 (5) Any adult family-care home that terminates the
4753 residency of an individual who has participated in activities
4754 specified in subsection (4) must show good cause for the
4755 termination in a court of competent jurisdiction.

4756 (6) Any person who reports a complaint concerning a

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4757 suspected violation of this part or the services and conditions
4758 in an adult family-care home, or who testifies in any
4759 administrative or judicial proceeding arising from such a
4760 complaint, is immune from any civil or criminal liability
4761 therefor, unless the person acted in bad faith or with malicious
4762 purpose or the court finds that there was a complete absence of
4763 a justiciable issue of either law or fact raised by the losing
4764 party.

4765 Section 61. Section 429.87, Florida Statutes, is amended to
4766 read:

4767 429.87 Civil actions to enforce rights.—

4768 (1) Any person or resident whose rights as specified in
4769 this part are violated has a cause of action against any adult
4770 family-care home, licensee ~~provider~~, or staff responsible for
4771 the violation. The action may be brought by the resident or the
4772 resident's guardian, or by a person or organization acting on
4773 behalf of a resident with the consent of the resident or the
4774 resident's guardian, to enforce the right. The action may be
4775 brought in any court of competent jurisdiction to enforce such
4776 rights and to recover actual damages, and punitive damages when
4777 malicious, wanton, or willful disregard of the rights of others
4778 can be shown. Any plaintiff who prevails in any such action is
4779 entitled to recover reasonable attorney's fees, costs of the
4780 action, and damages, unless the court finds that the plaintiff
4781 has acted in bad faith or with malicious purpose or that there
4782 was a complete absence of a justiciable issue of either law or
4783 fact. A prevailing defendant is entitled to recover reasonable
4784 attorney's fees pursuant to s. 57.105. The remedies provided in
4785 this section are in addition to other legal and administrative

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4786 remedies available to a resident or to the agency.

4787 (2) To recover attorney's fees under this section, the
4788 following conditions precedent must be met:

4789 (a) Within 120 days after the filing of a responsive
4790 pleading or defensive motion to a complaint brought under this
4791 section and before trial, the parties or their designated
4792 representatives shall meet in mediation to discuss the issues of
4793 liability and damages in accordance with this paragraph for the
4794 purpose of an early resolution of the matter.

4795 1. Within 60 days after the filing of the responsive
4796 pleading or defensive motion, the parties shall:

4797 a. Agree on a mediator. If the parties cannot agree on a
4798 mediator, the defendant shall immediately notify the court,
4799 which shall appoint a mediator within 10 days after such notice.

4800 b. Set a date for mediation.

4801 c. Prepare an order for the court that identifies the
4802 mediator, the scheduled date of the mediation, and other terms
4803 of the mediation. Absent any disagreement between the parties,
4804 the court may issue the order for the mediation submitted by the
4805 parties without a hearing.

4806 2. The mediation must be concluded within 120 days after
4807 the filing of a responsive pleading or defensive motion. The
4808 date may be extended only by agreement of all parties subject to
4809 mediation under this subsection.

4810 3. The mediation shall be conducted in the following
4811 manner:

4812 a. Each party shall ensure that all persons necessary for
4813 complete settlement authority are present at the mediation.

4814 b. Each party shall mediate in good faith.

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4815 4. All aspects of the mediation which are not specifically
4816 established by this subsection must be conducted according to
4817 the rules of practice and procedure adopted by the Supreme Court
4818 of this state.

4819 (b) If the parties do not settle the case pursuant to
4820 mediation, the last offer of the defendant made at mediation
4821 shall be recorded by the mediator in a written report that
4822 states the amount of the offer, the date the offer was made in
4823 writing, and the date the offer was rejected. If the matter
4824 subsequently proceeds to trial under this section and the
4825 plaintiff prevails but is awarded an amount in damages,
4826 exclusive of attorney's fees, which is equal to or less than the
4827 last offer made by the defendant at mediation, the plaintiff is
4828 not entitled to recover any attorney's fees.

4829 (c) This subsection applies only to claims for liability
4830 and damages and does not apply to actions for injunctive relief.

4831 (d) This subsection applies to all causes of action that
4832 accrue on or after October 1, 1999.

4833 (3) Discovery of financial information for the purpose of
4834 determining the value of punitive damages may not be had unless
4835 the plaintiff shows the court by proffer or evidence in the
4836 record that a reasonable basis exists to support a claim for
4837 punitive damages.

4838 (4) In addition to any other standards for punitive
4839 damages, any award of punitive damages must be reasonable in
4840 light of the actual harm suffered by the resident and the
4841 egregiousness of the conduct that caused the actual harm to the
4842 resident.

4843 Section 62. Section 429.901, Florida Statutes, is amended

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4844 to read:

4845 429.901 Definitions.—As used in this part, the term:

4846 (1) "Adult day care center" or "center" means any building,
4847 buildings, or part of a building, whether operated for profit or
4848 not, in which is provided through its ownership or management,
4849 for a part of a day, basic services to three or more persons who
4850 are 18 years of age or older, who are not related to the owner
4851 or operator by blood or marriage, and who require such services.

4852 ~~(2) "Agency" means the Agency for Health Care~~
4853 ~~Administration.~~

4854 (2)~~(3)~~ "Basic services" include, but are not limited to,
4855 providing a protective setting that is as noninstitutional as
4856 possible; therapeutic programs of social and health activities
4857 and services; leisure activities; self-care training; rest;
4858 nutritional services; and respite care.

4859 (3)~~(4)~~ "Department" means the Department of Elderly
4860 Affairs.

4861 (4)~~(5)~~ "Multiple or repeated violations" means 2 or more
4862 violations that present an imminent danger to the health,
4863 safety, or welfare of participants or 10 or more violations
4864 within a 5-year period that threaten the health, safety, or
4865 welfare of the participants.

4866 ~~(6) "Operator" means the licensee or person having general~~
4867 ~~administrative charge of an adult day care center.~~

4868 ~~(7) "Owner" means the licensee of an adult day care center.~~

4869 (5)~~(8)~~ "Participant" means a recipient of basic services or
4870 of supportive and optional services provided by an adult day
4871 care center.

4872 (6)~~(9)~~ "Supportive and optional services" include, but are

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4873 not limited to, speech, occupational, and physical therapy;
4874 direct transportation; legal consultation; consumer education;
4875 and referrals for followup services.

4876 Section 63. Section 429.905, Florida Statutes, is amended
4877 to read:

4878 429.905 Exemptions; monitoring of adult day care center
4879 programs colocated with assisted living residences ~~facilities~~ or
4880 licensed nursing home facilities.-

4881 (1) The following are exempt from this part:

4882 (a) Any facility, institution, or other place that is
4883 operated by the Federal Government or any agency thereof.

4884 (b) Any freestanding inpatient hospice facility that is
4885 licensed by the state and which provides day care services to
4886 hospice patients only.

4887 (2) A licensed assisted living residence ~~facility~~, a
4888 licensed hospital, or a licensed nursing home facility may
4889 provide services during the day which include, but are not
4890 limited to, social, health, therapeutic, recreational,
4891 nutritional, and respite services, to adults who are not
4892 residents. Such a residence or facility need not be licensed as
4893 an adult day care center; however, the agency must monitor the
4894 residence or facility during the regular inspection and at least
4895 biennially to ensure adequate space and sufficient staff. If an
4896 assisted living residence ~~facility~~, a hospital, or a nursing
4897 home holds itself out to the public as an adult day care center,
4898 it must be licensed as such and meet all standards prescribed by
4899 statute and rule.

4900 Section 64. Section 429.907, Florida Statutes, is amended
4901 to read:

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4902 429.907 License requirement; fee; exemption; display.-

4903 (1) The requirements of part I ~~part II of chapter 408~~ apply
4904 to the provision of services that require licensure pursuant to
4905 this chapter ~~part and part II of chapter 408~~ and to entities
4906 licensed by or applying for such licensure from the agency ~~for~~
4907 ~~Health Care Administration~~ pursuant to this part. A license
4908 issued by the agency is required in order to operate an adult
4909 day care center in this state.

4910 (2) (a) Except as otherwise provided in this subsection,
4911 separate licenses are required for centers operated on separate
4912 premises, even though operated under the same management.
4913 Separate licenses are not required for separate buildings on the
4914 same premises.

4915 (b) In the event a licensed center becomes wholly or
4916 substantially unusable due to a disaster as defined in s.
4917 252.34(1) or due to an emergency as defined in s. 252.34(3):

4918 1. The licensee may continue to operate under its current
4919 license in a premise or premises separate from that authorized
4920 under the license if the licensee has:

4921 a. Specified the location of the premise or premises in its
4922 comprehensive emergency management plan submitted to and
4923 approved by the applicable county emergency management
4924 authority; and

4925 b. Notified the agency and the county emergency management
4926 authority within 24 hours of operating in the separate premise
4927 or premises.

4928 2. The licensee shall operate the separate premise or
4929 premises only while the licensed center's original location is
4930 substantially unusable and for no longer than 180 days. The

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4931 agency may extend use of the alternate premise or premises
4932 beyond the initial 180 days. The agency may also review the
4933 operation of the disaster premise or premises quarterly.

4934 (3) In accordance with s. 429.004 ~~s. 408.805~~, an applicant
4935 or licensee shall pay a fee for each license application
4936 submitted under this part and part I ~~II~~ of ~~chapter 408~~. The
4937 amount of the fee shall be established by rule and may not
4938 exceed \$150.

4939 (4) County-operated or municipally operated centers
4940 applying for licensure under this part are exempt from the
4941 payment of license fees.

4942 Section 65. Section 429.909, Florida Statutes, is amended
4943 to read:

4944 429.909 Application for license.—In addition to all
4945 provisions of part I ~~part II~~ of ~~chapter 408~~, the applicant for
4946 licensure must furnish a description of the physical and mental
4947 capabilities and needs of the participants to be served and the
4948 availability, frequency, and intensity of basic services and of
4949 supportive and optional services to be provided and proof of
4950 adequate liability insurance coverage.

4951 Section 66. Section 429.911, Florida Statutes, is amended
4952 to read:

4953 429.911 Denial, suspension, revocation of license;
4954 emergency action; administrative fines; investigations and
4955 inspections.—

4956 (1) The agency may deny, revoke, and suspend a license
4957 under this part, impose an action under s. 429.013 ~~s. 408.814~~,
4958 and impose an administrative fine against the licensee ~~owner~~ of
4959 an adult day care center or its ~~operator~~ or employee in the

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4960 manner provided in chapter 120 for the violation of any
4961 provision of this chapter ~~part, part II of chapter 408,~~ or
4962 applicable rules.

4963 (2) Each of the following actions by the licensee ~~owner~~ of
4964 an adult day care center or by its ~~operator or~~ employee is a
4965 ground for action by the agency against the licensee ~~owner of~~
4966 ~~the center~~ or its ~~operator or~~ employee:

4967 (a) An intentional or negligent act materially affecting
4968 the health or safety of center participants.

4969 (b) A violation of this part or of any standard or rule
4970 under this chapter ~~part or part II of chapter 408.~~

4971 (c) Failure to comply with the background screening
4972 standards of this part, s. 429.008 ~~s. 408.809(1)~~, or chapter
4973 435.

4974 (d) Failure to follow the criteria and procedures provided
4975 under part I of chapter 394 relating to the transportation,
4976 voluntary admission, and involuntary examination of center
4977 participants.

4978 (e) Multiple or repeated violations of this part or of any
4979 standard or rule adopted under this chapter ~~part or part II of~~
4980 ~~chapter 408.~~

4981 (3) The agency is responsible for all investigations and
4982 inspections conducted pursuant to this part and s. 429.0105 ~~s.~~
4983 ~~408.811.~~

4984 Section 67. Section 429.913, Florida Statutes, is amended
4985 to read:

4986 429.913 Administrative fines.—

4987 (1)(a) In addition to the requirements of part I ~~part II of~~
4988 ~~chapter 408,~~ if the agency determines that an adult day care

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4989 center is not operated in compliance with this part or with
4990 rules adopted under this part, the agency, notwithstanding any
4991 other administrative action it takes, shall make a reasonable
4992 attempt to discuss with the licensee ~~owner~~ each violation and
4993 recommended corrective action prior to providing the licensee
4994 ~~owner~~ with written notification. The agency may request the
4995 submission of a corrective action plan for the center which
4996 demonstrates a good faith effort to remedy each violation by a
4997 specific date, subject to the approval of the agency.

4998 (b) The licensee ~~owner~~ of a center or its ~~operator or~~
4999 employee found in violation of this chapter ~~part, part II of~~
5000 ~~chapter 408~~, or applicable rules may be fined by the agency. A
5001 fine may not exceed \$500 for each violation. In no event,
5002 however, may such fines in the aggregate exceed \$5,000.

5003 (c) The failure to correct a violation by the date set by
5004 the agency, or the failure to comply with an approved corrective
5005 action plan, is a separate violation for each day such failure
5006 continues, unless the agency approves an extension to a specific
5007 date.

5008 (2) In determining whether to impose a fine and in fixing
5009 the amount of any fine, the agency shall consider the following
5010 factors:

5011 (a) The gravity of the violation, including the probability
5012 that death or serious physical or emotional harm to a
5013 participant will result or has resulted, the severity of the
5014 actual or potential harm, and the extent to which the provisions
5015 of the applicable statutes or rules were violated.

5016 (b) Actions taken by the licensee ~~owner or operator~~ to
5017 correct violations.

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5018 (c) Any previous violations.

5019 (d) The financial benefit to the center of committing or
5020 continuing the violation.

5021 Section 68. Section 429.915, Florida Statutes, is amended
5022 to read:

5023 429.915 Conditional license.—In addition to the license
5024 categories available in part I ~~part II of chapter 408~~, the
5025 agency may issue a conditional license to an applicant for
5026 license renewal or change of ownership if the applicant fails to
5027 meet all standards and requirements for licensure. A conditional
5028 license issued under this subsection must be limited to a
5029 specific period not exceeding 6 months, as determined by the
5030 agency, ~~and must be accompanied by an approved plan of~~
5031 ~~correction~~.

5032 Section 69. Section 429.917, Florida Statutes, is amended
5033 to read:

5034 429.917 Patients with Alzheimer's disease or other related
5035 disorders; staff training requirements; certain disclosures.—

5036 (1) An adult day care center licensed under this part must
5037 provide the following staff training:

5038 (a) Upon beginning employment with the adult day care
5039 center facility, each employee must receive basic written
5040 information about interacting with participants who have
5041 Alzheimer's disease or dementia-related disorders.

5042 (b) In addition to the information provided under paragraph
5043 (a), newly hired adult day care center personnel who are
5044 expected to, or whose responsibilities require them to, have
5045 direct contact with participants who have Alzheimer's disease or
5046 dementia-related disorders must complete initial training of at

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5047 least 1 hour within the first 3 months after beginning
5048 employment. The training must include an overview of dementias
5049 and must provide instruction in basic skills for communicating
5050 with persons who have dementia.

5051 (c) In addition to the requirements of paragraphs (a) and
5052 (b), an employee who will be providing direct care to a
5053 participant who has Alzheimer's disease or a dementia-related
5054 disorder must complete an additional 3 hours of training within
5055 9 months after beginning employment. This training must include,
5056 but is not limited to, the management of problem behaviors,
5057 information about promoting the participant's independence in
5058 activities of daily living, and instruction in skills for
5059 working with families and caregivers.

5060 (d) For certified nursing assistants, the required 4 hours
5061 of training shall be part of the total hours of training
5062 required annually.

5063 (e) For a health care practitioner as defined in s.
5064 456.001, continuing education hours taken as required by that
5065 practitioner's licensing board shall be counted toward the total
5066 of 4 hours.

5067 (f) For an employee who is a licensed health care
5068 practitioner as defined in s. 456.001, training that is
5069 sanctioned by that practitioner's licensing board shall be
5070 considered to be approved by the department ~~of Elderly Affairs~~.

5071 (g) The department ~~of Elderly Affairs~~ or its designee must
5072 approve the 1-hour and 3-hour training provided to employees and
5073 direct caregivers under this section. The department must
5074 consider for approval training offered in a variety of formats.
5075 The department shall keep a list of current providers who are

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5076 approved to provide the 1-hour and 3-hour training. The
5077 department shall adopt rules to establish standards for the
5078 employees who are subject to this training, for the trainers,
5079 and for the training required in this section.

5080 (h) Upon completing any training described in this section,
5081 the employee or direct caregiver shall be issued a certificate
5082 that includes the name of the training provider, the topic
5083 covered, and the date and signature of the training provider.
5084 The certificate is evidence of completion of training in the
5085 identified topic, and the employee or direct caregiver is not
5086 required to repeat training in that topic if the employee or
5087 direct caregiver changes employment to a different adult day
5088 care center or to an assisted living residence ~~facility~~, nursing
5089 home, home health agency, or hospice. The direct caregiver must
5090 comply with other applicable continuing education requirements.

5091 ~~(i) An employee who is hired on or after July 1, 2004, must~~
5092 ~~complete the training required by this section.~~

5093 (2) A center licensed under this part which claims that it
5094 provides special care for persons who have Alzheimer's disease
5095 or other related disorders must disclose in its advertisements
5096 or in a separate document those services that distinguish the
5097 care as being especially applicable to, or suitable for, such
5098 persons. The center must give a copy of all such advertisements
5099 or a copy of the document to each person who requests
5100 information about the center and must maintain a copy of all
5101 such advertisements and documents in its records. The agency
5102 shall examine all such advertisements and documents in the
5103 center's records as part of the license renewal procedure.

5104 Section 70. Section 429.919, Florida Statutes, is amended

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5105 to read:

5106 429.919 Background screening.—The agency shall require
5107 level 2 background screening for personnel as required in s.
5108 429.008(1)(e) ~~s. 408.809(1)(e)~~ pursuant to chapter 435 and ~~s.~~
5109 ~~408.809~~.

5110 Section 71. Section 429.925, Florida Statutes, is amended
5111 to read:

5112 429.925 Discontinuance of operation of adult day care
5113 centers.—In addition to the requirements of part I ~~part II~~ of
5114 ~~chapter 408~~, before operation of an adult day care center may be
5115 voluntarily discontinued, the licensee ~~operator~~ must, at least
5116 60 days before the discontinuance of operation, inform each
5117 participant of the fact and the proposed date of discontinuance
5118 of operation.

5119 Section 72. Section 429.926, Florida Statutes, is created
5120 to read:

5121 429.926 Minimum licensure requirements; exemption.—The
5122 provisions of s. 429.009(7)-(9), relating to minimum licensure
5123 requirements, do not apply to adult day care centers licensed
5124 under this part.

5125 Section 73. Section 429.927, Florida Statutes, is amended
5126 to read:

5127 429.927 Right of entry and inspection.—In accordance with
5128 429.0105 ~~s. 408.811~~, the agency or department has the right to
5129 enter the premises of any adult day care center licensed
5130 pursuant to this part, at any reasonable time, in order to
5131 determine the state of compliance with this chapter ~~part, part~~
5132 ~~II of chapter 408~~, and applicable rules.

5133 Section 74. Section 429.929, Florida Statutes, is amended

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5134 to read:

5135 429.929 Rules establishing standards.-

5136 (1) ~~The agency, in consultation with the department, may~~
5137 ~~adopt rules to administer the requirements of part II of chapter~~
5138 ~~408. The department of Elderly Affairs, in conjunction with the~~
5139 agency, shall adopt rules to implement the provisions of this
5140 part. The rules must include reasonable and fair standards. Any
5141 conflict between these standards and those that may be set forth
5142 in local, county, or municipal ordinances shall be resolved in
5143 favor of those having statewide effect. Such standards must
5144 relate to:

5145 (a) The maintenance of adult day care centers with respect
5146 to plumbing, heating, lighting, ventilation, and other building
5147 conditions, including adequate meeting space, to ensure the
5148 health, safety, and comfort of participants and protection from
5149 fire hazard. Such standards may not conflict with chapter 553
5150 and must be based upon the size of the structure and the number
5151 of participants.

5152 (b) The number and qualifications of all personnel employed
5153 by adult day care centers who have responsibilities for the care
5154 of participants.

5155 (c) All sanitary conditions within adult day care centers
5156 and their surroundings, including water supply, sewage disposal,
5157 food handling, and general hygiene, and maintenance of sanitary
5158 conditions, to ensure the health and comfort of participants.

5159 (d) Basic services provided by adult day care centers.

5160 (e) Supportive and optional services provided by adult day
5161 care centers.

5162 (f) Data and information relative to participants and

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5163 programs of adult day care centers, including, but not limited
5164 to, the physical and mental capabilities and needs of the
5165 participants, the availability, frequency, and intensity of
5166 basic services and of supportive and optional services provided,
5167 the frequency of participation, the distances traveled by
5168 participants, the hours of operation, the number of referrals to
5169 other centers or elsewhere, and the incidence of illness.

5170 (g) Components of a comprehensive emergency management
5171 plan, developed in consultation with the Department of Health,
5172 the agency ~~for Health Care Administration~~, and the Department of
5173 Community Affairs.

5174 (2) Pursuant to this part, s. 429.0105 ~~s. 408.811~~, and
5175 applicable rules, the agency may conduct an abbreviated biennial
5176 inspection of key quality-of-care standards, in lieu of a full
5177 inspection, of a center that has a record of good performance.
5178 However, the agency must conduct a full inspection of a center
5179 that has had one or more confirmed complaints within the
5180 licensure period immediately preceding the inspection or which
5181 has a serious problem identified during the abbreviated
5182 inspection. The agency shall develop the key quality-of-care
5183 standards, taking into consideration the comments and
5184 recommendations of the department ~~of Elderly Affairs~~ and of
5185 associations and organizations representing adult day care
5186 centers ~~provider groups~~. These standards shall be included in
5187 rules adopted by the department ~~of Elderly Affairs~~.

5188 Section 75. Paragraph (b) of subsection (4) of section
5189 101.62, Florida Statutes, is amended to read:

5190 101.62 Request for absentee ballots.—

5191 (4)

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5192 (b) The supervisor shall provide an absentee ballot to each
5193 elector by whom a request for that ballot has been made by one
5194 of the following means:

5195 1. By nonforwardable, return-if-undeliverable mail to the
5196 elector's current mailing address on file with the supervisor,
5197 unless the elector specifies in the request that:

5198 a. The elector is absent from the county and does not plan
5199 to return before the day of the election;

5200 b. The elector is temporarily unable to occupy the
5201 residence because of hurricane, tornado, flood, fire, or other
5202 emergency or natural disaster; or

5203 c. The elector is in a hospital, assisted living residence
5204 ~~facility~~, nursing home, short-term medical or rehabilitation
5205 facility, or correctional facility,

5206

5207 in which case the supervisor shall mail the ballot by
5208 nonforwardable, return-if-undeliverable mail to any other
5209 address the elector specifies in the request.

5210 2. By forwardable mail, e-mail, or facsimile machine
5211 transmission to absent uniformed services voters and overseas
5212 voters. The absent uniformed services voter or overseas voter
5213 may designate in the absentee ballot request the preferred
5214 method of transmission. If the voter does not designate the
5215 method of transmission, the absentee ballot shall be mailed.

5216 3. By personal delivery before 7 p.m. on election day to
5217 the elector, upon presentation of the identification required in
5218 s. 101.043.

5219 4. By delivery to a designee on election day or up to 5
5220 days prior to the day of an election. Any elector may designate

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5221 in writing a person to pick up the ballot for the elector;
5222 however, the person designated may not pick up more than two
5223 absentee ballots per election, other than the designee's own
5224 ballot, except that additional ballots may be picked up for
5225 members of the designee's immediate family. For purposes of this
5226 section, "immediate family" means the designee's spouse or the
5227 parent, child, grandparent, or sibling of the designee or of the
5228 designee's spouse. The designee shall provide to the supervisor
5229 the written authorization by the elector and a picture
5230 identification of the designee and must complete an affidavit.
5231 The designee shall state in the affidavit that the designee is
5232 authorized by the elector to pick up that ballot and shall
5233 indicate if the elector is a member of the designee's immediate
5234 family and, if so, the relationship. The department shall
5235 prescribe the form of the affidavit. If the supervisor is
5236 satisfied that the designee is authorized to pick up the ballot
5237 and that the signature of the elector on the written
5238 authorization matches the signature of the elector on file, the
5239 supervisor shall give the ballot to that designee for delivery
5240 to the elector.

5241 Section 76. Subsection (1) of section 101.655, Florida
5242 Statutes, is amended to read:

5243 101.655 Supervised voting by absent electors in certain
5244 facilities.—

5245 (1) The supervisor of elections of a county shall provide
5246 supervised voting for absent electors residing in any assisted
5247 living residence facility, as defined in s. 429.02, or nursing
5248 home facility, as defined in s. 400.021, within that county at
5249 the request of any administrator of such a facility. Such

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5250 request for supervised voting in the facility shall be made by
5251 submitting a written request to the supervisor of elections no
5252 later than 21 days prior to the election for which that request
5253 is submitted. The request shall specify the name and address of
5254 the facility and the name of the electors who wish to vote
5255 absentee in that election. If the request contains the names of
5256 fewer than five voters, the supervisor of elections is not
5257 required to provide supervised voting.

5258 Section 77. Subsection (16) of section 159.27, Florida
5259 Statutes, is amended to read:

5260 159.27 Definitions.—The following words and terms, unless
5261 the context clearly indicates a different meaning, shall have
5262 the following meanings:

5263 (16) "Health care facility" means property operated in the
5264 private sector, whether operated for profit or not, used for or
5265 useful in connection with the diagnosis, treatment, therapy,
5266 rehabilitation, housing, or care of or for aged, sick, ill,
5267 injured, infirm, impaired, disabled, or handicapped persons,
5268 without discrimination among such persons due to race, religion,
5269 or national origin; or for the prevention, detection, and
5270 control of disease, including, without limitation thereto,
5271 hospital, clinic, emergency, outpatient, and intermediate care,
5272 including, but not limited to, facilities for the elderly such
5273 as assisted living residences ~~facilities~~, facilities defined in
5274 s. 154.205(8), day care and share-a-home facilities, nursing
5275 homes, and the following related property when used for or in
5276 connection with the foregoing: laboratory; research; pharmacy;
5277 laundry; health personnel training and lodging; patient, guest,
5278 and health personnel food service facilities; and offices and

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5279 office buildings for persons engaged in health care professions
5280 or services; provided, if required by ss. 400.601-400.611 and
5281 ss. 408.031-408.045, a certificate of need therefor is obtained
5282 prior to the issuance of the bonds.

5283 Section 78. Paragraph (b) of subsection (2) of section
5284 196.1975, Florida Statutes, is amended to read:

5285 196.1975 Exemption for property used by nonprofit homes for
5286 the aged.—Nonprofit homes for the aged are exempt to the extent
5287 that they meet the following criteria:

5288 (2) A facility will not qualify as a "home for the aged"
5289 unless at least 75 percent of the occupants are over the age of
5290 62 years or totally and permanently disabled. For homes for the
5291 aged which are exempt from paying income taxes to the United
5292 States as specified in subsection (1), licensing by the Agency
5293 for Health Care Administration is required for ad valorem tax
5294 exemption hereunder only if the home:

5295 (b) Qualifies as an assisted living residence facility
5296 under chapter 429.

5297 Section 79. Paragraph (c) of subsection (4) of section
5298 202.125, Florida Statutes, is amended to read:

5299 202.125 Sales of communications services; specified
5300 exemptions.—

5301 (4) The sale of communications services to a home for the
5302 aged, religious institution or educational institution that is
5303 exempt from federal income tax under s. 501(c)(3) of the
5304 Internal Revenue Code, or by a religious institution that is
5305 exempt from federal income tax under s. 501(c)(3) of the
5306 Internal Revenue Code having an established physical place for
5307 worship at which nonprofit religious services and activities are

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5308 regularly conducted and carried on, is exempt from the taxes
5309 imposed or administered pursuant to ss. 202.12 and 202.19. As
5310 used in this subsection, the term:

5311 (c) "Home for the aged" includes any nonprofit corporation:

5312 1. In which at least 75 percent of the occupants are 62
5313 years of age or older or totally and permanently disabled; which
5314 qualifies for an ad valorem property tax exemption under s.
5315 196.196, s. 196.197, or s. 196.1975; and which is exempt from
5316 the sales tax imposed under chapter 212.

5317 2. Licensed as a nursing home under chapter 400 or an
5318 assisted living residence ~~facility~~ under chapter 429 and which
5319 is exempt from the sales tax imposed under chapter 212.

5320 Section 80. Section 205.1965, Florida Statutes, is amended
5321 to read:

5322 205.1965 Assisted living residences ~~facilities~~.—A county or
5323 municipality may not issue a business tax receipt for the
5324 operation of an assisted living residence ~~facility~~ pursuant to
5325 chapter 429 without first ascertaining that the applicant has
5326 been licensed by the Agency for Health Care Administration to
5327 operate such facility at the specified location or locations.
5328 The Agency for Health Care Administration shall furnish to local
5329 agencies responsible for issuing business tax receipts
5330 sufficient instructions for making the required determinations.

5331 Section 81. Section 252.357, Florida Statutes, is amended
5332 to read:

5333 252.357 Monitoring of nursing homes and assisted living
5334 residences ~~facilities~~ during disaster.—The Florida Comprehensive
5335 Emergency Management Plan shall permit the Agency for Health
5336 Care Administration, working from the agency's offices or in the

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5337 Emergency Operations Center, ESF-8, to make initial contact with
5338 each nursing home and assisted living residence ~~facility~~ in the
5339 disaster area. The agency, by July 15, 2006, and annually
5340 thereafter, shall publish on the Internet an emergency telephone
5341 number that may be used by nursing homes and assisted living
5342 residences ~~facilities~~ to contact the agency on a schedule
5343 established by the agency to report requests for assistance. The
5344 agency may also provide the telephone number to each facility
5345 when it makes the initial facility call.

5346 Section 82. Subsection (4) of section 252.385, Florida
5347 Statutes, is amended to read:

5348 252.385 Public shelter space.—

5349 (4) (a) Public facilities, including schools, postsecondary
5350 education facilities, and other facilities owned or leased by
5351 the state or local governments, but excluding hospitals, hospice
5352 care facilities, assisted living residences ~~facilities~~, and
5353 nursing homes, which are suitable for use as public hurricane
5354 evacuation shelters shall be made available at the request of
5355 the local emergency management agencies. The local emergency
5356 management agency shall coordinate with these entities to ensure
5357 that designated facilities are ready to activate prior to a
5358 specific hurricane or disaster. Such agencies shall coordinate
5359 with the appropriate school board, university, community
5360 college, state agency, or local governing board when requesting
5361 the use of such facilities as public hurricane evacuation
5362 shelters.

5363 (b) The Department of Management Services shall incorporate
5364 provisions for the use of suitable leased public facilities as
5365 public hurricane evacuation shelters into lease agreements for

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5366 state agencies. Suitable leased public facilities include leased
5367 public facilities that are solely occupied by state agencies and
5368 have at least 2,000 square feet of net floor area in a single
5369 room or in a combination of rooms having a minimum of 400 square
5370 feet in each room. The net square footage of floor area shall be
5371 determined by subtracting from the gross square footage the
5372 square footage of spaces such as mechanical and electrical
5373 rooms, storage rooms, open corridors, restrooms, kitchens,
5374 science or computer laboratories, shop or mechanical areas,
5375 administrative offices, records vaults, and crawl spaces.

5376 (c) The Department of Management Services shall, in
5377 consultation with local and state emergency management agencies,
5378 assess Department of Management Services facilities to identify
5379 the extent to which each facility has public hurricane
5380 evacuation shelter space. The Department of Management Services
5381 shall submit proposed facility retrofit projects that
5382 incorporate hurricane protection enhancements to the department
5383 for assessment and inclusion in the annual report prepared in
5384 accordance with subsection (3).

5385 (d) The Department of Management Services shall include in
5386 the annual state facilities inventory report required under ss.
5387 216.015-216.016 a separate list of state-owned facilities,
5388 including, but not limited to, meeting halls, auditoriums,
5389 conference centers, and training centers that have unoccupied
5390 space suitable for use as an emergency shelter during a storm or
5391 other catastrophic event. Facilities must be listed by the
5392 county and municipality where the facility is located and must
5393 be made available in accordance with paragraph (a). As used in
5394 this paragraph, the term "suitable for use as an emergency

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5395 shelter" means meeting the standards set by the American Red
5396 Cross for a hurricane evacuation shelter, and the term
5397 "unoccupied" means vacant due to suspended operation or nonuse.
5398 The list must be updated by May 31 of each year.

5399 Section 83. Paragraph (p) of subsection (24) of section
5400 380.06, Florida Statutes, is amended to read:

5401 380.06 Developments of regional impact.—

5402 (24) STATUTORY EXEMPTIONS.—

5403 (p) Any proposed nursing home or assisted living residence
5404 ~~facility~~ is exempt from this section.

5405
5406 If a use is exempt from review as a development of regional
5407 impact under paragraphs (a)-(s), but will be part of a larger
5408 project that is subject to review as a development of regional
5409 impact, the impact of the exempt use must be included in the
5410 review of the larger project, unless such exempt use involves a
5411 development of regional impact that includes a landowner,
5412 tenant, or user that has entered into a funding agreement with
5413 the Office of Tourism, Trade, and Economic Development under the
5414 Innovation Incentive Program and the agreement contemplates a
5415 state award of at least \$50 million.

5416 Section 84. Subsection (16) of section 381.006, Florida
5417 Statutes, is amended to read:

5418 381.006 Environmental health.—The department shall conduct
5419 an environmental health program as part of fulfilling the
5420 state's public health mission. The purpose of this program is to
5421 detect and prevent disease caused by natural and manmade factors
5422 in the environment. The environmental health program shall
5423 include, but not be limited to:

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5424 (16) A group-care-facilities function. As used in this
5425 subsection, the term "group care facility" means any public or
5426 private school, assisted living residence ~~facility~~, adult
5427 family-care home, adult day care center, short-term residential
5428 treatment center, residential treatment facility, home for
5429 special services, transitional living facility, crisis
5430 stabilization unit, hospice, prescribed pediatric extended care
5431 center, intermediate care facility for persons with
5432 developmental disabilities, or boarding school. The department
5433 may adopt rules necessary to protect the health and safety of
5434 residents, staff, and patrons of group care facilities. Rules
5435 related to public and private schools shall be developed by the
5436 Department of Education in consultation with the department.
5437 Rules adopted under this subsection may include definitions of
5438 terms; provisions relating to operation and maintenance of
5439 facilities, buildings, grounds, equipment, furnishings, and
5440 occupant-space requirements; lighting; heating, cooling, and
5441 ventilation; food service; water supply and plumbing; sewage;
5442 sanitary facilities; insect and rodent control; garbage; safety;
5443 personnel health, hygiene, and work practices; and other matters
5444 the department finds are appropriate or necessary to protect the
5445 safety and health of the residents, staff, students, faculty, or
5446 patrons. The department may not adopt rules that conflict with
5447 rules adopted by the licensing or certifying agency. The
5448 department may enter and inspect at reasonable hours to
5449 determine compliance with applicable statutes or rules. In
5450 addition to any sanctions that the department may impose for
5451 violations of rules adopted under this section, the department
5452 shall also report such violations to any agency responsible for

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5453 licensing or certifying the group care facility. The licensing
5454 or certifying agency may also impose any sanction based solely
5455 on the findings of the department.

5456
5457 The department may adopt rules to carry out the provisions of
5458 this section.

5459 Section 85. Paragraph (b) of subsection (1) of section
5460 381.0072, Florida Statutes, is amended to read:

5461 381.0072 Food service protection.—It shall be the duty of
5462 the Department of Health to adopt and enforce sanitation rules
5463 consistent with law to ensure the protection of the public from
5464 food-borne illness. These rules shall provide the standards and
5465 requirements for the storage, preparation, serving, or display
5466 of food in food service establishments as defined in this
5467 section and which are not permitted or licensed under chapter
5468 500 or chapter 509.

5469 (1) DEFINITIONS.—As used in this section, the term:

5470 (b) "Food service establishment" means detention
5471 facilities, public or private schools, migrant labor camps,
5472 assisted living residences ~~facilities~~, adult family-care homes,
5473 adult day care centers, short-term residential treatment
5474 centers, residential treatment facilities, homes for special
5475 services, transitional living facilities, crisis stabilization
5476 units, hospices, prescribed pediatric extended care centers,
5477 intermediate care facilities for persons with developmental
5478 disabilities, boarding schools, civic or fraternal
5479 organizations, bars and lounges, vending machines that dispense
5480 potentially hazardous foods at facilities expressly named in
5481 this paragraph, and facilities used as temporary food events or

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5482 mobile food units at any facility expressly named in this
5483 paragraph, where food is prepared and intended for individual
5484 portion service, including the site at which individual portions
5485 are provided, regardless of whether consumption is on or off the
5486 premises and regardless of whether there is a charge for the
5487 food. The term does not include any entity not expressly named
5488 in this paragraph; nor does the term include a domestic violence
5489 center certified and monitored by the Department of Children and
5490 Family Services under part XIII of chapter 39 if the center does
5491 not prepare and serve food to its residents and does not
5492 advertise food or drink for public consumption.

5493 Section 86. Paragraph (a) of subsection (3) and paragraph
5494 (g) of subsection (6) of section 381.0303, Florida Statutes, are
5495 amended to read:

5496 381.0303 Special needs shelters.—

5497 (3) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS AND
5498 FACILITIES.—

5499 (a) The department shall, upon request, reimburse in
5500 accordance with paragraph (b):

5501 1. Health care practitioners, as defined in s. 456.001,
5502 provided the practitioner is not providing care to a patient
5503 under an existing contract, and emergency medical technicians
5504 and paramedics licensed under chapter 401 for medical care
5505 provided at the request of the department in special needs
5506 shelters or at other locations during times of emergency or a
5507 declared disaster. Reimbursement for health care practitioners,
5508 except for physicians licensed under chapter 458 or chapter 459,
5509 shall be based on the average hourly rate that such
5510 practitioners were paid according to the most recent survey of

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5511 Florida hospitals conducted by the Florida Hospital Association
5512 or other nationally recognized or state-recognized data source.

5513 2. Health care facilities, such as hospitals, nursing
5514 homes, assisted living residences ~~facilities~~, and community
5515 residential homes, if, upon closure of a special needs shelter,
5516 a multiagency special needs shelter discharge planning team
5517 determines that it is necessary to discharge persons with
5518 special needs to other health care facilities. The receiving
5519 facilities are eligible for reimbursement for services provided
5520 to the individuals for up to 90 days. A facility must show proof
5521 of a written request from a representative of an agency serving
5522 on the multiagency special needs shelter discharge planning team
5523 that the individual for whom the facility is seeking
5524 reimbursement for services rendered was referred to that
5525 facility from a special needs shelter. The department shall
5526 specify by rule which expenses are reimbursable and the rate of
5527 reimbursement for each service.

5528 (6) RULES.—The department has the authority to adopt rules
5529 necessary to implement this section. Rules shall include:

5530 (g) The requirement of the county health departments to
5531 seek the participation of hospitals, nursing homes, assisted
5532 living residences ~~facilities~~, home health agencies, hospice
5533 providers, nurse registries, home medical equipment providers,
5534 dialysis centers, and other health and medical emergency
5535 preparedness stakeholders in pre-event planning activities.

5536 Section 87. Subsection (17) of section 394.455, Florida
5537 Statutes, is amended to read:

5538 394.455 Definitions.—As used in this part, unless the
5539 context clearly requires otherwise, the term:

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5540 (17) "Mental health overlay program" means a mobile service
5541 which provides an independent examination for voluntary
5542 admissions and a range of supplemental onsite services to
5543 persons with a mental illness in a residential setting such as a
5544 nursing home, assisted living residence facility, adult family-
5545 care home, or nonresidential setting such as an adult day care
5546 center. Independent examinations provided pursuant to this part
5547 through a mental health overlay program must only be provided
5548 under contract with the department for this service or be
5549 attached to a public receiving facility that is also a community
5550 mental health center.

5551 Section 88. Section 394.4574, Florida Statutes, is amended
5552 to read:

5553 394.4574 Department responsibilities for a mental health
5554 resident who resides in an assisted living residence facility
5555 that holds a limited mental health license.—

5556 (1) The term "mental health resident," for purposes of this
5557 section, means an individual who receives social security
5558 disability income due to a mental disorder as determined by the
5559 Social Security Administration or receives supplemental security
5560 income due to a mental disorder as determined by the Social
5561 Security Administration and receives optional state
5562 supplementation.

5563 (2) The department must ensure that:

5564 (a) A mental health resident has been assessed by a
5565 psychiatrist, clinical psychologist, clinical social worker, or
5566 psychiatric nurse, or an individual who is supervised by one of
5567 these professionals, and determined to be appropriate to reside
5568 in an assisted living residence facility. The documentation must

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5569 be provided to the administrator of the facility within 30 days
5570 after the mental health resident has been admitted to the
5571 facility. An evaluation completed upon discharge from a state
5572 mental hospital meets the requirements of this subsection
5573 related to appropriateness for placement as a mental health
5574 resident if it was completed within 90 days prior to admission
5575 to the facility.

5576 (b) A cooperative agreement, as required in s. 429.075, is
5577 developed between the mental health care services provider that
5578 serves a mental health resident and the administrator of the
5579 assisted living residence ~~facility~~ with a limited mental health
5580 license in which the mental health resident is living. Any
5581 entity that provides Medicaid prepaid health plan services shall
5582 ensure the appropriate coordination of health care services with
5583 an assisted living residence ~~facility~~ in cases where a Medicaid
5584 recipient is both a member of the entity's prepaid health plan
5585 and a resident of the assisted living residence ~~facility~~. If the
5586 entity is at risk for Medicaid targeted case management and
5587 behavioral health services, the entity shall inform the assisted
5588 living residence ~~facility~~ of the procedures to follow should an
5589 emergent condition arise.

5590 (c) The community living support plan, as defined in s.
5591 429.02, has been prepared by a mental health resident and a
5592 mental health case manager of that resident in consultation with
5593 the administrator of the facility or the administrator's
5594 designee. The plan must be provided to the administrator of the
5595 assisted living residence ~~facility~~ with a limited mental health
5596 license in which the mental health resident lives. The support
5597 plan and the agreement may be in one document.

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5598 (d) The assisted living residence ~~facility~~ with a limited
5599 mental health license is provided with documentation that the
5600 individual meets the definition of a mental health resident.

5601 (e) The mental health services provider assigns a case
5602 manager to each mental health resident who lives in an assisted
5603 living residence ~~facility~~ with a limited mental health license.
5604 The case manager is responsible for coordinating the development
5605 of and implementation of the community living support plan
5606 defined in s. 429.02. The plan must be updated at least
5607 annually.

5608 (3) The Secretary of Children and Family Services, in
5609 consultation with the Agency for Health Care Administration,
5610 shall annually require each district administrator to develop,
5611 with community input, detailed plans that demonstrate how the
5612 district will ensure the provision of state-funded mental health
5613 and substance abuse treatment services to residents of assisted
5614 living residences ~~facilities~~ that hold a limited mental health
5615 license. These plans must be consistent with the substance abuse
5616 and mental health district plan developed pursuant to s. 394.75
5617 and must address case management services; access to consumer-
5618 operated drop-in centers; access to services during evenings,
5619 weekends, and holidays; supervision of the clinical needs of the
5620 residents; and access to emergency psychiatric care.

5621 Section 89. Paragraph (1) of subsection (1) of section
5622 394.462, Florida Statutes, is amended to read:

5623 394.462 Transportation.—

5624 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

5625 (1) When a jurisdiction has entered into a contract with an
5626 emergency medical transport service or a private transport

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5627 company for transportation of persons to receiving facilities,
5628 such service or company shall be given preference for
5629 transportation of persons from nursing homes, assisted living
5630 residences ~~facilities~~, adult day care centers, or adult family-
5631 care homes, unless the behavior of the person being transported
5632 is such that transportation by a law enforcement officer is
5633 necessary.

5634 Section 90. Paragraph (b) of subsection (1) of section
5635 394.4625, Florida Statutes, is amended to read:

5636 394.4625 Voluntary admissions.—

5637 (1) AUTHORITY TO RECEIVE PATIENTS.—

5638 (b) A mental health overlay program or a mobile crisis
5639 response service or a licensed professional who is authorized to
5640 initiate an involuntary examination pursuant to s. 394.463 and
5641 is employed by a community mental health center or clinic must,
5642 pursuant to district procedure approved by the respective
5643 district administrator, conduct an initial assessment of the
5644 ability of the following persons to give express and informed
5645 consent to treatment before such persons may be admitted
5646 voluntarily:

5647 1. A person 60 years of age or older for whom transfer is
5648 being sought from a nursing home, assisted living residence
5649 ~~facility~~, adult day care center, or adult family-care home, when
5650 such person has been diagnosed as suffering from dementia.

5651 2. A person 60 years of age or older for whom transfer is
5652 being sought from a nursing home pursuant to s. 400.0255(12).

5653 3. A person for whom all decisions concerning medical
5654 treatment are currently being lawfully made by the health care
5655 surrogate or proxy designated under chapter 765.

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5656 Section 91. Subsection (5) of section 394.75, Florida
5657 Statutes, is amended to read:

5658 394.75 State and district substance abuse and mental health
5659 plans.—

5660 (5) The district plan shall address how substance abuse and
5661 mental health services will be provided and how a system of care
5662 for target populations will be provided given the resources
5663 available in the service district. The plan must include
5664 provisions for maximizing client access to the most recently
5665 developed psychiatric medications approved by the United States
5666 Food and Drug Administration, for developing independent housing
5667 units through participation in the Section 811 program operated
5668 by the United States Department of Housing and Urban
5669 Development, for developing supported employment services
5670 through the Division of Vocational Rehabilitation of the
5671 Department of Education, for providing treatment services to
5672 persons with co-occurring mental illness and substance abuse
5673 problems which are integrated across treatment systems, and for
5674 providing services to adults who have a serious mental illness,
5675 as defined in s. 394.67, and who reside in assisted living
5676 residences ~~facilities~~.

5677 Section 92. Paragraph (1) of subsection (5) of section
5678 394.9082, Florida Statutes, is amended to read:

5679 394.9082 Behavioral health managing entities.—

5680 (5) GOALS.—The goal of the service delivery strategies is
5681 to provide a design for an effective coordination, integration,
5682 and management approach for delivering effective behavioral
5683 health services to persons who are experiencing a mental health
5684 or substance abuse crisis, who have a disabling mental illness

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5685 or a substance use or co-occurring disorder, and require
5686 extended services in order to recover from their illness, or who
5687 need brief treatment or longer-term supportive interventions to
5688 avoid a crisis or disability. Other goals include:

5689 (1) Promoting specialized behavioral health services to
5690 residents of assisted living residences ~~facilities~~.

5691 Section 93. Subsection (5) of section 400.0060, Florida
5692 Statutes, is amended to read:

5693 400.0060 Definitions.—When used in this part, unless the
5694 context clearly dictates otherwise, the term:

5695 (5) "Long-term care facility" means a nursing home
5696 facility, assisted living residence ~~facility~~, adult family-care
5697 home, board and care facility, or any other similar residential
5698 adult care facility.

5699 Section 94. Paragraph (a) of subsection (4) of section
5700 400.0069, Florida Statutes, is amended to read:

5701 400.0069 Local long-term care ombudsman councils; duties;
5702 membership.—

5703 (4) Each local council shall be composed of members whose
5704 primary residence is located within the boundaries of the local
5705 council's jurisdiction.

5706 (a) The ombudsman shall strive to ensure that each local
5707 council include the following persons as members:

5708 1. At least one medical or osteopathic physician whose
5709 practice includes or has included a substantial number of
5710 geriatric patients and who may practice in a long-term care
5711 facility;

5712 2. At least one registered nurse who has geriatric
5713 experience;

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- 5714 3. At least one licensed pharmacist;
- 5715 4. At least one registered dietitian;
- 5716 5. At least six nursing home residents or representative
5717 consumer advocates for nursing home residents;
- 5718 6. At least three residents of assisted living residences
5719 ~~facilities~~ or adult family-care homes or three representative
5720 consumer advocates for alternative long-term care facility
5721 residents;
- 5722 7. At least one attorney; and
- 5723 8. At least one professional social worker.
- 5724 Section 95. Subsection (1) and paragraph (a) of subsection
5725 (2) of section 400.0074, Florida Statutes, are amended to read:
- 5726 400.0074 Local ombudsman council onsite administrative
5727 assessments.—
- 5728 (1) In addition to any specific investigation conducted
5729 pursuant to a complaint, the local council shall conduct, at
5730 least annually, an onsite administrative assessment of each
5731 nursing home, assisted living residence ~~facility~~, and adult
5732 family-care home within its jurisdiction. This administrative
5733 assessment shall focus on factors affecting the rights, health,
5734 safety, and welfare of the residents. Each local council is
5735 encouraged to conduct a similar onsite administrative assessment
5736 of each additional long-term care facility within its
5737 jurisdiction.
- 5738 (2) An onsite administrative assessment conducted by a
5739 local council shall be subject to the following conditions:
- 5740 (a) To the extent possible and reasonable, the
5741 administrative assessments shall not duplicate the efforts of
5742 the agency surveys and inspections conducted under part II of

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5743 this chapter and parts I, ~~and~~ II, and III of chapter 429.

5744 Section 96. Subsection (1) of section 400.0239, Florida
5745 Statutes, is amended to read:

5746 400.0239 Quality of Long-Term Care Facility Improvement
5747 Trust Fund.—

5748 (1) There is created within the Agency for Health Care
5749 Administration a Quality of Long-Term Care Facility Improvement
5750 Trust Fund to support activities and programs directly related
5751 to improvement of the care of nursing home and assisted living
5752 residence ~~facility~~ residents. The trust fund shall be funded
5753 through proceeds generated pursuant to ss. 400.0238 and 429.298,
5754 through funds specifically appropriated by the Legislature,
5755 through gifts, endowments, and other charitable contributions
5756 allowed under federal and state law, and through federal nursing
5757 home civil monetary penalties collected by the Centers for
5758 Medicare and Medicaid Services and returned to the state. These
5759 funds must be utilized in accordance with federal requirements.

5760 Section 97. Subsections (1) and (5) of section 400.148,
5761 Florida Statutes, are amended to read:

5762 400.148 Medicaid "Up-or-Out" Quality of Care Contract
5763 Management Program.—

5764 (1) The Legislature finds that the federal Medicare program
5765 has implemented successful models of managing the medical and
5766 supportive-care needs of long-term nursing home residents. These
5767 programs have maintained the highest practicable level of good
5768 health and have the potential to reduce the incidence of
5769 preventable illnesses among long-stay residents of nursing
5770 homes, thereby increasing the quality of care for residents and
5771 reducing the number of lawsuits against nursing homes. Such

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5772 models are operated at no cost to the state. It is the intent of
5773 the Legislature that the Agency for Health Care Administration
5774 replicate such oversight for Medicaid recipients in poor-
5775 performing nursing homes and in assisted living residences
5776 ~~facilities~~ and nursing homes that are experiencing
5777 disproportionate numbers of lawsuits, with the goal of improving
5778 the quality of care in such homes or facilitating the revocation
5779 of licensure.

5780 (5) The agency shall, jointly with the Statewide Public
5781 Guardianship Office, develop a system in the pilot project areas
5782 to identify Medicaid recipients who are residents of a
5783 participating nursing home or assisted living residence ~~facility~~
5784 who have diminished ability to make their own decisions and who
5785 do not have relatives or family available to act as guardians in
5786 nursing homes listed on the Nursing Home Guide Watch List. The
5787 agency and the Statewide Public Guardianship Office shall give
5788 such residents priority for publicly funded guardianship
5789 services.

5790 Section 98. Subsection (6) of section 400.1755, Florida
5791 Statutes, is amended to read:

5792 400.1755 Care for persons with Alzheimer's disease or
5793 related disorders.—

5794 (6) Upon completing any training listed in this section,
5795 the employee or direct caregiver shall be issued a certificate
5796 that includes the name of the training provider, the topic
5797 covered, and the date and signature of the training provider.
5798 The certificate is evidence of completion of training in the
5799 identified topic, and the employee or direct caregiver is not
5800 required to repeat training in that topic if the employee or

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5801 direct caregiver changes employment to a different facility or
5802 to an assisted living residence ~~facility~~, home health agency,
5803 adult day care center, or adult family-care home. The direct
5804 caregiver must comply with other applicable continuing education
5805 requirements.

5806 Section 99. Paragraph (h) of subsection (5) of section
5807 400.464, Florida Statutes, is amended to read:

5808 400.464 Home health agencies to be licensed; expiration of
5809 license; exemptions; unlawful acts; penalties.-

5810 (5) The following are exempt from the licensure
5811 requirements of this part:

5812 (h) The delivery of assisted living residence ~~facility~~
5813 services for which the assisted living residence ~~facility~~ is
5814 licensed under part I of chapter 429, to serve its residents in
5815 its facility.

5816 Section 100. Paragraphs (b), (k), and (l) of subsection
5817 (10) of section 400.471, Florida Statutes, are amended to read:
5818 400.471 Application for license; fee.-

5819 (10) The agency may not issue a renewal license for a home
5820 health agency in any county having at least one licensed home
5821 health agency and that has more than one home health agency per
5822 5,000 persons, as indicated by the most recent population
5823 estimates published by the Legislature's Office of Economic and
5824 Demographic Research, if the applicant or any controlling
5825 interest has been administratively sanctioned by the agency
5826 during the 2 years prior to the submission of the licensure
5827 renewal application for one or more of the following acts:

5828 (b) Knowingly providing home health services in an
5829 unlicensed assisted living residence ~~facility~~ or unlicensed

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5830 adult family-care home, unless the home health agency or
5831 employee reports the unlicensed facility or home to the agency
5832 within 72 hours after providing the services;

5833 (k) Providing services to residents in an assisted living
5834 residence ~~facility~~ for which the home health agency does not
5835 receive fair market value remuneration; or

5836 (l) Providing staffing to an assisted living residence
5837 ~~facility~~ for which the home health agency does not receive fair
5838 market value remuneration.

5839 Section 101. Paragraph (c) of subsection (2) and paragraphs
5840 (b), (c), and (d) of subsection (6) of section 400.474, Florida
5841 Statutes, are amended to read:

5842 400.474 Administrative penalties.—

5843 (2) Any of the following actions by a home health agency or
5844 its employee is grounds for disciplinary action by the agency:

5845 (c) Knowingly providing home health services in an
5846 unlicensed assisted living residence ~~facility~~ or unlicensed
5847 adult family-care home, unless the home health agency or
5848 employee reports the unlicensed facility or home to the agency
5849 within 72 hours after providing the services.

5850 (6) The agency may deny, revoke, or suspend the license of
5851 a home health agency and shall impose a fine of \$5,000 against a
5852 home health agency that:

5853 (b) Provides services to residents in an assisted living
5854 residence ~~facility~~ for which the home health agency does not
5855 receive fair market value remuneration.

5856 (c) Provides staffing to an assisted living residence
5857 ~~facility~~ for which the home health agency does not receive fair
5858 market value remuneration.

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5859 (d) Fails to provide the agency, upon request, with copies
5860 of all contracts with assisted living residences ~~facilities~~
5861 which were executed within 5 years before the request.

5862
5863 Nothing in paragraph (e) or paragraph (j) shall be interpreted
5864 as applying to or precluding any discount, compensation, waiver
5865 of payment, or payment practice permitted by 42 U.S.C. s. 1320a-
5866 7(b) or regulations adopted thereunder, including 42 C.F.R. s.
5867 1001.952 or s. 1395nn or regulations adopted thereunder.

5868 Section 102. Paragraph (e) of subsection (10) of section
5869 400.497, Florida Statutes, is amended to read:

5870 400.497 Rules establishing minimum standards.—The agency
5871 shall adopt, publish, and enforce rules to implement part II of
5872 chapter 408 and this part, including, as applicable, ss. 400.506
5873 and 400.509, which must provide reasonable and fair minimum
5874 standards relating to:

5875 (10) Preparation of a comprehensive emergency management
5876 plan pursuant to s. 400.492.

5877 (e) The requirements in this subsection do not apply to:

5878 1. A facility that is certified under chapter 651 and has a
5879 licensed home health agency used exclusively by residents of the
5880 facility; or

5881 2. A retirement community that consists of residential
5882 units for independent living and either a licensed nursing home
5883 or an assisted living residence ~~facility~~, and has a licensed
5884 home health agency used exclusively by the residents of the
5885 retirement community, provided the comprehensive emergency
5886 management plan for the facility or retirement community
5887 provides for continuous care of all residents with special needs

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5888 during an emergency.

5889 Section 103. Paragraph (a) of subsection (15) of section
5890 400.506, Florida Statutes, is amended to read:

5891 400.506 Licensure of nurse registries; requirements;
5892 penalties.—

5893 (15) (a) The agency may deny, suspend, or revoke the license
5894 of a nurse registry and shall impose a fine of \$5,000 against a
5895 nurse registry that:

5896 1. Provides services to residents in an assisted living
5897 residence facility for which the nurse registry does not receive
5898 fair market value remuneration.

5899 2. Provides staffing to an assisted living residence
5900 facility for which the nurse registry does not receive fair
5901 market value remuneration.

5902 3. Fails to provide the agency, upon request, with copies
5903 of all contracts with assisted living residences facilities
5904 which were executed within the last 5 years.

5905 4. Gives remuneration to a case manager, discharge planner,
5906 facility-based staff member, or third-party vendor who is
5907 involved in the discharge planning process of a facility
5908 licensed under chapter 395 or this chapter and from whom the
5909 nurse registry receives referrals. A nurse registry is exempt
5910 from this subparagraph if it does not bill the Florida Medicaid
5911 program or the Medicare program or share a controlling interest
5912 with any entity licensed, registered, or certified under part II
5913 of chapter 408 that bills the Florida Medicaid program or the
5914 Medicare program.

5915 5. Gives remuneration to a physician, a member of the
5916 physician's office staff, or an immediate family member of the

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5917 physician, and the nurse registry received a patient referral in
5918 the last 12 months from that physician or the physician's office
5919 staff. A nurse registry is exempt from this subparagraph if it
5920 does not bill the Florida Medicaid program or the Medicare
5921 program or share a controlling interest with any entity
5922 licensed, registered, or certified under part II of chapter 408
5923 that bills the Florida Medicaid program or the Medicare program.

5924 Section 104. Paragraph (h) of subsection (1) of section
5925 400.6045, Florida Statutes, is amended to read:

5926 400.6045 Patients with Alzheimer's disease or other related
5927 disorders; staff training requirements; certain disclosures.-

5928 (1) A hospice licensed under this part must provide the
5929 following staff training:

5930 (h) Upon completing any training described in this section,
5931 the employee or direct caregiver shall be issued a certificate
5932 that includes the name of the training provider, the topic
5933 covered, and the date and signature of the training provider.
5934 The certificate is evidence of completion of training in the
5935 identified topic, and the employee or direct caregiver is not
5936 required to repeat training in that topic if the employee or
5937 direct caregiver changes employment to a different hospice or to
5938 a home health agency, assisted living residence facility,
5939 nursing home, or adult day care center.

5940 Section 105. Paragraph (g) of subsection (1) of section
5941 400.605, Florida Statutes, is amended to read:

5942 400.605 Administration; forms; fees; rules; inspections;
5943 fines.-

5944 (1) The agency, in consultation with the department, may
5945 adopt rules to administer the requirements of part II of chapter

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5946 408. The department, in consultation with the agency, shall by
5947 rule establish minimum standards and procedures for a hospice
5948 pursuant to this part. The rules must include:

5949 (g) Standards for hospice care provided in freestanding
5950 inpatient facilities that are not otherwise licensed medical
5951 facilities and in residential care facilities such as nursing
5952 homes, assisted living residences ~~facilities~~, adult family-care
5953 homes, and hospice residential units and facilities.

5954 Section 106. Subsection (3) of section 400.609, Florida
5955 Statutes, is amended to read:

5956 400.609 Hospice services.—Each hospice shall provide a
5957 continuum of hospice services which afford the patient and the
5958 family of the patient a range of service delivery which can be
5959 tailored to specific needs and preferences of the patient and
5960 family at any point in time throughout the length of care for
5961 the terminally ill patient and during the bereavement period.
5962 These services must be available 24 hours a day, 7 days a week,
5963 and must include:

5964 (3) HOSPICE RESIDENTIAL CARE.—Hospice care and services, to
5965 the extent practicable and compatible with the needs and
5966 preferences of the patient, may be provided by the hospice care
5967 team to a patient living in an assisted living residence
5968 ~~facility~~, adult family-care home, nursing home, hospice
5969 residential unit or facility, or other nondomestic place of
5970 permanent or temporary residence. A resident or patient living
5971 in an assisted living residence ~~facility~~, adult family-care
5972 home, nursing home, or other facility subject to state licensing
5973 who has been admitted to a hospice program shall be considered a
5974 hospice patient, and the hospice program shall be responsible

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5975 for coordinating and ensuring the delivery of hospice care and
5976 services to such person pursuant to the standards and
5977 requirements of this part and rules adopted under this part.

5978 Section 107. Section 400.701, Florida Statutes, is amended
5979 to read:

5980 400.701 Intermediate care facilities; intent.—The
5981 Legislature recognizes the need to develop a continuum of long-
5982 term care in this state to meet the needs of the elderly and
5983 disabled persons. The Legislature finds that there is a gap
5984 between the level of care provided in assisted living residences
5985 ~~facilities~~ and in nursing homes. The Legislature finds that
5986 exploration of intermediate-level care facilities which would
5987 fill the gap between assisted living residences ~~facilities~~ and
5988 nursing homes, where both the federal and state government share
5989 the cost of providing care, is an appropriate option to explore
5990 in the continuum of care.

5991 Section 108. Subsection (13) of section 400.925, Florida
5992 Statutes, is amended to read:

5993 400.925 Definitions.—As used in this part, the term:

5994 (13) "Residence" means the consumer's home or place of
5995 residence, which may include nursing homes, assisted living
5996 residences ~~facilities~~, transitional living facilities, adult
5997 family-care homes, or other congregate residential facilities.

5998 Section 109. Paragraph (c) of subsection (5) of section
5999 400.93, Florida Statutes, is amended to read:

6000 400.93 Licensure required; exemptions; unlawful acts;
6001 penalties.—

6002 (5) The following are exempt from home medical equipment
6003 provider licensure, unless they have a separate company,

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6004 corporation, or division that is in the business of providing
6005 home medical equipment and services for sale or rent to
6006 consumers at their regular or temporary place of residence
6007 pursuant to the provisions of this part:

6008 (c) Assisted living residences ~~facilities~~ licensed under
6009 chapter 429, when serving their residents.

6010 Section 110. Section 405.01, Florida Statutes, is amended
6011 to read:

6012 405.01 Release of medical information to certain study
6013 groups; exemption from liability.—Any person, hospital, assisted
6014 living residence ~~facility~~, hospice, sanatorium, nursing or rest
6015 home or other organization may provide information, interviews,
6016 reports, statements, memoranda, or other data relating to the
6017 condition and treatment of any person to research groups,
6018 governmental health agencies, medical associations and
6019 societies, and in-hospital medical staff committees, to be used
6020 in the course of any study for the purpose of reducing morbidity
6021 or mortality. No liability of any kind or character for damages
6022 or other relief shall arise or be enforced against any person or
6023 organization by reason of having provided such information or
6024 material, or by reason of having released or published the
6025 findings and conclusions of such groups to advance medical
6026 research and medical education, or by reason of having released
6027 or published generally a summary of such studies.

6028 Section 111. Paragraphs (a), (b), and (c) of subsection (2)
6029 of section 408.033, Florida Statutes, are amended to read:

6030 408.033 Local and state health planning.—

6031 (2) FUNDING.—

6032 (a) The Legislature intends that the cost of local health

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6033 councils be borne by assessments on selected health care
6034 facilities subject to facility licensure by the Agency for
6035 Health Care Administration, including abortion clinics, assisted
6036 living residences ~~facilities~~, ambulatory surgical centers,
6037 birthing centers, clinical laboratories except community
6038 nonprofit blood banks and clinical laboratories operated by
6039 practitioners for exclusive use regulated under s. 483.035, home
6040 health agencies, hospices, hospitals, intermediate care
6041 facilities for the developmentally disabled, nursing homes,
6042 health care clinics, and multiphasic testing centers and by
6043 assessments on organizations subject to certification by the
6044 agency pursuant to chapter 641, part III, including health
6045 maintenance organizations and prepaid health clinics.

6046 (b)1. A hospital licensed under chapter 395, a nursing home
6047 licensed under chapter 400, and an assisted living residence
6048 ~~facility~~ licensed under chapter 429 shall be assessed an annual
6049 fee based on number of beds.

6050 2. All other facilities and organizations listed in
6051 paragraph (a) shall each be assessed an annual fee of \$150.

6052 3. Facilities operated by the Department of Children and
6053 Family Services, the Department of Health, or the Department of
6054 Corrections and any hospital which meets the definition of rural
6055 hospital pursuant to s. 395.602 are exempt from the assessment
6056 required in this subsection.

6057 (c)1. The agency shall, by rule, establish fees for
6058 hospitals and nursing homes based on an assessment of \$2 per
6059 bed. However, no such facility shall be assessed more than a
6060 total of \$500 under this subsection.

6061 2. The agency shall, by rule, establish fees for assisted

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6062 living residences ~~facilities~~ based on an assessment of \$1 per
6063 bed. However, no such facility shall be assessed more than a
6064 total of \$150 under this subsection.

6065 3. The agency shall, by rule, establish an annual fee of
6066 \$150 for all other facilities and organizations listed in
6067 paragraph (a).

6068 Section 112. Paragraph (a) of subsection (1), subsection
6069 (3), and paragraph (a) of subsection (4) of section 409.212,
6070 Florida Statutes, are amended to read:

6071 409.212 Optional supplementation.—

6072 (1) There may be monthly optional supplementation payments,
6073 made in such amount as determined by the department, to any
6074 person who:

6075 (a) Meets all the program eligibility criteria for an
6076 assisted living residence ~~facility~~ or for adult foster care,
6077 family placement, or other specialized living arrangement; and

6078 (3) Assisted living residences ~~facilities~~, adult family-
6079 care homes, family placement, or any other specialized living
6080 arrangement accepting residents who receive optional
6081 supplementation payments must comply with the requirements of 42
6082 U.S.C. s. 1382e(e).

6083 (4) In addition to the amount of optional supplementation
6084 provided by the state, a person may receive additional
6085 supplementation from third parties to contribute to his or her
6086 cost of care. Additional supplementation may be provided under
6087 the following conditions:

6088 (a) Payments shall be made to the assisted living residence
6089 ~~facility~~, or to the operator of an adult family-care home,
6090 family placement, or other special living arrangement, on behalf

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6091 of the person and not directly to the optional state
6092 supplementation recipient.

6093 Section 113. Paragraph (e) of subsection (4) of section
6094 409.221, Florida Statutes, is amended to read:

6095 409.221 Consumer-directed care program.—

6096 (4) CONSUMER-DIRECTED CARE.—

6097 (e) *Services*.—Consumers shall use the budget allowance only
6098 to pay for home and community-based services that meet the
6099 consumer's long-term care needs and are a cost-efficient use of
6100 funds. Such services may include, but are not limited to, the
6101 following:

6102 1. Personal care.

6103 2. Homemaking and chores, including housework, meals,
6104 shopping, and transportation.

6105 3. Home modifications and assistive devices which may
6106 increase the consumer's independence or make it possible to
6107 avoid institutional placement.

6108 4. Assistance in taking self-administered medication.

6109 5. Day care and respite care services, including those
6110 provided by nursing home facilities pursuant to s. 400.141(1)(f)
6111 or by adult day care facilities licensed pursuant to s. 429.907.

6112 6. Personal care and support services provided in an
6113 assisted living residence ~~facility~~.

6114 Section 114. Subsection (25) of section 409.906, Florida
6115 Statutes, is amended to read:

6116 409.906 Optional Medicaid services.—Subject to specific
6117 appropriations, the agency may make payments for services which
6118 are optional to the state under Title XIX of the Social Security
6119 Act and are furnished by Medicaid providers to recipients who

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6120 are determined to be eligible on the dates on which the services
6121 were provided. Any optional service that is provided shall be
6122 provided only when medically necessary and in accordance with
6123 state and federal law. Optional services rendered by providers
6124 in mobile units to Medicaid recipients may be restricted or
6125 prohibited by the agency. Nothing in this section shall be
6126 construed to prevent or limit the agency from adjusting fees,
6127 reimbursement rates, lengths of stay, number of visits, or
6128 number of services, or making any other adjustments necessary to
6129 comply with the availability of moneys and any limitations or
6130 directions provided for in the General Appropriations Act or
6131 chapter 216. If necessary to safeguard the state's systems of
6132 providing services to elderly and disabled persons and subject
6133 to the notice and review provisions of s. 216.177, the Governor
6134 may direct the Agency for Health Care Administration to amend
6135 the Medicaid state plan to delete the optional Medicaid service
6136 known as "Intermediate Care Facilities for the Developmentally
6137 Disabled." Optional services may include:

6138 (25) ASSISTIVE-CARE SERVICES.—The agency may pay for
6139 assistive-care services provided to recipients with functional
6140 or cognitive impairments residing in assisted living residences
6141 ~~facilities~~, adult family-care homes, or residential treatment
6142 facilities. These services may include health support,
6143 assistance with the activities of daily living and the
6144 instrumental acts of daily living, assistance with medication
6145 administration, and arrangements for health care.

6146 Section 115. Subsection (7) and paragraph (a) of subsection
6147 (8) of section 409.907, Florida Statutes, are amended to read:
6148 409.907 Medicaid provider agreements.—The agency may make

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6149 payments for medical assistance and related services rendered to
6150 Medicaid recipients only to an individual or entity who has a
6151 provider agreement in effect with the agency, who is performing
6152 services or supplying goods in accordance with federal, state,
6153 and local law, and who agrees that no person shall, on the
6154 grounds of handicap, race, color, or national origin, or for any
6155 other reason, be subjected to discrimination under any program
6156 or activity for which the provider receives payment from the
6157 agency.

6158 (7) The agency may require, as a condition of participating
6159 in the Medicaid program and before entering into the provider
6160 agreement, that the provider submit information, in an initial
6161 and any required renewal applications, concerning the
6162 professional, business, and personal background of the provider
6163 and permit an onsite inspection of the provider's service
6164 location by agency staff or other personnel designated by the
6165 agency to perform this function. The agency shall perform a
6166 random onsite inspection, within 60 days after receipt of a
6167 fully complete new provider's application, of the provider's
6168 service location prior to making its first payment to the
6169 provider for Medicaid services to determine the applicant's
6170 ability to provide the services that the applicant is proposing
6171 to provide for Medicaid reimbursement. The agency is not
6172 required to perform an onsite inspection of a provider or
6173 program that is licensed by the agency, that provides services
6174 under waiver programs for home and community-based services, or
6175 that is licensed as a medical foster home by the Department of
6176 Children and Family Services. As a continuing condition of
6177 participation in the Medicaid program, a provider shall

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6178 immediately notify the agency of any current or pending
6179 bankruptcy filing. Before entering into the provider agreement,
6180 or as a condition of continuing participation in the Medicaid
6181 program, the agency may also require that Medicaid providers
6182 reimbursed on a fee-for-services basis or fee schedule basis
6183 which is not cost-based, post a surety bond not to exceed
6184 \$50,000 or the total amount billed by the provider to the
6185 program during the current or most recent calendar year,
6186 whichever is greater. For new providers, the amount of the
6187 surety bond shall be determined by the agency based on the
6188 provider's estimate of its first year's billing. If the
6189 provider's billing during the first year exceeds the bond
6190 amount, the agency may require the provider to acquire an
6191 additional bond equal to the actual billing level of the
6192 provider. A provider's bond shall not exceed \$50,000 if a
6193 physician or group of physicians licensed under chapter 458,
6194 chapter 459, or chapter 460 has a 50 percent or greater
6195 ownership interest in the provider or if the provider is an
6196 assisted living residence ~~facility~~ licensed under chapter 429.
6197 The bonds permitted by this section are in addition to the bonds
6198 referenced in s. 400.179(2)(d). If the provider is a
6199 corporation, partnership, association, or other entity, the
6200 agency may require the provider to submit information concerning
6201 the background of that entity and of any principal of the
6202 entity, including any partner or shareholder having an ownership
6203 interest in the entity equal to 5 percent or greater, and any
6204 treating provider who participates in or intends to participate
6205 in Medicaid through the entity. The information must include:
6206 (a) Proof of holding a valid license or operating

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6207 certificate, as applicable, if required by the state or local
6208 jurisdiction in which the provider is located or if required by
6209 the Federal Government.

6210 (b) Information concerning any prior violation, fine,
6211 suspension, termination, or other administrative action taken
6212 under the Medicaid laws, rules, or regulations of this state or
6213 of any other state or the Federal Government; any prior
6214 violation of the laws, rules, or regulations relating to the
6215 Medicare program; any prior violation of the rules or
6216 regulations of any other public or private insurer; and any
6217 prior violation of the laws, rules, or regulations of any
6218 regulatory body of this or any other state.

6219 (c) Full and accurate disclosure of any financial or
6220 ownership interest that the provider, or any principal, partner,
6221 or major shareholder thereof, may hold in any other Medicaid
6222 provider or health care related entity or any other entity that
6223 is licensed by the state to provide health or residential care
6224 and treatment to persons.

6225 (d) If a group provider, identification of all members of
6226 the group and attestation that all members of the group are
6227 enrolled in or have applied to enroll in the Medicaid program.

6228 (8) (a) Each provider, or each principal of the provider if
6229 the provider is a corporation, partnership, association, or
6230 other entity, seeking to participate in the Medicaid program
6231 must submit a complete set of his or her fingerprints to the
6232 agency for the purpose of conducting a criminal history record
6233 check. Principals of the provider include any officer, director,
6234 billing agent, managing employee, or affiliated person, or any
6235 partner or shareholder who has an ownership interest equal to 5

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6236 percent or more in the provider. However, a director of a not-
6237 for-profit corporation or organization is not a principal for
6238 purposes of a background investigation as required by this
6239 section if the director: serves solely in a voluntary capacity
6240 for the corporation or organization, does not regularly take
6241 part in the day-to-day operational decisions of the corporation
6242 or organization, receives no remuneration from the not-for-
6243 profit corporation or organization for his or her service on the
6244 board of directors, has no financial interest in the not-for-
6245 profit corporation or organization, and has no family members
6246 with a financial interest in the not-for-profit corporation or
6247 organization; and if the director submits an affidavit, under
6248 penalty of perjury, to this effect to the agency and the not-
6249 for-profit corporation or organization submits an affidavit,
6250 under penalty of perjury, to this effect to the agency as part
6251 of the corporation's or organization's Medicaid provider
6252 agreement application. Notwithstanding the above, the agency may
6253 require a background check for any person reasonably suspected
6254 by the agency to have been convicted of a crime. This subsection
6255 does not apply to:

- 6256 1. A hospital licensed under chapter 395;
- 6257 2. A nursing home licensed under chapter 400;
- 6258 3. A hospice licensed under chapter 400;
- 6259 4. An assisted living residence ~~facility~~ licensed under
6260 chapter 429;
- 6261 5. A unit of local government, except that requirements of
6262 this subsection apply to nongovernmental providers and entities
6263 contracting with the local government to provide Medicaid
6264 services. The actual cost of the state and national criminal

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6265 history record checks must be borne by the nongovernmental
6266 provider or entity; or

6267 6. Any business that derives more than 50 percent of its
6268 revenue from the sale of goods to the final consumer, and the
6269 business or its controlling parent is required to file a form
6270 10-K or other similar statement with the Securities and Exchange
6271 Commission or has a net worth of \$50 million or more.

6272 Section 116. Paragraph (b) of subsection (4) and subsection
6273 (36) of section 409.912, Florida Statutes, are amended to read:

6274 409.912 Cost-effective purchasing of health care.—The
6275 agency shall purchase goods and services for Medicaid recipients
6276 in the most cost-effective manner consistent with the delivery
6277 of quality medical care. To ensure that medical services are
6278 effectively utilized, the agency may, in any case, require a
6279 confirmation or second physician's opinion of the correct
6280 diagnosis for purposes of authorizing future services under the
6281 Medicaid program. This section does not restrict access to
6282 emergency services or poststabilization care services as defined
6283 in 42 C.F.R. part 438.114. Such confirmation or second opinion
6284 shall be rendered in a manner approved by the agency. The agency
6285 shall maximize the use of prepaid per capita and prepaid
6286 aggregate fixed-sum basis services when appropriate and other
6287 alternative service delivery and reimbursement methodologies,
6288 including competitive bidding pursuant to s. 287.057, designed
6289 to facilitate the cost-effective purchase of a case-managed
6290 continuum of care. The agency shall also require providers to
6291 minimize the exposure of recipients to the need for acute
6292 inpatient, custodial, and other institutional care and the
6293 inappropriate or unnecessary use of high-cost services. The

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6294 agency shall contract with a vendor to monitor and evaluate the
6295 clinical practice patterns of providers in order to identify
6296 trends that are outside the normal practice patterns of a
6297 provider's professional peers or the national guidelines of a
6298 provider's professional association. The vendor must be able to
6299 provide information and counseling to a provider whose practice
6300 patterns are outside the norms, in consultation with the agency,
6301 to improve patient care and reduce inappropriate utilization.
6302 The agency may mandate prior authorization, drug therapy
6303 management, or disease management participation for certain
6304 populations of Medicaid beneficiaries, certain drug classes, or
6305 particular drugs to prevent fraud, abuse, overuse, and possible
6306 dangerous drug interactions. The Pharmaceutical and Therapeutics
6307 Committee shall make recommendations to the agency on drugs for
6308 which prior authorization is required. The agency shall inform
6309 the Pharmaceutical and Therapeutics Committee of its decisions
6310 regarding drugs subject to prior authorization. The agency is
6311 authorized to limit the entities it contracts with or enrolls as
6312 Medicaid providers by developing a provider network through
6313 provider credentialing. The agency may competitively bid single-
6314 source-provider contracts if procurement of goods or services
6315 results in demonstrated cost savings to the state without
6316 limiting access to care. The agency may limit its network based
6317 on the assessment of beneficiary access to care, provider
6318 availability, provider quality standards, time and distance
6319 standards for access to care, the cultural competence of the
6320 provider network, demographic characteristics of Medicaid
6321 beneficiaries, practice and provider-to-beneficiary standards,
6322 appointment wait times, beneficiary use of services, provider

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6323 turnover, provider profiling, provider licensure history,
6324 previous program integrity investigations and findings, peer
6325 review, provider Medicaid policy and billing compliance records,
6326 clinical and medical record audits, and other factors. Providers
6327 shall not be entitled to enrollment in the Medicaid provider
6328 network. The agency shall determine instances in which allowing
6329 Medicaid beneficiaries to purchase durable medical equipment and
6330 other goods is less expensive to the Medicaid program than long-
6331 term rental of the equipment or goods. The agency may establish
6332 rules to facilitate purchases in lieu of long-term rentals in
6333 order to protect against fraud and abuse in the Medicaid program
6334 as defined in s. 409.913. The agency may seek federal waivers
6335 necessary to administer these policies.

6336 (4) The agency may contract with:

6337 (b) An entity that is providing comprehensive behavioral
6338 health care services to certain Medicaid recipients through a
6339 capitated, prepaid arrangement pursuant to the federal waiver
6340 provided for by s. 409.905(5). Such entity must be licensed
6341 under chapter 624, chapter 636, or chapter 641, or authorized
6342 under paragraph (c) or paragraph (d), and must possess the
6343 clinical systems and operational competence to manage risk and
6344 provide comprehensive behavioral health care to Medicaid
6345 recipients. As used in this paragraph, the term "comprehensive
6346 behavioral health care services" means covered mental health and
6347 substance abuse treatment services that are available to
6348 Medicaid recipients. The secretary of the Department of Children
6349 and Family Services shall approve provisions of procurements
6350 related to children in the department's care or custody before
6351 enrolling such children in a prepaid behavioral health plan. Any

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6352 contract awarded under this paragraph must be competitively
6353 procured. In developing the behavioral health care prepaid plan
6354 procurement document, the agency shall ensure that the
6355 procurement document requires the contractor to develop and
6356 implement a plan to ensure compliance with s. 394.4574 related
6357 to services provided to residents of licensed assisted living
6358 residences ~~facilities~~ that hold a limited mental health license.
6359 Except as provided in subparagraph 8., and except in counties
6360 where the Medicaid managed care pilot program is authorized
6361 pursuant to s. 409.91211, the agency shall seek federal approval
6362 to contract with a single entity meeting these requirements to
6363 provide comprehensive behavioral health care services to all
6364 Medicaid recipients not enrolled in a Medicaid managed care plan
6365 authorized under s. 409.91211, a provider service network
6366 authorized under paragraph (d), or a Medicaid health maintenance
6367 organization in an AHCA area. In an AHCA area where the Medicaid
6368 managed care pilot program is authorized pursuant to s.
6369 409.91211 in one or more counties, the agency may procure a
6370 contract with a single entity to serve the remaining counties as
6371 an AHCA area or the remaining counties may be included with an
6372 adjacent AHCA area and are subject to this paragraph. Each
6373 entity must offer a sufficient choice of providers in its
6374 network to ensure recipient access to care and the opportunity
6375 to select a provider with whom they are satisfied. The network
6376 shall include all public mental health hospitals. To ensure
6377 unimpaired access to behavioral health care services by Medicaid
6378 recipients, all contracts issued pursuant to this paragraph must
6379 require 80 percent of the capitation paid to the managed care
6380 plan, including health maintenance organizations and capitated

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6381 provider service networks, to be expended for the provision of
6382 behavioral health care services. If the managed care plan
6383 expends less than 80 percent of the capitation paid for the
6384 provision of behavioral health care services, the difference
6385 shall be returned to the agency. The agency shall provide the
6386 plan with a certification letter indicating the amount of
6387 capitation paid during each calendar year for behavioral health
6388 care services pursuant to this section. The agency may reimburse
6389 for substance abuse treatment services on a fee-for-service
6390 basis until the agency finds that adequate funds are available
6391 for capitated, prepaid arrangements.

6392 1. By January 1, 2001, the agency shall modify the
6393 contracts with the entities providing comprehensive inpatient
6394 and outpatient mental health care services to Medicaid
6395 recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk
6396 Counties, to include substance abuse treatment services.

6397 2. By July 1, 2003, the agency and the Department of
6398 Children and Family Services shall execute a written agreement
6399 that requires collaboration and joint development of all policy,
6400 budgets, procurement documents, contracts, and monitoring plans
6401 that have an impact on the state and Medicaid community mental
6402 health and targeted case management programs.

6403 3. Except as provided in subparagraph 8., by July 1, 2006,
6404 the agency and the Department of Children and Family Services
6405 shall contract with managed care entities in each AHCA area
6406 except area 6 or arrange to provide comprehensive inpatient and
6407 outpatient mental health and substance abuse services through
6408 capitated prepaid arrangements to all Medicaid recipients who
6409 are eligible to participate in such plans under federal law and

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6410 regulation. In AHCA areas where eligible individuals number less
6411 than 150,000, the agency shall contract with a single managed
6412 care plan to provide comprehensive behavioral health services to
6413 all recipients who are not enrolled in a Medicaid health
6414 maintenance organization, a provider service network authorized
6415 under paragraph (d), or a Medicaid capitated managed care plan
6416 authorized under s. 409.91211. The agency may contract with more
6417 than one comprehensive behavioral health provider to provide
6418 care to recipients who are not enrolled in a Medicaid capitated
6419 managed care plan authorized under s. 409.91211, a provider
6420 service network authorized under paragraph (d), or a Medicaid
6421 health maintenance organization in AHCA areas where the eligible
6422 population exceeds 150,000. In an AHCA area where the Medicaid
6423 managed care pilot program is authorized pursuant to s.
6424 409.91211 in one or more counties, the agency may procure a
6425 contract with a single entity to serve the remaining counties as
6426 an AHCA area or the remaining counties may be included with an
6427 adjacent AHCA area and shall be subject to this paragraph.
6428 Contracts for comprehensive behavioral health providers awarded
6429 pursuant to this section shall be competitively procured. Both
6430 for-profit and not-for-profit corporations are eligible to
6431 compete. Managed care plans contracting with the agency under
6432 subsection (3) or paragraph (d), shall provide and receive
6433 payment for the same comprehensive behavioral health benefits as
6434 provided in AHCA rules, including handbooks incorporated by
6435 reference. In AHCA area 11, the agency shall contract with at
6436 least two comprehensive behavioral health care providers to
6437 provide behavioral health care to recipients in that area who
6438 are enrolled in, or assigned to, the MediPass program. One of

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6439 the behavioral health care contracts must be with the existing
6440 provider service network pilot project, as described in
6441 paragraph (d), for the purpose of demonstrating the cost-
6442 effectiveness of the provision of quality mental health services
6443 through a public hospital-operated managed care model. Payment
6444 shall be at an agreed-upon capitated rate to ensure cost
6445 savings. Of the recipients in area 11 who are assigned to
6446 MediPass under s. 409.9122(2)(k), a minimum of 50,000 of those
6447 MediPass-enrolled recipients shall be assigned to the existing
6448 provider service network in area 11 for their behavioral care.

6449 4. By October 1, 2003, the agency and the department shall
6450 submit a plan to the Governor, the President of the Senate, and
6451 the Speaker of the House of Representatives which provides for
6452 the full implementation of capitated prepaid behavioral health
6453 care in all areas of the state.

6454 a. Implementation shall begin in 2003 in those AHCA areas
6455 of the state where the agency is able to establish sufficient
6456 capitation rates.

6457 b. If the agency determines that the proposed capitation
6458 rate in any area is insufficient to provide appropriate
6459 services, the agency may adjust the capitation rate to ensure
6460 that care will be available. The agency and the department may
6461 use existing general revenue to address any additional required
6462 match but may not over-obligate existing funds on an annualized
6463 basis.

6464 c. Subject to any limitations provided in the General
6465 Appropriations Act, the agency, in compliance with appropriate
6466 federal authorization, shall develop policies and procedures
6467 that allow for certification of local and state funds.

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6468 5. Children residing in a statewide inpatient psychiatric
6469 program, or in a Department of Juvenile Justice or a Department
6470 of Children and Family Services residential program approved as
6471 a Medicaid behavioral health overlay services provider may not
6472 be included in a behavioral health care prepaid health plan or
6473 any other Medicaid managed care plan pursuant to this paragraph.

6474 6. In converting to a prepaid system of delivery, the
6475 agency shall in its procurement document require an entity
6476 providing only comprehensive behavioral health care services to
6477 prevent the displacement of indigent care patients by enrollees
6478 in the Medicaid prepaid health plan providing behavioral health
6479 care services from facilities receiving state funding to provide
6480 indigent behavioral health care, to facilities licensed under
6481 chapter 395 which do not receive state funding for indigent
6482 behavioral health care, or reimburse the unsubsidized facility
6483 for the cost of behavioral health care provided to the displaced
6484 indigent care patient.

6485 7. Traditional community mental health providers under
6486 contract with the Department of Children and Family Services
6487 pursuant to part IV of chapter 394, child welfare providers
6488 under contract with the Department of Children and Family
6489 Services in areas 1 and 6, and inpatient mental health providers
6490 licensed pursuant to chapter 395 must be offered an opportunity
6491 to accept or decline a contract to participate in any provider
6492 network for prepaid behavioral health services.

6493 8. All Medicaid-eligible children, except children in area
6494 1 and children in Highlands County, Hardee County, Polk County,
6495 or Manatee County of area 6, that are open for child welfare
6496 services in the HomeSafeNet system, shall receive their

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6497 behavioral health care services through a specialty prepaid plan
6498 operated by community-based lead agencies through a single
6499 agency or formal agreements among several agencies. The
6500 specialty prepaid plan must result in savings to the state
6501 comparable to savings achieved in other Medicaid managed care
6502 and prepaid programs. Such plan must provide mechanisms to
6503 maximize state and local revenues. The specialty prepaid plan
6504 shall be developed by the agency and the Department of Children
6505 and Family Services. The agency may seek federal waivers to
6506 implement this initiative. Medicaid-eligible children whose
6507 cases are open for child welfare services in the HomeSafeNet
6508 system and who reside in AHCA area 10 are exempt from the
6509 specialty prepaid plan upon the development of a service
6510 delivery mechanism for children who reside in area 10 as
6511 specified in s. 409.91211(3)(dd).

6512 (36) Any entity that provides Medicaid prepaid health plan
6513 services shall ensure the appropriate coordination of health
6514 care services with an assisted living residence facility in
6515 cases where a Medicaid recipient is both a member of the
6516 entity's prepaid health plan and a resident of the assisted
6517 living residence facility. If the entity is at risk for Medicaid
6518 targeted case management and behavioral health services, the
6519 entity shall inform the assisted living residence facility of
6520 the procedures to follow should an emergent condition arise.

6521 Section 117. Section 410.031, Florida Statutes, is amended
6522 to read:

6523 410.031 Legislative intent.—It is the intent of the
6524 Legislature to encourage the provision of care for disabled
6525 adults in family-type living arrangements in private homes as an

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6526 alternative to institutional or nursing home care for such
6527 persons. The provisions of ss. 410.031-410.036 are intended to
6528 be supplemental to the provisions of chapters 400 and 429,
6529 relating to the licensing and regulation of nursing homes and
6530 assisted living residences ~~facilities~~, and do not exempt any
6531 person who is otherwise subject to regulation under chapter 400
6532 or chapter 429.

6533 Section 118. Section 410.034, Florida Statutes, is amended
6534 to read:

6535 410.034 Department determination of fitness to provide home
6536 care.—In accordance with s. 429.02, a person caring for an adult
6537 who is related to such person by blood or marriage is not
6538 subject to the Assisted Living Residences ~~Facilities~~ Act. If,
6539 however, the person who plans to provide home care under this
6540 act is found by the department to be unable to provide this
6541 care, the department shall notify the person wishing to provide
6542 home care of this determination, and the person shall not be
6543 eligible for subsidy payments under ss. 410.031-410.036.

6544 Section 119. Paragraph (b) of subsection (3) of section
6545 410.502, Florida Statutes, is amended to read:

6546 410.502 Housing and living arrangements; special needs of
6547 the elderly; services.—The Department of Elderly Affairs shall
6548 provide services related to housing and living arrangements
6549 which meet the special needs of the elderly. Such services shall
6550 include, but not be limited to:

6551 (3) Promoting, through the Department of Elderly Affairs
6552 staff activities and area agencies on aging, the development of
6553 a variety of living arrangements through public and private
6554 auspices to meet the various needs and desires of the elderly,

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6555 including, but not limited to:

6556 (b) Assisted living residence ~~facilities~~.

6557

6558 Demonstration projects must be used advisedly to test the extent
6559 to which these and other innovative housing and living
6560 arrangements do meet the basic and special needs of the elderly.

6561 Section 120. Subsection (9) of section 415.102, Florida
6562 Statutes, is amended to read:

6563 415.102 Definitions of terms used in ss. 415.101-415.113.-

6564 As used in ss. 415.101-415.113, the term:

6565 (9) "Facility" means any location providing day or
6566 residential care or treatment for vulnerable adults. The term
6567 "facility" may include, but is not limited to, any hospital,
6568 state institution, nursing home, assisted living residence
6569 ~~facility~~, adult family-care home, adult day care center,
6570 residential facility licensed under chapter 393, adult day
6571 training center, or mental health treatment center.

6572 Section 121. Paragraph (a) of subsection (1) of section
6573 415.1034, Florida Statutes, is amended to read:

6574 415.1034 Mandatory reporting of abuse, neglect, or
6575 exploitation of vulnerable adults; mandatory reports of death.-

6576 (1) MANDATORY REPORTING.-

6577 (a) Any person, including, but not limited to, any:

6578 1. Physician, osteopathic physician, medical examiner,
6579 chiropractic physician, nurse, paramedic, emergency medical
6580 technician, or hospital personnel engaged in the admission,
6581 examination, care, or treatment of vulnerable adults;

6582 2. Health professional or mental health professional other
6583 than one listed in subparagraph 1.;

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6584 3. Practitioner who relies solely on spiritual means for
6585 healing;

6586 4. Nursing home staff; assisted living residence ~~facility~~
6587 staff; adult day care center staff; adult family-care home
6588 staff; social worker; or other professional adult care,
6589 residential, or institutional staff;

6590 5. State, county, or municipal criminal justice employee or
6591 law enforcement officer;

6592 6. An employee of the Department of Business and
6593 Professional Regulation conducting inspections of public lodging
6594 establishments under s. 509.032;

6595 7. Florida advocacy council member or long-term care
6596 ombudsman council member; or

6597 8. Bank, savings and loan, or credit union officer,
6598 trustee, or employee,

6599
6600 who knows, or has reasonable cause to suspect, that a vulnerable
6601 adult has been or is being abused, neglected, or exploited shall
6602 immediately report such knowledge or suspicion to the central
6603 abuse hotline.

6604 Section 122. Paragraph (b) of subsection (3) of section
6605 415.1051, Florida Statutes, is amended to read:

6606 415.1051 Protective services interventions when capacity to
6607 consent is lacking; nonemergencies; emergencies; orders;
6608 limitations.-

6609 (3) PROTECTIVE SERVICES ORDER.-In ordering any protective
6610 services under this section, the court shall adhere to the
6611 following limitations:

6612 (b) Protective services ordered may not include a change of

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6613 residence, unless the court specifically finds such action is
6614 necessary to ameliorate the conditions creating the abuse,
6615 neglect, or exploitation and the court gives specific approval
6616 for such action in the order. Placement may be made to such
6617 facilities as adult family-care homes, assisted living
6618 residences ~~facilities~~, or nursing homes, or to other appropriate
6619 facilities. Placement may not be made to residences ~~facilities~~
6620 for the acutely mentally ill, except as provided in chapter 394.

6621 Section 123. Paragraph (a) of subsection (3) of section
6622 415.107, Florida Statutes, is amended to read:

6623 415.107 Confidentiality of reports and records.—

6624 (3) Access to all records, excluding the name of the
6625 reporter which shall be released only as provided in subsection
6626 (6), shall be granted only to the following persons, officials,
6627 and agencies:

6628 (a) Employees or agents of the department, the Agency for
6629 Persons with Disabilities, the Agency for Health Care
6630 Administration, or the Department of Elderly Affairs who are
6631 responsible for carrying out protective investigations, ongoing
6632 protective services, or licensure or approval of nursing homes,
6633 assisted living residences ~~facilities~~, adult day care centers,
6634 adult family-care homes, home care for the elderly, hospices,
6635 residential facilities licensed under chapter 393, or other
6636 facilities used for the placement of vulnerable adults.

6637 Section 124. Subsection (2) of section 420.626, Florida
6638 Statutes, is amended to read:

6639 420.626 Homelessness; discharge guidelines.—

6640 (2) The following facilities and institutions are
6641 encouraged to develop and implement procedures designed to

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6642 reduce the discharge of persons into homelessness when such
6643 persons are admitted or housed for more than 24 hours at such
6644 facilities or institutions: hospitals and inpatient medical
6645 facilities; crisis stabilization units; residential treatment
6646 facilities; assisted living residences ~~facilities~~; and
6647 detoxification centers.

6648 Section 125. Paragraph (b) of subsection (4) of section
6649 430.071, Florida Statutes, is amended to read:

6650 430.071 Respite for elders living in everyday families.—

6651 (4) To receive assistance from the RELIEF program, the
6652 family unit must be assessed according to the following
6653 guidelines developed by the department to determine the need for
6654 respite services. This assessment must determine, at a minimum,
6655 that:

6656 (b) The homebound elderly individual for whom the family
6657 unit is caring is 60 years of age or older, requires assistance
6658 to remain in the home, and, without this assistance, would need
6659 to move to an assisted living residence ~~facility~~ or a nursing
6660 facility.

6661 Section 126. Section 430.601, Florida Statutes, is amended
6662 to read:

6663 430.601 Home care for the elderly; legislative intent.—It
6664 is the intent of the Legislature to encourage the provision of
6665 care for the elderly in family-type living arrangements in
6666 private homes as an alternative to institutional or nursing home
6667 care for such persons. The provisions of ss. 430.601-430.606 are
6668 intended to be supplemental to the provisions of chapters 400
6669 and 429, relating to the licensing and regulation of nursing
6670 homes and assisted living residences ~~facilities~~, and do not

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6671 exempt any person who is otherwise subject to regulation under
6672 those chapters.

6673 Section 127. Paragraph (o) of subsection (3) of section
6674 456.053, Florida Statutes, is amended to read:

6675 456.053 Financial arrangements between referring health
6676 care providers and providers of health care services.—

6677 (3) DEFINITIONS.—For the purpose of this section, the word,
6678 phrase, or term:

6679 (o) "Referral" means any referral of a patient by a health
6680 care provider for health care services, including, without
6681 limitation:

6682 1. The forwarding of a patient by a health care provider to
6683 another health care provider or to an entity which provides or
6684 supplies designated health services or any other health care
6685 item or service. ~~or~~

6686 2. The request or establishment of a plan of care by a
6687 health care provider, which includes the provision of designated
6688 health services or other health care item or service.

6689 3. The following orders, recommendations, or plans of care
6690 shall not constitute a referral by a health care provider:

6691 a. By a radiologist for diagnostic-imaging services.

6692 b. By a physician specializing in the provision of
6693 radiation therapy services for such services.

6694 c. By a medical oncologist for drugs and solutions to be
6695 prepared and administered intravenously to such oncologist's
6696 patient, as well as for the supplies and equipment used in
6697 connection therewith to treat such patient for cancer and the
6698 complications thereof.

6699 d. By a cardiologist for cardiac catheterization services.

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6700 e. By a pathologist for diagnostic clinical laboratory
6701 tests and pathological examination services, if furnished by or
6702 under the supervision of such pathologist pursuant to a
6703 consultation requested by another physician.

6704 f. By a health care provider who is the sole provider or
6705 member of a group practice for designated health services or
6706 other health care items or services that are prescribed or
6707 provided solely for such referring health care provider's or
6708 group practice's own patients, and that are provided or
6709 performed by or under the direct supervision of such referring
6710 health care provider or group practice; provided, however, that
6711 effective July 1, 1999, a physician licensed pursuant to chapter
6712 458, chapter 459, chapter 460, or chapter 461 may refer a
6713 patient to a sole provider or group practice for diagnostic
6714 imaging services, excluding radiation therapy services, for
6715 which the sole provider or group practice billed both the
6716 technical and the professional fee for or on behalf of the
6717 patient, if the referring physician has no investment interest
6718 in the practice. The diagnostic imaging service referred to a
6719 group practice or sole provider must be a diagnostic imaging
6720 service normally provided within the scope of practice to the
6721 patients of the group practice or sole provider. The group
6722 practice or sole provider may accept no more than 15 percent of
6723 their patients receiving diagnostic imaging services from
6724 outside referrals, excluding radiation therapy services.

6725 g. By a health care provider for services provided by an
6726 ambulatory surgical center licensed under chapter 395.

6727 h. By a urologist for lithotripsy services.

6728 i. By a dentist for dental services performed by an

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6729 employee of or health care provider who is an independent
6730 contractor with the dentist or group practice of which the
6731 dentist is a member.

6732 j. By a physician for infusion therapy services to a
6733 patient of that physician or a member of that physician's group
6734 practice.

6735 k. By a nephrologist for renal dialysis services and
6736 supplies, except laboratory services.

6737 l. By a health care provider whose principal professional
6738 practice consists of treating patients in their private
6739 residences for services to be rendered in such private
6740 residences, except for services rendered by a home health agency
6741 licensed under chapter 400. For purposes of this sub-
6742 subparagraph, the term "private residences" includes patients'
6743 private homes, independent living centers, and assisted living
6744 residences ~~facilities~~, but does not include skilled nursing
6745 facilities.

6746 m. By a health care provider for sleep-related testing.

6747 Section 128. Paragraph (e) of subsection (4) of section
6748 458.348, Florida Statutes, is amended to read:

6749 458.348 Formal supervisory relationships, standing orders,
6750 and established protocols; notice; standards.—

6751 (4) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—A
6752 physician who supervises an advanced registered nurse
6753 practitioner or physician assistant at a medical office other
6754 than the physician's primary practice location, where the
6755 advanced registered nurse practitioner or physician assistant is
6756 not under the onsite supervision of a supervising physician,
6757 must comply with the standards set forth in this subsection. For

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6758 the purpose of this subsection, a physician's "primary practice
6759 location" means the address reflected on the physician's profile
6760 published pursuant to s. 456.041.

6761 (e) This subsection does not apply to health care services
6762 provided in residences ~~facilities~~ licensed under chapter 395 or
6763 in conjunction with a college of medicine, a college of nursing,
6764 an accredited graduate medical program, or a nursing education
6765 program; not-for-profit, family-planning clinics that are not
6766 licensed pursuant to chapter 390; rural and federally qualified
6767 health centers; health care services provided in a nursing home
6768 licensed under part II of chapter 400, an assisted living
6769 residence ~~facility~~ licensed under part I of chapter 429, a
6770 continuing care residence ~~facility~~ licensed under chapter 651,
6771 or a retirement community consisting of independent living units
6772 and a licensed nursing home or assisted living residence
6773 ~~facility~~; anesthesia services provided in accordance with law;
6774 health care services provided in a designated rural health
6775 clinic; health care services provided to persons enrolled in a
6776 program designed to maintain elderly persons and persons with
6777 disabilities in a home or community-based setting; university
6778 primary care student health centers; school health clinics; or
6779 health care services provided in federal, state, or local
6780 government facilities. Subsection (3) and this subsection do not
6781 apply to offices at which the exclusive service being performed
6782 is laser hair removal by an advanced registered nurse
6783 practitioner or physician assistant.

6784 Section 129. Paragraph (e) of subsection (3) of section
6785 459.025, Florida Statutes, is amended to read:

6786 459.025 Formal supervisory relationships, standing orders,

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6787 and established protocols; notice; standards.—

6788 (3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—

6789 An osteopathic physician who supervises an advanced registered
6790 nurse practitioner or physician assistant at a medical office
6791 other than the osteopathic physician's primary practice
6792 location, where the advanced registered nurse practitioner or
6793 physician assistant is not under the onsite supervision of a
6794 supervising osteopathic physician, must comply with the
6795 standards set forth in this subsection. For the purpose of this
6796 subsection, an osteopathic physician's "primary practice
6797 location" means the address reflected on the physician's profile
6798 published pursuant to s. 456.041.

6799 (e) This subsection does not apply to health care services
6800 provided in residences ~~facilities~~ licensed under chapter 395 or
6801 in conjunction with a college of medicine or college of nursing
6802 or an accredited graduate medical or nursing education program;
6803 offices where the only service being performed is hair removal
6804 by an advanced registered nurse practitioner or physician
6805 assistant; not-for-profit, family-planning clinics that are not
6806 licensed pursuant to chapter 390; rural and federally qualified
6807 health centers; health care services provided in a nursing home
6808 licensed under part II of chapter 400, an assisted living
6809 residence ~~facility~~ licensed under part I of chapter 429, a
6810 continuing care facility licensed under chapter 651, or a
6811 retirement community consisting of independent living units and
6812 either a licensed nursing home or assisted living residence
6813 ~~facility~~; anesthesia services provided in accordance with law;
6814 health care services provided in a designated rural health
6815 clinic; health care services provided to persons enrolled in a

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6816 program designed to maintain elderly persons and persons with
6817 disabilities in a home or community-based setting; university
6818 primary care student health centers; school health clinics; or
6819 health care services provided in federal, state, or local
6820 government facilities.

6821 Section 130. Paragraph (b) of subsection (2) of section
6822 468.1695, Florida Statutes, is amended to read:

6823 468.1695 Licensure by examination.—

6824 (2) The department shall examine each applicant who the
6825 board certifies has completed the application form and remitted
6826 an examination fee set by the board not to exceed \$250 and who:

6827 (b)1. Holds a baccalaureate degree from an accredited
6828 college or university; and

6829 2.a. Has fulfilled the requirements of a 2,000-hour nursing
6830 home administrator-in-training program prescribed by the board;
6831 or

6832 b. Has 1 year of management experience allowing for the
6833 application of executive duties and skills, including the
6834 staffing, budgeting, and directing of resident care, dietary,
6835 and bookkeeping departments within a skilled nursing facility,
6836 hospital, hospice, assisted living residence ~~facility~~ with a
6837 minimum of 60 licensed beds, or geriatric residential treatment
6838 program and, if such experience is not in a skilled nursing
6839 facility, has fulfilled the requirements of a 1,000-hour nursing
6840 home administrator-in-training program prescribed by the board.

6841 Section 131. Paragraph (k) of subsection (1) of section
6842 468.505, Florida Statutes, is amended to read:

6843 468.505 Exemptions; exceptions.—

6844 (1) Nothing in this part may be construed as prohibiting or

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6845 restricting the practice, services, or activities of:

6846 (k) A person employed by a hospital licensed under chapter
6847 395, by a nursing home licensed under part II of chapter 400, by
6848 an assisted living residence ~~facility~~ licensed under chapter
6849 429, or by a continuing care facility certified under chapter
6850 651, if the person is employed in compliance with the laws and
6851 rules adopted thereunder regarding the operation of its dietetic
6852 department.

6853 Section 132. Subsection (2) of section 553.73, Florida
6854 Statutes, is amended to read:

6855 553.73 Florida Building Code.—

6856 (2) The Florida Building Code shall contain provisions or
6857 requirements for public and private buildings, structures, and
6858 facilities relative to structural, mechanical, electrical,
6859 plumbing, energy, and gas systems, existing buildings,
6860 historical buildings, manufactured buildings, elevators, coastal
6861 construction, lodging facilities, food sales and food service
6862 facilities, health care facilities, including assisted living
6863 residences ~~facilities~~, adult day care facilities, hospice
6864 residential and inpatient facilities and units, and facilities
6865 for the control of radiation hazards, public or private
6866 educational facilities, swimming pools, and correctional
6867 facilities and enforcement of and compliance with such
6868 provisions or requirements. Further, the Florida Building Code
6869 must provide for uniform implementation of ss. 515.25, 515.27,
6870 and 515.29 by including standards and criteria for residential
6871 swimming pool barriers, pool covers, latching devices, door and
6872 window exit alarms, and other equipment required therein, which
6873 are consistent with the intent of s. 515.23. Technical

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6874 provisions to be contained within the Florida Building Code are
6875 restricted to requirements related to the types of materials
6876 used and construction methods and standards employed in order to
6877 meet criteria specified in the Florida Building Code. Provisions
6878 relating to the personnel, supervision or training of personnel,
6879 or any other professional qualification requirements relating to
6880 contractors or their workforce may not be included within the
6881 Florida Building Code, and subsections (4), (6), (7), (8), and
6882 (9) are not to be construed to allow the inclusion of such
6883 provisions within the Florida Building Code by amendment. This
6884 restriction applies to both initial development and amendment of
6885 the Florida Building Code.

6886 Section 133. Subsection (3) of section 627.94073, Florida
6887 Statutes, is amended to read:

6888 627.94073 Notice of cancellation; grace period.-

6889 (3) If a policy is canceled due to nonpayment of premium,
6890 the policyholder is entitled to have the policy reinstated if,
6891 within a period of not less than 5 months after the date of
6892 cancellation, the policyholder or any secondary addressee
6893 designated pursuant to subsection (2) demonstrates that the
6894 failure to pay the premium when due was unintentional and due to
6895 the policyholder's cognitive impairment, loss of functional
6896 capacity, or continuous confinement in a hospital, skilled
6897 nursing facility, or assisted living residence ~~facility~~ for a
6898 period in excess of 60 days. Policy reinstatement shall be
6899 subject to payment of overdue premiums. The standard of proof of
6900 cognitive impairment or loss of functional capacity shall not be
6901 more stringent than the benefit eligibility criteria for
6902 cognitive impairment or the loss of functional capacity, if any,

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6903 contained in the policy and certificate. The insurer may require
6904 payment of an interest charge not in excess of 8 percent per
6905 year for the number of days elapsing before the payment of the
6906 premium, during which period the policy shall continue in force
6907 if the demonstration of cognitive impairment is made. If the
6908 policy becomes a claim during the 180-day period before the
6909 overdue premium is paid, the amount of the premium or premiums
6910 with interest not in excess of 8 percent per year may be
6911 deducted in any settlement under the policy.

6912 Section 134. Paragraph (d) of subsection (5) of section
6913 633.021, Florida Statutes, is amended to read:

6914 633.021 Definitions.—As used in this chapter:

6915 (5)

6916 (d) "Contractor IV" means a contractor whose business is
6917 limited to the execution of contracts requiring the ability to
6918 lay out, fabricate, install, inspect, alter, repair, and service
6919 automatic fire sprinkler systems for detached one-family
6920 dwellings, detached two-family dwellings, and mobile homes,
6921 excluding preengineered systems and excluding single-family
6922 homes in cluster units, such as apartments, condominiums, and
6923 assisted living residences ~~facilities~~ or any building that is
6924 connected to other dwellings.

6925
6926 The definitions in this subsection must not be construed to
6927 include fire protection engineers or architects and do not limit
6928 or prohibit a licensed fire protection engineer or architect
6929 from designing any type of fire protection system. A distinction
6930 is made between system design concepts prepared by the design
6931 professional and system layout as defined in this section and

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6932 typically prepared by the contractor. However, persons certified
6933 as a Contractor I, Contractor II, or Contractor IV under this
6934 chapter may design fire protection systems of 49 or fewer
6935 sprinklers, and may design the alteration of an existing fire
6936 sprinkler system if the alteration consists of the relocation,
6937 addition, or deletion of not more than 49 sprinklers,
6938 notwithstanding the size of the existing fire sprinkler system.
6939 A Contractor I, Contractor II, or Contractor IV may design a
6940 fire protection system the scope of which complies with NFPA
6941 13D, Standard for the Installation of Sprinkler Systems in One-
6942 and Two-Family Dwellings and Manufactured Homes, as adopted by
6943 the State Fire Marshal, notwithstanding the number of fire
6944 sprinklers. Contractor-developed plans may not be required by
6945 any local permitting authority to be sealed by a registered
6946 professional engineer.

6947 Section 135. Paragraph (b) of subsection (1) of section
6948 633.022, Florida Statutes, is amended to read:

6949 633.022 Uniform firesafety standards.—The Legislature
6950 hereby determines that to protect the public health, safety, and
6951 welfare it is necessary to provide for firesafety standards
6952 governing the construction and utilization of certain buildings
6953 and structures. The Legislature further determines that certain
6954 buildings or structures, due to their specialized use or to the
6955 special characteristics of the person utilizing or occupying
6956 these buildings or structures, should be subject to firesafety
6957 standards reflecting these special needs as may be appropriate.

6958 (1) The department shall establish uniform firesafety
6959 standards that apply to:

6960 (b) All new, existing, and proposed hospitals, nursing

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6961 homes, assisted living residences ~~facilities~~, adult family-care
6962 homes, correctional facilities, public schools, transient public
6963 lodging establishments, public food service establishments,
6964 elevators, migrant labor camps, mobile home parks, lodging
6965 parks, recreational vehicle parks, recreational camps,
6966 residential and nonresidential child care facilities, facilities
6967 for the developmentally disabled, motion picture and television
6968 special effects productions, tunnels, and self-service gasoline
6969 stations, of which standards the State Fire Marshal is the final
6970 administrative interpreting authority.

6971
6972 In the event there is a dispute between the owners of the
6973 buildings specified in paragraph (b) and a local authority
6974 requiring a more stringent uniform firesafety standard for
6975 sprinkler systems, the State Fire Marshal shall be the final
6976 administrative interpreting authority and the State Fire
6977 Marshal's interpretation regarding the uniform firesafety
6978 standards shall be considered final agency action.

6979 Section 136. Subsection (25) of section 641.31, Florida
6980 Statutes, is amended to read:

6981 641.31 Health maintenance contracts.—

6982 (25) If a subscriber is a resident of a continuing care
6983 facility certified under chapter 651 or a retirement facility
6984 consisting of a nursing home or assisted living residence
6985 ~~facility~~ and residential apartments, the subscriber's primary
6986 care physician must refer the subscriber to that facility's
6987 skilled nursing unit or assisted living residence ~~facility~~ if
6988 requested by the subscriber and agreed to by the facility; if
6989 the primary care physician finds that such care is medically

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6990 necessary; if the facility agrees to be reimbursed at the health
6991 maintenance organization's contract rate negotiated with similar
6992 providers for the same services and supplies; and if the
6993 facility meets all guidelines established by the health
6994 maintenance organization related to quality of care,
6995 utilization, referral authorization, risk assumption, use of the
6996 health maintenance organization's network, and other criteria
6997 applicable to providers under contract for the same services and
6998 supplies. If a health maintenance organization enrolls a new
6999 subscriber who already resides in a continuing care facility or
7000 a retirement facility as described in this subsection, the
7001 health maintenance organization must provide in writing a
7002 disclosure of the subscriber's rights under this subsection. If
7003 a subscriber's request to be referred to the skilled nursing
7004 unit or assisted living residence ~~facility~~ that is part of the
7005 subscriber's place of residence is not honored, the subscriber
7006 may use the grievance process provided in s. 641.511.

7007 Section 137. Subsection (6) of section 651.083, Florida
7008 Statutes, is amended to read:

7009 651.083 Residents' rights.—

7010 (6) This section does not supersede any bill of rights
7011 provided by law for residents of nursing homes or assisted
7012 living residences ~~facilities~~.

7013 Section 138. Subsection (7) of section 825.101, Florida
7014 Statutes, is amended to read:

7015 825.101 Definitions.—As used in this chapter:

7016 (7) "Facility" means any location providing day or
7017 residential care or treatment for elderly persons or disabled
7018 adults. The term "facility" may include, but is not limited to,

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7019 any hospital, training center, state institution, nursing home,
7020 assisted living residence facility, adult family-care home,
7021 adult day care center, group home, mental health treatment
7022 center, or continuing care community.

7023 Section 139. Subsection (14) of section 893.055, Florida
7024 Statutes, is amended to read:

7025 893.055 Prescription drug monitoring program.—

7026 (14) A pharmacist, pharmacy, or dispensing health care
7027 practitioner or his or her agent, before releasing a controlled
7028 substance to any person not known to such dispenser, shall
7029 require the person purchasing, receiving, or otherwise acquiring
7030 the controlled substance to present valid photographic
7031 identification or other verification of his or her identity to
7032 the dispenser. If the person does not have proper
7033 identification, the dispenser may verify the validity of the
7034 prescription and the identity of the patient with the prescriber
7035 or his or her authorized agent. Verification of health plan
7036 eligibility through a real-time inquiry or adjudication system
7037 will be considered to be proper identification. This subsection
7038 does not apply in an institutional setting or to a long-term
7039 care facility, including, but not limited to, an assisted living
7040 residence facility or a hospital to which patients are admitted.
7041 As used in this subsection, the term "proper identification"
7042 means an identification that is issued by a state or the Federal
7043 Government containing the person's photograph, printed name, and
7044 signature or a document considered acceptable under 8 C.F.R. s.
7045 274a.2(b)(1)(v)(A) and (B).

7046 Section 140. Paragraph (h) of subsection (1) of section
7047 893.13, Florida Statutes, is amended to read:

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7048 893.13 Prohibited acts; penalties.—

7049 (1)

7050 (h) Except as authorized by this chapter, it is unlawful
7051 for any person to sell, manufacture, or deliver, or possess with
7052 intent to sell, manufacture, or deliver, a controlled substance
7053 in, on, or within 1,000 feet of the real property comprising an
7054 assisted living residence facility, as that term is used in
7055 chapter 429. Any person who violates this paragraph with respect
7056 to:

7057 1. A controlled substance named or described in s.
7058 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
7059 commits a felony of the first degree, punishable as provided in
7060 s. 775.082, s. 775.083, or s. 775.084.

7061 2. A controlled substance named or described in s.
7062 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
7063 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
7064 the second degree, punishable as provided in s. 775.082, s.
7065 775.083, or s. 775.084.

7066 Section 141. This act shall take effect July 1, 2011.