



482684

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2012	.	
	.	
	.	
	.	

---

---

The Committee on Health Regulation (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 3049 - 3060

and insert:

Section 64. Subsection (6) of section 429.11 is repealed.

Section 65. Subsection (1) of section 429.294, Florida Statutes is amended to read:

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

(1) Failure to provide complete copies of a resident's records, including, but not limited to, all medical records and the resident's chart, within the control or possession of the



482684

13 facility within 10 days, in accordance with the provisions of s.  
14 400.141(3)~~400.145~~, shall constitute evidence of failure of that  
15 party to comply with good faith discovery requirements and shall  
16 waive the good faith certificate and presuit notice requirements  
17 under this part by the requesting party.

18 Section 66. Subsections (1) and (5) of section 429.71,  
19 Florida Statutes, are amended to read:

20 429.71 Classification of violations ~~deficiencies~~;  
21 administrative fines.—

22 (1) In addition to the requirements of part II of chapter  
23 408 and in addition to any other liability or penalty provided  
24 by law, the agency may impose an administrative fine on a  
25 provider according to the following classification:

26 (a) Class I violations are defined in s. 408.813 ~~those~~  
27 ~~conditions or practices related to the operation and maintenance~~  
28 ~~of an adult family care home or to the care of residents which~~  
29 ~~the agency determines present an imminent danger to the~~  
30 ~~residents or guests of the facility or a substantial probability~~  
31 ~~that death or serious physical or emotional harm would result~~  
32 ~~therefrom. The condition or practice that constitutes a class I~~  
33 ~~violation must be abated or eliminated within 24 hours, unless a~~  
34 ~~fixed period, as determined by the agency, is required for~~  
35 ~~correction. A class I violation ~~deficiency~~ is subject to an~~  
36 administrative fine in an amount not less than \$500 and not  
37 exceeding \$1,000 for each violation. ~~A fine may be levied~~  
38 ~~notwithstanding the correction of the deficiency.~~

39 (b) Class II violations are defined in s. 408.813 ~~those~~  
40 ~~conditions or practices related to the operation and maintenance~~  
41 ~~of an adult family care home or to the care of residents which~~



482684

42 ~~the agency determines directly threaten the physical or~~  
43 ~~emotional health, safety, or security of the residents, other~~  
44 ~~than class I violations. A class II violation is subject to an~~  
45 ~~administrative fine in an amount not less than \$250 and not~~  
46 ~~exceeding \$500 for each violation. A citation for a class II~~  
47 ~~violation must specify the time within which the violation is~~  
48 ~~required to be corrected. If a class II violation is corrected~~  
49 ~~within the time specified, no civil penalty shall be imposed,~~  
50 ~~unless it is a repeated offense.~~

51 (c) Class III violations are defined in s. 408.813 ~~those~~  
52 ~~conditions or practices related to the operation and maintenance~~  
53 ~~of an adult family-care home or to the care of residents which~~  
54 ~~the agency determines indirectly or potentially threaten the~~  
55 ~~physical or emotional health, safety, or security of residents,~~  
56 ~~other than class I or class II violations. A class III violation~~  
57 ~~is subject to an administrative fine in an amount not less than~~  
58 ~~\$100 and not exceeding \$250 for each violation. A citation for a~~  
59 ~~class III violation shall specify the time within which the~~  
60 ~~violation is required to be corrected. If a class III violation~~  
61 ~~is corrected within the time specified, no civil penalty shall~~  
62 ~~be imposed, unless it is a repeated violation offense.~~

63 (d) Class IV violations are defined in s. 408.813 ~~those~~  
64 ~~conditions or occurrences related to the operation and~~  
65 ~~maintenance of an adult family-care home, or related to the~~  
66 ~~required reports, forms, or documents, which do not have the~~  
67 ~~potential of negatively affecting the residents. A provider that~~  
68 ~~does not correct A class IV violation within the time limit~~  
69 ~~specified by the agency is subject to an administrative fine in~~  
70 ~~an amount not less than \$50 and not exceeding \$100 for each~~



482684

71 violation. Any class IV violation that is corrected during the  
72 time the agency survey is conducted will be identified as an  
73 agency finding and not as a violation, unless it is a repeat  
74 violation.

75 ~~(5) As an alternative to or in conjunction with an~~  
76 ~~administrative action against a provider, the agency may request~~  
77 ~~a plan of corrective action that demonstrates a good faith~~  
78 ~~effort to remedy each violation by a specific date, subject to~~  
79 ~~the approval of the agency.~~

80

81

82

83 ===== T I T L E A M E N D M E N T =====

84 And the title is amended as follows:

85 Delete lines 258 - 259

86 and insert:

87 committee; repealing subsection (6) of s 429.11,  
88 Florida Statutes, relating to provisional licenses for  
89 assisted living facilities; amending s. 429.294, F.S.,  
90 revising a cross-reference; amending s. 429.915, F.S.;  
91 revising