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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2012	.	
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The Committee on Children, Families, and Elder Affairs (Storms) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (2) of section 394.4574, Florida Statutes, is amended to read:

394.4574 Department responsibilities for a mental health resident who resides in an assisted living facility that holds a limited mental health license.—

(2) The department must ensure that:

(a) A mental health resident has been assessed by a psychiatrist, clinical psychologist, clinical social worker, or



13 psychiatric nurse, or an individual who is supervised by one of
14 these professionals, and determined to be appropriate to reside
15 in an assisted living facility. The documentation must be
16 provided to the administrator of the facility within 30 days
17 after the mental health resident has been admitted to the
18 facility. An evaluation completed upon discharge from a state
19 mental hospital meets the requirements of this subsection
20 related to appropriateness for placement as a mental health
21 resident if it was completed within 90 days prior to admission
22 to the facility.

23 (b) A cooperative agreement, as required in s. 429.075, is
24 developed between the mental health care services provider that
25 serves a mental health resident and the administrator of the
26 assisted living facility with a limited mental health license in
27 which the mental health resident is living. Any entity that
28 provides Medicaid prepaid health plan services shall ensure the
29 appropriate coordination of health care services with an
30 assisted living facility in cases where a Medicaid recipient is
31 both a member of the entity's prepaid health plan and a resident
32 of the assisted living facility. If the entity is at risk for
33 Medicaid targeted case management and behavioral health
34 services, the entity shall inform the assisted living facility
35 of the procedures to follow should an emergent condition arise.

36 (c) The community living support plan, as defined in s.
37 429.02, has been prepared by a mental health resident and a
38 mental health case manager of that resident in consultation with
39 the administrator of the facility or the administrator's
40 designee. The plan must be provided to the administrator of the
41 assisted living facility with a limited mental health license in



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42 which the mental health resident lives. The support plan and the
43 agreement may be in one document.

44 (d) The assisted living facility with a limited mental
45 health license is provided with documentation that the
46 individual meets the definition of a mental health resident.

47 (e) The mental health services provider assigns a case
48 manager to each mental health resident who lives in an assisted
49 living facility with a limited mental health license. The case
50 manager is responsible for coordinating the development of and
51 implementation of the community living support plan defined in
52 s. 429.02. The plan must be updated at least annually in order
53 to ensure that the ongoing needs of the resident are addressed.
54 Each case manager shall keep a record of the date and time of
55 any face-to-face interaction with a mental health resident and
56 make the record available to the department for inspection. The
57 record must be maintained for 2 years following the date of the
58 interaction.

59 (f) There is adequate and consistent monitoring and
60 enforcement of community living support plans and cooperative
61 agreements.

62 Section 2. Subsection (2) of section 400.0078, Florida
63 Statutes, is amended to read:

64 400.0078 Citizen access to State Long-Term Care Ombudsman
65 Program services.—

66 (2) Every resident or representative of a resident shall
67 receive, upon admission to a long-term care facility,
68 information regarding the purpose of the State Long-Term Care
69 Ombudsman Program, the statewide toll-free telephone number for
70 receiving complaints, the confidentiality of a complainant's



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71 name and identity and of the subject matter of a complaint, and
72 other relevant information regarding how to contact the program.
73 Residents or their representatives must be furnished additional
74 copies of this information upon request.

75 Section 3. Subsection (1) of section 415.103, Florida
76 Statutes, is amended to read:

77 415.103 Central abuse hotline.—

78 (1) The department shall establish and maintain a central
79 abuse hotline that receives all reports made pursuant to s.
80 415.1034 or s. 429.55 in writing or through a single statewide
81 toll-free telephone number. Any person may use the statewide
82 toll-free telephone number to report known or suspected abuse,
83 neglect, or exploitation of a vulnerable adult at any hour of
84 the day or night, any day of the week. The central abuse hotline
85 must be operated in such a manner as to enable the department
86 to:

87 (a) Accept reports for investigation when there is a
88 reasonable cause to suspect that a vulnerable adult has been or
89 is being abused, neglected, or exploited.

90 (b) Determine whether the allegations made by the reporter
91 require an immediate, 24-hour, or next-working-day response
92 priority.

93 (c) When appropriate, refer calls that do not allege the
94 abuse, neglect, or exploitation of a vulnerable adult to other
95 organizations that might better resolve the reporter's concerns.

96 (d) Immediately identify and locate prior reports of abuse,
97 neglect, or exploitation through the central abuse hotline.

98 (e) Track critical steps in the investigative process to
99 ensure compliance with all requirements for all reports.



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100 (f) Maintain data to facilitate the production of aggregate
101 statistical reports for monitoring patterns of abuse, neglect,
102 or exploitation.

103 (g) Serve as a resource for the evaluation, management, and
104 planning of preventive and remedial services for vulnerable
105 adults who have been subject to abuse, neglect, or exploitation.

106 Section 4. Paragraph (a) of subsection (1) of section
107 415.1034, Florida Statutes, is amended to read:

108 415.1034 Mandatory reporting of abuse, neglect, or
109 exploitation of vulnerable adults; mandatory reports of death.-

110 (1) MANDATORY REPORTING.-

111 (a) Any person, including, but not limited to, any:

112 1. Physician, osteopathic physician, medical examiner,
113 chiropractic physician, nurse, paramedic, emergency medical
114 technician, or hospital personnel engaged in the admission,
115 examination, care, or treatment of vulnerable adults;

116 2. Health professional or mental health professional other
117 than one listed in subparagraph 1.;

118 3. Practitioner who relies solely on spiritual means for
119 healing;

120 4. Nursing home staff; assisted living facility staff;
121 adult day care center staff; adult family-care home staff;
122 social worker; or other professional adult care, residential, or
123 institutional staff;

124 5. State, county, or municipal criminal justice employee or
125 law enforcement officer;

126 6. An employee of the Department of Business and
127 Professional Regulation conducting inspections of public lodging
128 establishments under s. 509.032;



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129 7. Florida advocacy council member or long-term care
130 ombudsman council member; ~~or~~

131 8. Bank, savings and loan, or credit union officer,
132 trustee, or employee; or

133 9. Employee or agent of any state or local agency that has
134 regulatory responsibilities concerning, or provides services to,
135 persons in state-licensed facilities,

136
137 who knows, or has reasonable cause to suspect, that a vulnerable
138 adult has been or is being abused, neglected, or exploited shall
139 immediately report such knowledge or suspicion to the central
140 abuse hotline.

141 Section 5. Present subsections (15) through (26) of section
142 429.02, Florida Statutes, are renumbered as subsections (16)
143 through (27), respectively, and a new subsection (15) is added
144 to that section, to read:

145 429.02 Definitions.—When used in this part, the term:

146 (15) "Mental health professional" means an individual
147 licensed under chapter 458, chapter 459, chapter 464, chapter
148 490, or chapter 491 who provides mental health services as
149 defined under s. 394.67, or an individual who has a 4-year
150 baccalaureate degree from an accredited college or university
151 and at least 5 years of experience providing services that
152 improve an individual's mental health or treat mental illness.

153 Section 6. Section 429.075, Florida Statutes, is amended to
154 read:

155 429.075 Limited mental health license.—An assisted living
156 facility that serves any ~~three or more~~ mental health resident
157 ~~residents~~ must obtain a limited mental health license.



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158 (1) To obtain a limited mental health license, a facility
159 must hold a standard license as an assisted living facility and
160 must not have any current uncorrected deficiencies or
161 violations. ~~The, and must ensure that, within 6 months after~~
162 ~~receiving a limited mental health license, the facility~~
163 ~~administrator and the staff of the facility who are in direct~~
164 ~~contact with mental health residents must complete training of~~
165 ~~no less than 6 hours related to their duties. Such designation~~
166 may be made at the time of initial licensure or relicensure or
167 upon request in writing by a licensee under this part and part
168 II of chapter 408. Notification of approval or denial of such
169 request shall be made in accordance with this part, part II of
170 chapter 408, and applicable rules. This training will be
171 provided by or approved by the Department of Children and Family
172 Services.

173 (2) A facility ~~Facilities~~ licensed to provide services to
174 mental health residents shall provide appropriate supervision
175 and staffing to provide for the health, safety, and welfare of
176 such residents. Each administrator and staff member, who
177 provides regular or direct care to residents, of a facility
178 licensed to provide services to mental health residents must
179 meet the limited mental health training requirements set forth
180 in s. 429.521 in addition to any other training or education
181 requirements.

182 (3) A facility that has a limited mental health license
183 must:

184 (a) Have a copy of each mental health resident's community
185 living support plan and the cooperative agreement with the
186 mental health care services provider. The support plan and the



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187 agreement may be combined.

188 (b) Have documentation that is provided by the Department
189 of Children and Family Services that each mental health resident
190 has been assessed and determined to be able to live in the
191 community in an assisted living facility with a limited mental
192 health license.

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

197 (d) Assist the mental health resident in carrying out the
198 activities identified in the individual's community living
199 support plan.

200 (4) A facility with a limited mental health license may
201 enter into a cooperative agreement with a private mental health
202 provider. For purposes of the limited mental health license, the
203 private mental health provider may act as the case manager.

204 Section 7. Section 429.176, Florida Statutes, is amended to
205 read:

206 429.176 Notice of change of administrator.—If, during the
207 period for which a license is issued, the owner changes
208 administrators, the owner must notify the agency of the change
209 within 10 days and provide documentation within 90 days that the
210 new administrator is licensed under s. 429.50 and has completed
211 the applicable core ~~training~~ ~~educational~~ requirements under s.
212 429.521(2) ~~s. 429.52.~~

213 Section 8. Subsection (2) of section 429.178, Florida
214 Statutes, is amended to read:

215 429.178 Special care for persons with Alzheimer's disease



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216 or other related disorders.-

217 (2) (a) An individual who is employed by a facility that
218 provides special care for residents with Alzheimer's disease or
219 other related disorders, and who has regular contact with such
220 residents, must complete up to 4 hours of initial dementia-
221 specific training developed or approved by the department. The
222 training shall be completed within 3 months after beginning
223 employment and shall satisfy the core training requirements of
224 s. 429.521(3) ~~s. 429.52(2)(g)~~.

225 (b) A direct caregiver who is employed by a facility that
226 provides special care for residents with Alzheimer's disease or
227 other related disorders, and who provides direct care to such
228 residents, must complete the required initial training and 4
229 additional hours of training developed or approved by the
230 department. The training shall be completed within 9 months
231 after beginning employment and shall satisfy the core training
232 requirements of s. 429.521(3) ~~s. 429.52(2)(g)~~.

233 (c) An individual who is employed by a facility that
234 provides special care for residents with Alzheimer's disease or
235 other related disorders, but who only has incidental contact
236 with such residents, must be given, at a minimum, general
237 information on interacting with individuals with Alzheimer's
238 disease or other related disorders, within 3 months after
239 beginning employment.

240 Section 9. Subsections (1) and (2) of section 429.28,
241 Florida Statutes, are amended to read:

242 429.28 Resident bill of rights.-

243 (1) A ~~No~~ resident of a facility may not ~~shall~~ be deprived
244 of any civil or legal rights, benefits, or privileges guaranteed



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245 by law, the Constitution of the State of Florida, or the
246 Constitution of the United States as a resident of a facility.
247 Every resident of a facility shall have the right to:

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

250 (b) Be treated with consideration and respect and with due
251 recognition of personal dignity, individuality, and the need for
252 privacy.

253 (c) Retain and use his or her own clothes and other
254 personal property in his or her immediate living quarters, so as
255 to maintain individuality and personal dignity, except when the
256 facility can demonstrate that such would be unsafe, impractical,
257 or an infringement upon the rights of other residents.

258 (d) Unrestricted private communication, including receiving
259 and sending unopened correspondence, access to a telephone, and
260 visiting with any person of his or her choice, at any time
261 between the hours of 9 a.m. and 9 p.m. at a minimum. Upon
262 request, the facility shall make provisions to extend visiting
263 hours for caregivers and out-of-town guests, and in other
264 similar situations.

265 (e) Freedom to participate in and benefit from community
266 services and activities and to achieve the highest possible
267 level of independence, autonomy, and interaction within the
268 community.

269 (f) Manage his or her financial affairs unless the resident
270 or, if applicable, the resident's representative, designee,
271 surrogate, guardian, or attorney in fact authorizes the
272 administrator of the facility to provide safekeeping for funds
273 as provided in s. 429.27.



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274 (g) Share a room with his or her spouse if both are
275 residents of the facility.

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

279 (i) Exercise civil and religious liberties, including the
280 right to independent personal decisions. No religious beliefs or
281 practices, nor any attendance at religious services, shall be
282 imposed upon any resident.

283 (j) Access to adequate and appropriate health care
284 consistent with established and recognized standards within the
285 community.

286 (k) At least 30 ~~45~~ days' notice of relocation or
287 termination of residency from the facility unless, for medical
288 reasons, the resident is certified by a physician to require an
289 emergency relocation to a facility providing a more skilled
290 level of care or the resident engages in a pattern of conduct
291 that is harmful or offensive to other residents. In the case of
292 a resident who has been adjudicated mentally incapacitated, the
293 guardian shall be given at least 30 ~~45~~ days' notice of a
294 nonemergency relocation or residency termination. Reasons for
295 relocation shall be set forth in writing. A resident or the
296 resident's legal guardian or representative may challenge the
297 notice of relocation or termination of residency from the
298 facility pursuant to s. 429.281. ~~In order for a facility to~~
299 ~~terminate the residency of an individual without notice as~~
300 ~~provided herein, the facility shall show good cause in a court~~
301 ~~of competent jurisdiction.~~

302 (l) Present grievances and recommend changes in policies,



303 procedures, and services to the staff of the facility, governing
304 officials, or any other person without restraint, interference,
305 coercion, discrimination, or reprisal. Each facility shall
306 establish a grievance procedure to facilitate the residents'
307 exercise of this right. This right includes access to ombudsman
308 volunteers and advocates and the right to be a member of, to be
309 active in, and to associate with advocacy or special interest
310 groups.

311 (m) Place in the resident's room an electronic monitoring
312 device that is owned and operated by the resident or provided by
313 the resident's guardian or legal representative pursuant to s.
314 429.55.

315 (2) The administrator of a facility shall ensure that a
316 written notice of the rights, obligations, and prohibitions set
317 forth in this part is posted in a prominent place in each
318 facility and read or explained to residents who cannot read.
319 This notice shall include the name, address, and telephone
320 numbers of the local ombudsman council and central abuse hotline
321 and, when applicable, the Advocacy Center for Persons with
322 Disabilities, Inc., and the Florida local advocacy council,
323 where complaints may be lodged. The notice must state that the
324 names or identities of the complainants, or residents involved
325 in a complaint, and the subject matter of a complaint made to
326 the Office of State Long-Term Care Ombudsman or a local long-
327 term care ombudsman council are confidential pursuant to s.
328 400.0077. The facility must ensure a resident's access to a
329 telephone to call the local ombudsman council, central abuse
330 hotline, Advocacy Center for Persons with Disabilities, Inc.,
331 and the Florida local advocacy council.



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332 Section 10. Section 429.281, Florida Statutes, is created
333 to read:

334 429.281 Resident relocation or termination of residency;
335 requirements and procedures; hearings.-

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

337 (a) "Relocation" means to move a resident from the facility
338 to another facility that is responsible for the resident's care.

339 (b) "Termination of residency" means to release a resident
340 from the facility and the releasing facility ceases to be
341 responsible for the resident's care.

342 (2) Each facility licensed under this part must comply with
343 s. 429.28(1)(k) when a decision is made to relocate or terminate
344 the residency of a resident.

345 (3) At least 30 days before a proposed relocation or
346 termination of residency, the facility must provide advance
347 notice of the proposed relocation or termination of residency to
348 the resident and, if known, to a family member or the resident's
349 legal guardian or representative. However, in the following
350 circumstances the facility shall give notice as soon as is
351 practicable before the relocation or termination of residency:

352 (a) The relocation or termination of residency is necessary
353 for the resident's welfare or because the resident's needs
354 cannot be met in the facility, and the circumstances are
355 documented in the resident's record; or

356 (b) The health or safety of other residents or employees of
357 the facility would be endangered, and the circumstances are
358 documented in the resident's record.

359 (4) The notice required by subsection (3) must be in
360 writing and contain all information required by rule. The agency



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361 shall develop a standard document to be used by all facilities
362 licensed under this part for purposes of notifying residents of
363 a relocation or termination of residency. This document must
364 include information on how a resident may request the local
365 long-term care ombudsman council to review the notice and
366 request information about or assistance with initiating a
367 hearing with the Office of Appeals Hearings of the Department of
368 Children and Family Services to challenge the relocation or
369 termination of residency. In addition to any other pertinent
370 information, the form must require the facility to specify the
371 reason that the resident is being relocated or the residency is
372 being terminated, along with an explanation to support this
373 action. In addition, the form must require the facility to state
374 the effective date of the relocation or termination of residency
375 and the location to which the resident is being relocated, if
376 known. The form must clearly describe the resident's challenge
377 rights and the procedures for filing a challenge. A copy of the
378 notice must be given to the resident, the resident's legal
379 guardian or representative, if applicable, and the local long-
380 term care ombudsman council within 5 business days after
381 signature by the resident or the resident's legal guardian or
382 representative, and a copy must be placed in the resident's
383 file.

384 (5) A resident is entitled to a hearing to challenge a
385 facility's proposed relocation or termination of residency. A
386 resident may request that the local long-term care ombudsman
387 council review any notice of relocation or termination of
388 residency given to the resident. If requested, the local long-
389 term care ombudsman council shall assist the resident, or the



390 resident's legal guardian or representative, with filing a
391 challenge to the proposed relocation or termination of
392 residency. The resident, or the resident's legal guardian or
393 representative, may request a hearing at any time within 10 days
394 after the resident's receipt of the facility's notice of the
395 proposed relocation or termination of residency. If a resident,
396 or the resident's legal guardian or representative, requests a
397 hearing, the request shall stay the proposed relocation or
398 termination of residency pending a decision from the hearing
399 officer. The facility may not impede the resident's right to
400 remain in the facility, and the resident may remain in the
401 facility until the outcome of the initial hearing, which must be
402 completed within 15 days after receipt of a request for a
403 hearing, unless:

404 (a) Both the facility and the resident, or the resident's
405 legal guardian or representative, agree to extend the deadline
406 for the decision; or

407 (b) Good cause to extend the deadline is given by either
408 party.

409 (6) Notwithstanding subsection (5), an emergency relocation
410 or termination of residency may be implemented as necessary
411 pursuant to state or federal law during the period after the
412 notice is given and before the time in which the hearing officer
413 renders a decision. Notice of an emergency relocation or
414 termination of residency must be made by telephone or in person
415 and given to the resident, the resident's legal guardian or
416 representative, and the local long-term care ombudsman council,
417 if requested. This notice must be given before the relocation,
418 if possible, or as soon thereafter as practical. The resident's



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419 file must contain documentation to show who was contacted,
420 whether the contact was by telephone or in person, and the date
421 and time of the contact. Written notice that meets the
422 requirements of subsection (4) must be given the next business
423 day.

424 (7) The following persons must be present at each hearing
425 authorized under this section:

426 (a) The resident or the resident's legal guardian or
427 representative.

428 (b) The facility administrator or the facility's legal
429 representative or designee.

430
431 A representative of the local long-term care ombudsman council
432 may be present at each hearing authorized by this section.

433 (8) (a) The Office of Appeals Hearings of the Department of
434 Children and Family Services shall conduct hearings under this
435 section. The office shall notify the facility of a resident's
436 request for a hearing.

437 (b) The Department of Children and Family Services shall
438 establish procedures by rule which shall be used for hearings
439 requested by residents. The burden of proof is by the
440 preponderance of the evidence. A hearing officer shall render a
441 decision within 15 days after receipt of the request for a
442 hearing, unless:

443 1. The facility and the resident, or the resident's legal
444 guardian or representative, agree to extend the deadline for a
445 decision; or

446 2. Good cause to extend the deadline is given by either
447 party.



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448 (c) If the hearing officer's decision is favorable to a
449 resident who has already been relocated or whose residency has
450 been terminated, the resident must be readmitted to the facility
451 as soon as a bed is available.

452 (d) The decision of the hearing officer is final. Any
453 aggrieved party may appeal the decision to the district court of
454 appeal in the appellate district where the facility is located.
455 Review procedures shall be conducted in accordance with the
456 Florida Rules of Appellate Procedure.

457 (9) The Department of Children and Family Services may
458 adopt rules as necessary to administer this section.

459 (10) This section applies to relocations or terminations of
460 residency that are initiated by the assisted living facility,
461 and does not apply to those initiated by the resident or by the
462 resident's physician, legal guardian, or representative.

463 Section 11. Section 429.52, Florida Statutes, is amended to
464 read:

465 429.52 Preservice orientation ~~Staff training and~~
466 ~~educational programs; core educational requirement.-~~

467 (1) Each employee and administrator of an assisted living
468 facility who is newly hired on or after July 1, 2012, shall
469 attend a preservice orientation provided by the assisted living
470 facility which covers topics that enable an employee to relate
471 and respond to the population of that facility. The orientation
472 must be at least 2 hours in duration and, at a minimum, cover
473 the following topics:

474 (a) Care of persons who have Alzheimer's disease or other
475 related disorders;

476 (b) Deescalation techniques;



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477 (c) Aggression control;
478 (d) Elopement prevention; and
479 (e) Behavior management.
480 (2) Upon completion of the preservice orientation, the
481 employee and administrator shall sign an affidavit, under
482 penalty of perjury, stating that he or she has completed the
483 preservice orientation. The administrator of the assisted living
484 facility shall maintain the signed affidavit in each employee's
485 work file.

486 ~~(1) Administrators and other assisted living facility staff~~
487 ~~must meet minimum training and education requirements~~
488 ~~established by the Department of Elderly Affairs by rule. This~~
489 ~~training and education is intended to assist facilities to~~
490 ~~appropriately respond to the needs of residents, to maintain~~
491 ~~resident care and facility standards, and to meet licensure~~
492 ~~requirements.~~

493 ~~(2) The department shall establish a competency test and a~~
494 ~~minimum required score to indicate successful completion of the~~
495 ~~training and educational requirements. The competency test must~~
496 ~~be developed by the department in conjunction with the agency~~
497 ~~and providers. The required training and education must cover at~~
498 ~~least the following topics:~~

499 ~~(a) State law and rules relating to assisted living~~
500 ~~facilities.~~

501 ~~(b) Resident rights and identifying and reporting abuse,~~
502 ~~neglect, and exploitation.~~

503 ~~(c) Special needs of elderly persons, persons with mental~~
504 ~~illness, and persons with developmental disabilities and how to~~
505 ~~meet those needs.~~



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506 ~~(d) Nutrition and food service, including acceptable~~
507 ~~sanitation practices for preparing, storing, and serving food.~~

508 ~~(e) Medication management, recordkeeping, and proper~~
509 ~~techniques for assisting residents with self-administered~~
510 ~~medication.~~

511 ~~(f) Firesafety requirements, including fire evacuation~~
512 ~~drill procedures and other emergency procedures.~~

513 ~~(g) Care of persons with Alzheimer's disease and related~~
514 ~~disorders.~~

515 ~~(3) Effective January 1, 2004, a new facility administrator~~
516 ~~must complete the required training and education, including the~~
517 ~~competency test, within a reasonable time after being employed~~
518 ~~as an administrator, as determined by the department. Failure to~~
519 ~~do so is a violation of this part and subjects the violator to~~
520 ~~an administrative fine as prescribed in s. 429.19.~~

521 ~~Administrators licensed in accordance with part II of chapter~~
522 ~~468 are exempt from this requirement. Other licensed~~
523 ~~professionals may be exempted, as determined by the department~~
524 ~~by rule.~~

525 ~~(4) Administrators are required to participate in~~
526 ~~continuing education for a minimum of 12 contact hours every 2~~
527 ~~years.~~

528 ~~(5) Staff involved with the management of medications and~~
529 ~~assisting with the self-administration of medications under s.~~
530 ~~429.256 must complete a minimum of 4 additional hours of~~
531 ~~training provided by a registered nurse, licensed pharmacist, or~~
532 ~~department staff. The department shall establish by rule the~~
533 ~~minimum requirements of this additional training.~~

534 ~~(6) Other facility staff shall participate in training~~



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535 ~~relevant to their job duties as specified by rule of the~~
536 ~~department.~~

537 ~~(7) If the department or the agency determines that there~~
538 ~~are problems in a facility that could be reduced through~~
539 ~~specific staff training or education beyond that already~~
540 ~~required under this section, the department or the agency may~~
541 ~~require, and provide, or cause to be provided, the training or~~
542 ~~education of any personal care staff in the facility.~~

543 ~~(8) The department shall adopt rules related to these~~
544 ~~training requirements, the competency test, necessary~~
545 ~~procedures, and competency test fees and shall adopt or contract~~
546 ~~with another entity to develop a curriculum, which shall be used~~
547 ~~as the minimum core training requirements. The department shall~~
548 ~~consult with representatives of stakeholder associations and~~
549 ~~agencies in the development of the curriculum.~~

550 ~~(9) The training required by this section shall be~~
551 ~~conducted by persons registered with the department as having~~
552 ~~the requisite experience and credentials to conduct the~~
553 ~~training. A person seeking to register as a trainer must provide~~
554 ~~the department with proof of completion of the minimum core~~
555 ~~training education requirements, successful passage of the~~
556 ~~competency test established under this section, and proof of~~
557 ~~compliance with the continuing education requirement in~~
558 ~~subsection (4).~~

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

560 ~~(a) Provide proof of completion of a 4-year degree from an~~
561 ~~accredited college or university and must have worked in a~~
562 ~~management position in an assisted living facility for 3 years~~
563 ~~after being core certified;~~



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564 ~~(b) Have worked in a management position in an assisted~~
565 ~~living facility for 5 years after being core certified and have~~
566 ~~1 year of teaching experience as an educator or staff trainer~~
567 ~~for persons who work in assisted living facilities or other~~
568 ~~long-term care settings;~~

569 ~~(c) Have been previously employed as a core trainer for the~~
570 ~~department; or~~

571 ~~(d) Meet other qualification criteria as defined in rule,~~
572 ~~which the department is authorized to adopt.~~

573 ~~(11) The department shall adopt rules to establish trainer~~
574 ~~registration requirements.~~

575 Section 12. Section 429.50, Florida Statutes, is created to
576 read:

577 429.50 Licensure of assisted living facility
578 administrators.—

579 (1) Effective July 1, 2013, an assisted living facility may
580 not operate in this state unless the facility is under the
581 management of an assisted living facility administrator who
582 holds a valid license or provisional license issued by the
583 Department of Health.

584 (2) In order to be eligible to be licensed as an assisted
585 living facility administrator, an applicant must:

586 (a) Be at least 21 years old;

587 (b) Meet the educational requirements under subsection (5);

588 (c) Complete the training requirements in s. 429.521(2);

589 (d) Pass all required competency tests required in s.
590 429.521(2) with a minimum score of 80;

591 (e) Complete background screening pursuant to s. 429.174;

592 and



593 (f) Otherwise meet the requirements of this part.
594 (3) (a) An assisted living facility administrator who has
595 been employed continuously for at least the 2 years immediately
596 before July 1, 2012, is eligible for licensure without meeting
597 the educational requirements of this section and without
598 completing the core training and passing the competency test
599 required in s. 429.521(2), if proof of compliance with the
600 continuing education requirements in this part is submitted to
601 the Department of Health and the applicant has not been an
602 administrator of a facility that was cited for a class I or
603 class II violation within the previous 2 years.
604 (b) Notwithstanding paragraph (a), an assisted living
605 facility administrator who has been employed continuously for at
606 least the 2 years immediately before July 1, 2012, must complete
607 the mental health training and pass the competency test required
608 in s. 429.521(2)(c) if the administrator is employed at a
609 facility that has a mental health license, and the administrator
610 must complete the supplemental training required in s.
611 429.521(2)(b) before licensure.
612 (4) (a) An administrator who is licensed in accordance with
613 part II of chapter 468 is eligible for licensure without meeting
614 the educational requirements of this section and without
615 completing the core training and passing the competency test
616 required in s. 429.521(2), if proof of compliance with the
617 continuing education requirements in part II of chapter 468 is
618 submitted to the Department of Health. Any other licensed
619 professional may be exempted as determined by the Department of
620 Health by rule.
621 (b) Notwithstanding paragraph (a), an administrator who is



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622 licensed in accordance with part II of chapter 468, and any
623 other licensed professional who is exempted by rule, must
624 complete the mental health training and pass the competency test
625 required in s. 429.521(2)(c), if the administrator is employed
626 at a facility that has a mental health license, and must
627 complete the supplemental training required in s. 429.521(2)(b)
628 before licensure.

629 (5) Before licensure, the applicant must submit to the
630 Department of Health proof that he or she is at least 21 years
631 old and has a 4-year baccalaureate degree that includes some
632 coursework in health care, gerontology, or geriatrics. An
633 applicant who submits proof to the Department of Health that he
634 or she has a 4-year baccalaureate degree or a 2-year associate
635 degree that includes coursework in health care, gerontology, or
636 geriatrics, and has provided at least 2 years of direct care in
637 an assisted living facility or nursing home is also eligible for
638 licensure.

639 (6) The Department of Health shall issue a license as an
640 assisted living facility administrator to any applicant who
641 successfully completes the required training and passes the
642 competency tests in accordance with s. 429.521, provides the
643 requisite proof of required education, and otherwise meets the
644 requirements of this part.

645 (7) The Department of Health shall establish licensure fees
646 for licensure as an assisted living facility administrator,
647 which shall be renewed biennially and may not exceed \$250 for
648 the initial licensure or \$250 for each licensure renewal.

649 (8) The Department of Health may adopt rules as necessary
650 to administer this section.



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651 Section 13. Section 429.512, Florida Statutes, is created
652 to read:

653 429.512 Provisional licenses; inactive status.—

654 (1) The Department of Health may establish by rule
655 requirements for issuance of a provisional license. A
656 provisional license may be issued only for the purpose of
657 filling a position of an assisted living facility administrator
658 which unexpectedly becomes vacant and may be issued for one
659 single period as provided by rule, which may not exceed 6
660 months. The provisional license may be issued to a person who
661 does not meet all of the licensure requirements established in
662 s. 429.50, but the Department of Health shall by rule establish
663 minimal requirements to ensure protection of the public health,
664 safety, and welfare. The provisional license may be issued to
665 the person who is designated as the responsible person next in
666 command if the position of an assisted living facility
667 administrator becomes vacant. The Department of Health may set
668 an application fee for a provisional license which may not
669 exceed \$500.

670 (2) An administrator's license becomes inactive if the
671 administrator does not complete the continuing education courses
672 and pass the corresponding tests within the requisite time or if
673 the administrator does not timely pay the licensure renewal fee.
674 An administrator may also apply for inactive license status. The
675 Department of Health shall adopt rules governing the application
676 procedures for obtaining an inactive license status, the renewal
677 of an inactive license, and the reactivation of a license. The
678 Department of Health shall prescribe by rule an application fee
679 for inactive license status, a renewal fee for inactive license



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680 status, a delinquency fee, and a fee for reactivating a license.
681 These fees may not exceed the amount established by the
682 Department of Health for the biennial renewal fee for an active
683 license.

684 (3) The Department of Health may not reactivate a license
685 unless the inactive or delinquent licensee has completed the
686 requisite continuing education and passed the corresponding
687 tests or has paid any applicable biennial renewal or delinquency
688 fees, and paid the reactivation fee.

689 Section 14. Section 429.521, Florida Statutes, is created
690 to read:

691 429.521 Training requirements.-

692 (1) GENERAL REQUIREMENTS.-

693 (a) Each administrator, applicant to become assisted living
694 facility administrator, or staff member of an assisted living
695 facility must meet minimum training requirements established by
696 rule by the Department of Elderly Affairs. This training is
697 intended to assist facilities in appropriately responding to the
698 needs of residents, maintaining resident care and facility
699 standards, and meeting licensure requirements.

700 (b) The department, in conjunction with the Department of
701 Children and Family Services and stakeholders, shall establish a
702 standardized core training curriculum that must be completed by
703 an applicant for licensure as an assisted living facility
704 administrator. The curriculum must be offered in English and
705 Spanish, reviewed annually, and updated as needed to reflect
706 changes in the law, rules, and best practices. The required
707 training must cover, at a minimum, the following topics:

708 1. State law and rules relating to assisted living



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709 facilities.
710 2. Residents' rights and procedures for identifying and
711 reporting abuse, neglect, and exploitation.
712 3. Special needs of elderly persons, persons who have
713 mental illness, and persons who have developmental disabilities
714 and how to meet those needs.
715 4. Nutrition and food service, including acceptable
716 sanitation practices for preparing, storing, and serving food.
717 5. Medication management, recordkeeping, and proper
718 techniques for assisting residents who self-administer
719 medication.
720 6. Firesafety requirements, including procedures for fire
721 evacuation drills and other emergency procedures.
722 7. Care of persons who have Alzheimer's disease and related
723 disorders.
724 8. Elopement prevention.
725 9. Aggression and behavior management, deescalation
726 techniques, and proper protocols and procedures of the Baker Act
727 as provided in part I of chapter 394.
728 10. Do not resuscitate orders.
729 11. Infection control.
730 12. Admission, continuing residency, and best practices in
731 the industry.
732 13. Phases of care and interacting with residents.
733
734 The department, in conjunction with the Department of Children
735 and Family Services and stakeholders, shall also develop a
736 supplemental course consisting of topics related to extended
737 congregate care, limited mental health, and business operations,



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738 including, but not limited to, human resources, financial
739 management, and supervision of staff, which must completed by an
740 applicant for licensure as an assisted living facility
741 administrator.

742 (c) The department, in conjunction with the Department of
743 Children and Family Services and stakeholders, shall establish a
744 standardized core training curriculum for staff members of an
745 assisted living facility who provide regular or direct care to
746 residents. This training curriculum must be offered in English
747 and Spanish, reviewed annually, and updated as needed to reflect
748 changes in the law, rules, and best practices. The training
749 curriculum must cover, at a minimum, the following topics:

- 750 1. The reporting of major incidents.
- 751 2. The reporting of adverse incidents.
- 752 3. Emergency procedures, including chain-of-command and
753 staff roles relating to emergency evacuation.
- 754 4. Residents' rights in an assisted living facility.
- 755 5. The recognition and reporting of resident abuse,
756 neglect, and exploitation.
- 757 6. Resident behavior and needs.
- 758 7. Assistance with the activities of daily living.
- 759 8. Infection control.
- 760 9. Aggression and behavior management and deescalation
761 techniques.

762 (d) The department, in conjunction with the agency and
763 stakeholders, shall create two competency tests, one for
764 applicants for licensure as an assisted living facility
765 administrator and one for staff members of an assisted living
766 facility who provide regular or direct care to residents, which



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767 test the individual's comprehension of the training required in
768 paragraphs (b) and (c). The competency tests must be reviewed
769 annually and updated as needed to reflect changes in the law,
770 rules, and best practices. The competency tests must be offered
771 in English and Spanish and may be made available through testing
772 centers.

773 (e) The department, in conjunction with the Department of
774 Children and Family Services and stakeholders, shall develop a
775 comprehensive, standardized training curriculum and competency
776 test to satisfy the requirements for mental health training in
777 subsections (2) and (3). The curriculum and test must be
778 reviewed annually and updated as needed to reflect changes in
779 the law, rules, and best practices. The competency test must be
780 offered in English and Spanish and may be made available online
781 or through testing centers.

782 (f) The department, in conjunction with the Department of
783 Children and Family Services and stakeholders, shall establish
784 curricula for continuing education for administrators and staff
785 members of an assisted living facility. Continuing education
786 shall include topics similar to that of the core training
787 required for staff members and applicants for licensure as
788 assisted living facility administrators. Required continuing
789 education must, at a minimum, cover the following topics:

- 790 1. Elopement prevention;
791 2. Deescalation techniques; and
792 3. Phases of care and interacting with residents.

793 (g) The department shall ensure that all continuing
794 education curricula include a test upon completion of the
795 training which demonstrates comprehension of the training. The



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796 training and the test must be offered in English and Spanish,
797 reviewed annually, and updated as needed to reflect changes in
798 the law, rules, and best practices. Continuing education and the
799 required test may be offered through online courses and any fees
800 associated to the online service shall be borne by the
801 participant or the participant's employer.

802 (h) The department shall adopt rules related to training
803 requirements, competency tests, necessary procedures, and
804 training and testing fees.

805 (2) ADMINISTRATORS AND APPLICANTS FOR LICENSURE AS AN
806 ASSISTED LIVING FACILITY ADMINISTRATOR.-

807 (a) An applicant for licensure as an assisted living
808 facility administrator shall complete a minimum of 40 hours of
809 core training that covers the required topics provided for in
810 paragraph (1)(b).

811 (b) In addition to the required 40 hours of core training,
812 each applicant must complete a minimum of 10 hours of
813 supplemental training related to extended congregate care,
814 limited mental health, and business operations, including, but
815 not limited to, human resources, financial management, and
816 supervision of staff.

817 (c) An applicant shall take a competency test that assesses
818 the applicant's knowledge and comprehension of the required
819 training provided for in paragraphs (a) and (b). A minimum score
820 of 80 is required to show successful completion of the training
821 requirements of this subsection. The applicant taking the test
822 is responsible for any testing fees.

823 (d) If an applicant for licensure as an assisted living
824 facility administrator fails any competency test, the individual



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825 must wait at least 10 days before retaking the test. If the
826 applicant fails a competency test three times, the individual
827 must retake the applicable training before retaking the test.

828 (e) A licensed administrator shall receive at least 1 hour
829 of inservice training regarding the facility's policies and
830 procedures related to resident elopement response within 30 days
831 after employment at a facility. Each administrator must be
832 provided a copy of the facility's policies and procedures
833 related to resident elopement response and shall demonstrate an
834 understanding and competency in the implementation of these
835 policies and procedures.

836 (f) Each licensed administrator of an assisted living
837 facility that has a limited mental health license must complete
838 a minimum of 8 hours of mental health training and pass a
839 competency test related to the training within 30 days after
840 employment at the facility. A minimum score of 80 is required to
841 show successful passage of the mental health competency test. An
842 administrator who does not pass the test within 6 months after
843 completing the mental health training is ineligible to be an
844 administrator of an assisted living facility that has a limited
845 mental health license until the administrator achieves a passing
846 score. The competency test may be made available online or
847 through testing centers and must be offered in English and
848 Spanish.

849 (g) A licensed administrator of an assisted living facility
850 that has an extended congregate care license must complete a
851 minimum of 6 hours of extended congregate care training within
852 30 days after employment.

853 (h) A licensed administrator of an assisted living facility



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854 that has a limited nursing services license must complete a
855 minimum of 4 hours of training related to the special needs and
856 care of those persons who require limited nursing services
857 within 30 days after employment.

858 (i) A licensed administrator must participate in continuing
859 education for a minimum of 18 contact hours every 2 years and
860 pass the corresponding test upon completion of the continuing
861 education course with a minimum score of 80. Completion of all
862 continuing education and a passing score on any corresponding
863 tests must be achieved before license renewal. Continuing
864 education may be offered through online courses, and any fees
865 associated to the online service shall be borne by the
866 participant or the participant's employer.

867 (3) STAFF TRAINING.—

868 (a) Each staff member of an assisted living facility shall
869 receive at least 1 hour of inservice training regarding the
870 facility's policies and procedures related to resident elopement
871 response within 30 days after employment. Each staff member must
872 be provided a copy of the facility's policies and procedures
873 related to resident elopement response and shall demonstrate an
874 understanding and competency in the implementation of these
875 policies and procedures.

876 (b) Each staff member of an assisted living facility who is
877 hired on or after July 1, 2012, and who provides regular or
878 direct care to residents, shall complete a minimum of 20 hours
879 of core training within 90 days after employment at a facility.
880 The department may exempt nurses, certified nursing assistants,
881 or home health aides who can demonstrate completion of training
882 that is substantially similar to that of the core training



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883 required in this paragraph.

884 (c) Each staff member of an assisted living facility who is
885 hired on or after July 1, 2012, and who provides regular or
886 direct care to residents, must take a competency test within 90
887 days after employment at a facility which assesses the
888 individual's knowledge and comprehension of the required
889 training provided for in paragraph (b). A minimum score of 70 on
890 the competency test is required to show successful completion of
891 the training requirements. If a staff member fails the
892 competency test, the individual must wait at least 10 days
893 before retaking the test. If a staff member fails the competency
894 test three times, the individual must retake the initial core
895 training before retaking the test. If a staff member does not
896 pass the competency test within 1 year after employment, the
897 individual may not provide regular or direct care to residents
898 until the individual successfully passes the test. The
899 individual taking the test is responsible for any testing fees.

900 (d) A staff member of an assisted living facility that has
901 a limited mental health license who provides regular or direct
902 care to residents must complete a minimum of 8 hours of mental
903 health training within 30 days after employment. Within 30 days
904 after this training, the staff member must pass a competency
905 test related to the mental health training with a minimum score
906 of 70. If a staff member does not pass the competency test, the
907 individual may not provide regular or direct care to residents
908 until the individual successfully passes the test. The
909 competency test may be made available online or through testing
910 centers and must be offered in English and Spanish.

911 (e) A staff member of an assisted living facility who



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912 prepares or serves food must receive a minimum of 1 hour of
913 inservice training in safe food handling practices within 30
914 days after employment.

915 (f) A staff member of an assisted living facility who
916 manages medications and assists with the self-administration of
917 medications under s. 429.256 must complete, within 30 days after
918 employment, a minimum of 4 additional hours of training provided
919 by a registered nurse, licensed pharmacist, or department staff.
920 The department shall establish by rule the minimum requirements
921 for this training, including continuing education requirements.

922 (g) Other staff members of an assisted living facility
923 shall participate in training relevant to their job duties as
924 specified by rule of the department.

925 (h) If the department or the agency determines that there
926 are problems in a facility which could be reduced through
927 specific staff training beyond that already required under this
928 subsection, the department or the agency may require and
929 provide, or cause to be provided, additional training of any
930 staff member in the facility.

931 (i) Each staff member of an assisted living facility who
932 provides regular or direct care to residents must participate in
933 continuing education for a minimum of 10 contact hours every 2
934 years and pass the corresponding test upon completion of the
935 continuing education course with a minimum score of 70. If an
936 individual does not complete all required continuing education
937 and pass any corresponding tests within the requisite time
938 period, the individual may not provide regular or direct care to
939 residents until the individual does so. Continuing education may
940 be offered through online courses and any fees associated to the



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941 online service shall be borne by the participant or the
942 participant's employer.

943 Section 15. Section 429.522, Florida Statutes, is created
944 to read:

945 429.522 Training providers; certification.-

946 (1) DEFINITIONS.-As used in this section, the term:

947 (a) "Trainer certification" means a professional credential
948 awarded to individuals demonstrating competency in the assisted
949 living facility practice area by a department-approved third-
950 party credentialing entity.

951 (b) "Competency" means the minimum knowledge, skills, and
952 abilities necessary to perform work responsibilities.

953 (c) "Curriculum" means the minimum statewide training
954 content that is based upon the competencies and is made
955 available to persons providing services at an assisted living
956 facility.

957 (d) "Third-party credentialing entity" means a department-
958 approved nonprofit organization that has met nationally
959 recognized standards for developing and administering
960 professional certification programs.

961 (2) THIRD-PARTY CREDENTIALING ENTITIES.-The department
962 shall approve and provide oversight for one or more third-party
963 credentialing entities for the purpose of developing and
964 administering trainer certification programs for persons
965 providing training to applicants for licensure as an assisted
966 living facility administrator, to administrators of an assisted
967 living facility, and to staff members of an assisted living
968 facility. A third-party credentialing entity shall request this
969 approval in writing from the department. In order to obtain



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970 approval, the third-party credentialing entity shall:

971 (a) Establish professional requirements and standards that
972 applicants must achieve in order to obtain trainer certification
973 and to maintain such certification. At a minimum, an applicant
974 shall meet one of the following requirements:

975 1. Provide proof of completion of a 4-year baccalaureate
976 degree from an accredited college or university and have worked
977 in a management position in an assisted living facility for at
978 least 3 years after obtaining core trainer certification;

979 2. Have worked in a management position in an assisted
980 living facility for at least 5 years after obtaining core
981 trainer certification and have at least 1 year of teaching
982 experience as an educator or staff trainer for persons who work
983 in assisted living facilities or other long-term care settings;

984 3. Have been previously certified as a core trainer for the
985 department;

986 4. Have a minimum of 5 years of employment with the agency,
987 or the former Department of Health and Rehabilitative Services,
988 as a surveyor of assisted living facilities;

989 5. Have a minimum of 5 years of employment in a
990 professional position in the agency's assisted living unit;

991 6. Have a minimum of 5 years of employment as an educator
992 or staff trainer for persons working in an assisted living
993 facility or other long-term care setting;

994 7. Have a minimum of 5 years of employment as a core
995 trainer for an assisted living facility, which employment was
996 not directly associated with the department; or

997 8. Provide proof of at least a 4-year baccalaureate degree
998 from an accredited college or university in the areas of health



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999 care, gerontology, social work, education, or human services,
1000 and a minimum of 4 years of experience as an educator or staff
1001 trainer for persons who work in an assisted living facility or
1002 other long-term care setting after receiving core trainer
1003 certification.

1004 (b) Apply competencies according to the department's
1005 standards as provided in s. 429.521.

1006 (c) Maintain a professional code of ethics and establish a
1007 disciplinary process and a decertification process that applies
1008 to all persons holding trainer certification.

1009 (d) Maintain a database, accessible to the public, of all
1010 persons who have trainer certification, including any history of
1011 violations.

1012 (e) Require annual continuing education for persons who
1013 have trainer certification.

1014 (f) Administer a continuing education provider program to
1015 ensure that only qualified providers offer continuing education
1016 opportunities for certificateholders.

1017 (3) TRAINER CERTIFICATION.—Effective July 1, 2013, an
1018 individual seeking trainer certification must provide the third-
1019 party credentialing entity with, at a minimum, proof of:

1020 (a) Completion of the minimum core training requirements in
1021 s. 429.521(2) and successful passage of the corresponding
1022 competency tests with a minimum score of 80;

1023 (b) Compliance with the continuing education requirements
1024 in s. 429.521(2); and

1025 (c) Compliance with the professional requirements and
1026 standards required in paragraph (2) (a).

1027 (4) ADOPTION OF RULES.—The department shall adopt rules



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1028 necessary to administer this section.

1029 Section 16. Section 429.55, Florida Statutes, is created to
1030 read:

1031 429.55 Electronic monitoring of resident's room.-

1032 (1) DEFINITIONS.-As used in this section, the term:

1033 (a) "Authorized electronic monitoring" means the placement
1034 of an electronic monitoring device in the room of a resident of
1035 an assisted living facility and the making of tapes or
1036 recordings through use of the device after making a request to
1037 the facility and obtaining all necessary consent to allow
1038 electronic monitoring.

1039 (b) "Electronic monitoring device" means video surveillance
1040 cameras or audio devices installed in the room of a resident
1041 which are designed to acquire communications or other sounds
1042 occurring in the room. The term does not include an electronic,
1043 mechanical, or other device that is specifically used for the
1044 nonconsensual interception of wire or electronic communications.

1045 (2) COVERT USE OF ELECTRONIC MONITORING DEVICE.-For
1046 purposes of this section, the placement and use of an electronic
1047 monitoring device in the room of a resident is considered to be
1048 covert if:

1049 (a) The placement and use of the device is not open and
1050 obvious; and

1051 (b) The facility and the agency are not informed about the
1052 device by the resident, by a person who placed the device in the
1053 room, or by a person who is using the device.

1054
1055 The agency and the facility are not civilly liable in connection
1056 with the covert placement or use of an electronic monitoring



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1057 device in the room of the resident.

1058 (3) REQUIRED FORM ON ADMISSION.—The agency shall prescribe
1059 by rule a form that must be completed and signed upon a
1060 resident's admission to a facility by or on behalf of the
1061 resident. The form must state:

1062 (a) That a person who places an electronic monitoring
1063 device in the room of a resident or who uses or discloses a tape
1064 or other recording made by the device may be civilly liable for
1065 any unlawful violation of the privacy rights of another;

1066 (b) That a person who covertly places an electronic
1067 monitoring device in the room of a resident or who consents to
1068 or acquiesces in the covert placement of the device in the room
1069 of a resident has waived any privacy right the person may have
1070 had in connection with images or sounds that may be acquired by
1071 the device;

1072 (c) That a resident or the resident's guardian or legal
1073 representative is entitled to conduct authorized electronic
1074 monitoring under this section and that, if the facility refuses
1075 to permit the electronic monitoring or fails to make reasonable
1076 physical accommodations for the authorized electronic
1077 monitoring, the person should contact the agency. The form must
1078 also provide the agency's contact information;

1079 (d) The basic procedures that must be followed in order to
1080 request authorized electronic monitoring;

1081 (e) That the electronic monitoring device and all
1082 installation and maintenance costs must be paid for by the
1083 resident or the resident's guardian or legal representative;

1084 (f) The legal requirement to report abuse or neglect when
1085 electronic monitoring is being conducted; and



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1086 (g) Any other information regarding covert or authorized
1087 electronic monitoring which the agency considers advisable to
1088 include on the form.

1089 (4) AUTHORIZATION AND CONSENT.—

1090 (a) If a resident has the capacity to request electronic
1091 monitoring and has not been judicially declared to lack the
1092 required capacity, only the resident may request authorized
1093 electronic monitoring under this section, notwithstanding the
1094 terms of any durable power of attorney or similar instrument.

1095 (b) If a resident has been judicially declared to lack the
1096 capacity required for taking an action, such as requesting
1097 electronic monitoring, only the guardian of the resident may
1098 request electronic monitoring under this section.

1099 (c) If a resident does not have capacity to request
1100 electronic monitoring but has not been judicially declared to
1101 lack the required capacity, only the legal representative of the
1102 resident may request electronic monitoring under this section.

1103 (d) A resident or the guardian or legal representative of a
1104 resident who wishes to conduct authorized electronic monitoring
1105 must make the request to the facility on a form prescribed by
1106 the agency.

1107 (e) The form prescribed by the agency must require the
1108 resident or the resident's guardian or legal representative to:

1109 1. Release the facility from any civil liability for a
1110 violation of the resident's privacy rights in connection with
1111 the use of the electronic monitoring device;

1112 2. If the electronic monitoring device is a video
1113 surveillance camera, choose whether the camera will always be
1114 unobstructed or whether the camera should be obstructed in



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1115 specified circumstances in order to protect the dignity of the
1116 resident; and

1117 3. Obtain the consent of the other residents in the room,
1118 using a form prescribed for this purpose by the agency, if the
1119 resident resides in a multiperson room.

1120 (f) Consent under subparagraph (e)3. may be given only by:

1121 1. The other resident or residents in the room;

1122 2. The guardian of the other resident in the room, if the
1123 person has been judicially declared to lack the required
1124 capacity to consent; or

1125 3. The legal representative of the other resident in the
1126 room, if the person does not have capacity to sign the form but
1127 has not been judicially declared to lack the required capacity
1128 to consent.

1129 (g) The form prescribed by the agency under subparagraph
1130 (e)3. must condition the consent of another resident in the room
1131 on the other resident also releasing the facility from any civil
1132 liability for a violation of the person's privacy rights in
1133 connection with the use of the electronic monitoring device.

1134 (h) Another resident in the room may:

1135 1. If the proposed electronic monitoring device is a video
1136 surveillance camera, condition consent on the camera being
1137 pointed away from the consenting resident; and

1138 2. Condition consent on the use of an audio electronic
1139 monitoring device being limited or prohibited.

1140 (i) If authorized electronic monitoring is being conducted
1141 in the room of a resident and another resident is moved into the
1142 room who has not yet consented to the electronic monitoring,
1143 authorized electronic monitoring must cease until the new



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1144 resident has consented in accordance with this subsection.

1145 (j) Authorized electronic monitoring may not commence until
1146 all request and consent forms required by this subsection have
1147 been completed and returned to the facility, and the monitoring
1148 must be conducted in accordance with any limitation placed on
1149 the monitoring as a condition of the consent given by or on
1150 behalf of another resident in the room.

1151 (k) The agency may include other information that the
1152 agency considers to be appropriate on any of the forms that the
1153 agency is required to prescribe under this subsection.

1154 (l) The agency shall adopt rules to administer this
1155 subsection.

1156 (5) AUTHORIZED ELECTRONIC MONITORING; GENERAL PROVISIONS.-

1157 (a) A facility shall allow a resident or the resident's
1158 guardian or legal representative to monitor the room of the
1159 resident through the use of electronic monitoring devices.

1160 (b) The facility shall require a resident who conducts
1161 authorized electronic monitoring or the resident's guardian or
1162 legal representative to post and maintain a conspicuous notice
1163 at the entrance of the resident's room which states that the
1164 room is being monitored by an electronic monitoring device.

1165 (c) Authorized electronic monitoring conducted under this
1166 section is not compulsory and may be conducted only at the
1167 request of the resident or the resident's guardian or legal
1168 representative.

1169 (d) A facility may not refuse to admit an individual to
1170 residency in the facility and may not remove a resident from the
1171 facility because of a request to conduct authorized electronic
1172 monitoring.



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1173 (e) A facility shall make reasonable physical
1174 accommodations for authorized electronic monitoring, including
1175 providing:

1176 1. A reasonably secure place to mount the video
1177 surveillance camera or other electronic monitoring device; and

1178 2. Access to power sources for the video surveillance
1179 camera or other electronic monitoring device.

1180 (f) A facility may require an electronic monitoring device
1181 to be installed in a manner that is safe for residents,
1182 employees, or visitors who may be moving about a room.

1183 (g) If authorized electronic monitoring is conducted, the
1184 facility may require the resident or the resident's guardian or
1185 legal representative to conduct the electronic monitoring in
1186 plain view.

1187 (h) A facility may place a resident in a different room in
1188 order to accommodate a request to conduct authorized electronic
1189 monitoring.

1190 (6) REPORTING ABUSE AND NEGLECT.—A person shall report
1191 abuse to the central abuse hotline of the Department of Children
1192 and Family Services pursuant to s. 415.103 based on the person's
1193 viewing of or listening to a tape or recording by an electronic
1194 monitoring device if the incident of abuse is acquired on the
1195 tape or recording. A person shall report neglect to the central
1196 abuse hotline pursuant to s. 415.103 based on the person's
1197 viewing of or listening to a tape or recording by an electronic
1198 monitoring device if it is clear from viewing or listening to
1199 the tape or recording that neglect has occurred. If a person
1200 reports abuse or neglect to the central abuse hotline pursuant
1201 to this subsection, the person shall also send to the agency a



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1202 copy of the tape or recording which indicates the reported abuse
1203 or neglect.

1204 (7) USE OF TAPE OR RECORDING.—

1205 (a) Subject to applicable rules of evidence and procedure
1206 and the requirements of this subsection, a tape or recording
1207 created through the use of covert or authorized electronic
1208 monitoring may be admitted into evidence in a civil or criminal
1209 court action or administrative proceeding.

1210 (b) A court or administrative agency may not admit into
1211 evidence a tape or recording created through the use of covert
1212 or authorized electronic monitoring or take or authorize action
1213 based on the tape or recording unless:

1214 1. The tape or recording shows the time and date that the
1215 events acquired on the tape or recording occurred;

1216 2. The contents of the tape or recording have not been
1217 edited or artificially enhanced; and

1218 3. If the contents of the tape or recording have been
1219 transferred from the original format to another technological
1220 format, the transfer was done by a qualified professional and
1221 the contents of the tape or recording were not altered.

1222 (c) A person who sends more than one tape or recording to
1223 the agency shall identify for the agency each tape or recording
1224 on which the person believes that an incident of abuse or
1225 evidence of neglect may be found.

1226 (8) REQUIRED NOTICE.—Each facility shall post a notice at
1227 the entrance to the facility stating that the rooms of some
1228 residents are monitored electronically by or on behalf of the
1229 residents and that the monitoring is not necessarily open and
1230 obvious.



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1231 (9) ENFORCEMENT.—The agency may impose appropriate
1232 administrative sanctions under this part against an
1233 administrator of a facility who knowingly:

1234 (a) Refuses to permit a resident or the resident's guardian
1235 or legal representative to conduct authorized electronic
1236 monitoring;

1237 (b) Refuses to admit an individual to residency or allows
1238 the removal of a resident from the facility because of a request
1239 to conduct authorized electronic monitoring; or

1240 (c) Violates another provision of this section.

1241 (10) RULES.—The agency shall adopt rules as necessary to
1242 administer this section.

1243 Section 17. This act shall take effect July 1, 2012.

1244
1245 ===== T I T L E A M E N D M E N T =====

1246 And the title is amended as follows:

1247 Delete everything before the enacting clause
1248 and insert:

1249 A bill to be entitled
1250 An act relating to assisted living facilities;
1251 amending s. 394.4574, F.S.; requiring that the case
1252 manager assigned to a mental health resident of an
1253 assisted living facility that holds a limited mental
1254 health license keep a record of the date and time of
1255 face-to-face interactions with the mental health
1256 resident and make the record available to the
1257 Department of Children and Family Services for
1258 inspection; requiring that the record be maintained
1259 for a specified number of years; requiring that the



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1260 department ensure that there is adequate and
1261 consistent monitoring and enforcement of community
1262 living support plans and cooperative agreements;
1263 amending s. 400.0078, F.S.; requiring that, upon
1264 admission to a long-term care facility, a resident or
1265 his or her representative receive information
1266 regarding the confidentiality of any complainant's
1267 identity and the subject matter of the complaint;
1268 amending s. 415.103, F.S.; requiring that the
1269 department maintain a central abuse hotline that
1270 receives all reports made regarding incidents of abuse
1271 or neglect which are recorded by an electronic
1272 monitoring device in a resident's room of an assisted
1273 living facility; amending s. 415.1034, F.S.; requiring
1274 that certain employees or agents of any state or local
1275 agency report the abuse, neglect, or exploitation of a
1276 vulnerable adult to the central abuse hotline;
1277 amending s. 429.02, F.S.; defining the term "mental
1278 health professional" as it relates to the Assisted
1279 Living Facilities Act; amending s. 429.075, F.S.;
1280 requiring that an assisted living facility that serves
1281 any mental health resident obtain a limited mental
1282 health license; revising the training requirements for
1283 administrators and staff members of a facility that is
1284 licensed to provide services to mental health
1285 residents; amending ss. 429.176 and 429.178, F.S.;
1286 conforming cross-references; amending s. 429.28, F.S.;
1287 revising the bill of rights for residents of assisted
1288 living facilities with regard to notice of relocation



1289 or termination of residency and placement of an
1290 electronic monitoring device in the resident's room;
1291 revising requirements for a written notice of the
1292 rights, obligations, and prohibitions which is
1293 provided to a resident of an assisted living facility;
1294 creating s. 429.281, F.S.; providing definitions;
1295 requiring that an assisted living facility comply with
1296 notice of relocation or termination of residency from
1297 the facility when a decision is made to relocate or
1298 terminate the residency of a resident; providing
1299 requirements and procedures for notice and a hearing
1300 with regard to relocation of a resident or termination
1301 of the residency of a resident; requiring that the
1302 Department of Children and Family Services adopt
1303 rules; providing for application; amending s. 429.52,
1304 F.S.; requiring that a newly hired employee or
1305 administrator of an assisted living facility attend a
1306 preservice orientation provided by the assisted living
1307 facility; providing topics that must be covered in the
1308 preservice orientation; requiring that the employee
1309 and administrator sign an affidavit upon completion of
1310 the preservice orientation; requiring that the
1311 administrator of the assisted living facility maintain
1312 the signed affidavit in each employee's work file;
1313 deleting provisions regarding minimum training and
1314 core educational requirements for administrators and
1315 other staff; deleting provisions requiring the
1316 Department of Elderly Affairs to establish training
1317 requirements and a competency test by rule; deleting



1318 provisions governing the registration of persons
1319 providing training; creating s. 429.50, F.S.;
1320 effective July 1, 2013, prohibiting an assisted living
1321 facility from operating unless it is under the
1322 management of an administrator who holds a valid
1323 license or provisional license issued by the
1324 Department of Health; providing eligibility
1325 requirements to be licensed as an assisted living
1326 facility administrator; providing an exception from
1327 the requirement to complete the educational and core
1328 training requirements and pass a competency test;
1329 providing additional requirements for licensure as an
1330 administrator of an assisted living facility that has
1331 a mental health license; providing that an
1332 administrator licensed under part II of ch. 468, F.S.,
1333 is exempt from certain educational and core training
1334 requirements and the required competency test;
1335 providing additional licensure requirements for an
1336 administrator licensed under part II of ch. 468, F.S.,
1337 who is employed at an assisted living facility that
1338 has a mental health license; providing that other
1339 licensed professionals may be exempted, as determined
1340 by rule by the Department of Health; requiring that
1341 the Department of Health issue a license to an
1342 applicant who successfully completes the training,
1343 passes the competency tests, and provides proof of the
1344 required education; requiring that the Department of
1345 Health establish licensure fees for licensure as an
1346 assisted living facility administrator; authorizing



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1347 the Department of Health to adopt rules; creating s.
1348 429.512, F.S.; authorizing the Department of Health to
1349 establish requirements for issuing a provisional
1350 license; providing the conditions under which a
1351 provisional license is issued; authorizing the
1352 Department of Health to set an application fee;
1353 providing conditions under which an administrator's
1354 license becomes inactive; requiring that the
1355 Department of Health adopt rules governing application
1356 procedures for inactive licenses, the renewal of
1357 inactive licenses, and the reactivation of licenses;
1358 requiring that the Department of Health establish
1359 application fees for inactive license status, a
1360 renewal fee for inactive license status, a delinquency
1361 fee, and a fee for the reactivation of a license;
1362 prohibiting the Department of Health from reactivating
1363 a license unless the licensee pays the required fees;
1364 creating s. 429.521, F.S.; requiring that each
1365 administrator, applicant to become an assisted living
1366 facility administrator, and staff member of an
1367 assisted living facility meet minimum training
1368 requirements established by the Department of Elderly
1369 Affairs; requiring that the department, in conjunction
1370 with the Department of Children and Family Services
1371 and stakeholders, establish a standardized core
1372 training curriculum to be completed by an applicant
1373 for licensure as an assisted living facility
1374 administrator; providing minimum requirements for the
1375 training curriculum; requiring that the Department of



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1376 Elderly Affairs, in conjunction with the Department of
1377 Children and Family Services and stakeholders, develop
1378 a supplemental course consisting of topics related to
1379 extended congregate care, limited mental health, and
1380 business operations; requiring that the Department of
1381 Elderly Affairs, in conjunction with the Department of
1382 Children and Family Services and stakeholders,
1383 establish a standardized core training curriculum for
1384 staff members who provide regular or direct care to
1385 residents of an assisted living facility; providing
1386 requirements for the training curriculum; requiring
1387 that the Department of Elderly Affairs, in conjunction
1388 with the Agency for Health Care Administration and
1389 stakeholders, create competency tests to test an
1390 individual's comprehension of the training; providing
1391 requirements for the competency tests; requiring that
1392 the Department of Elderly Affairs, in conjunction with
1393 the Department of Children and Family Services,
1394 develop a comprehensive, standardized training
1395 curriculum and competency test to satisfy the
1396 requirements for mental health training; requiring
1397 that the Department of Elderly Affairs, in conjunction
1398 with the Department of Children and Family Services
1399 and stakeholders, establish curricula for continuing
1400 education for administrators and staff members of an
1401 assisted living facility; providing minimum
1402 requirements for the required continuing education;
1403 requiring that the Department of Elderly Affairs
1404 ensure that all continuing education curricula include



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1405 a test upon completion of the training which
1406 demonstrates comprehension of the training; requiring
1407 the Department of Elderly Affairs to adopt rules;
1408 requiring that an applicant for licensure as an
1409 assisted living facility administrator complete a
1410 minimum number of hours of training and take a
1411 competency test; providing a minimum passing score for
1412 the competency test; providing requirements for an
1413 applicant who fails the competency test; requiring
1414 that a licensed administrator receive inservice
1415 training regarding the facility's policies and
1416 procedures related to resident elopement response;
1417 requiring that a licensed administrator of an assisted
1418 living facility that has a limited mental health
1419 license complete a minimum number of hours of mental
1420 health training and pass a competency test related to
1421 the training; requiring that a licensed administrator
1422 of an assisted living facility that has an extended
1423 congregate care license complete a minimum number of
1424 hours of extended congregate care training; requiring
1425 that a licensed administrator of an assisted living
1426 facility that has a limited nursing services license
1427 complete a minimum number of hours of training related
1428 to the special needs and care of those persons who
1429 require limited nursing services; requiring that a
1430 licensed administrator participate in continuing
1431 education for a minimum number of contact hours and
1432 pass the corresponding test upon completion of the
1433 continuing education course; requiring that a staff



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1434 member of an assisted living facility receive
1435 inservice training regarding the facility's policies
1436 and procedures related to resident elopement response;
1437 requiring that certain staff members of an assisted
1438 living facility complete a minimum number of hours of
1439 core training; providing for exemptions; requiring
1440 that certain staff members of an assisted living
1441 facility take a competency test that assesses the
1442 staff member's knowledge and comprehension of the
1443 required core training; providing a minimum passing
1444 score for the competency test; providing requirements
1445 for a staff member who fails the competency test;
1446 requiring that a staff member who provides regular or
1447 direct care to residents of an assisted living
1448 facility that has a limited mental health license
1449 complete a minimum number of hours of mental health
1450 training and take a competency test; providing a
1451 minimum passing score; prohibiting a staff member from
1452 providing direct care to residents until the staff
1453 member passes the competency test; requiring that a
1454 staff member of an assisted living facility who
1455 prepares or serves food receive inservice training in
1456 safe food handling practices; requiring that a staff
1457 member of an assisted living facility who manages
1458 medications and assists with the self-administration
1459 of medications complete training provided by a
1460 registered nurse, licensed pharmacist, or department
1461 staff; requiring that the Department of Elderly
1462 Affairs establish requirements for the training;



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1463 requiring that other staff members of an assisted
1464 living facility participate in training relevant to
1465 their job duties as specified by rule of the
1466 department; authorizing the Department of Elderly
1467 Affairs or the Agency for Health Care Administration
1468 to provide additional training if necessary; requiring
1469 that staff members who provide regular or direct care
1470 to residents of an assisted living facility
1471 participate in continuing education and pass the
1472 corresponding test upon completion of the continuing
1473 education course; prohibiting a staff member from
1474 providing regular or direct care to residents under
1475 certain conditions; creating s. 429.522, F.S. ;
1476 providing definitions; requiring that the Department
1477 of Elderly Affairs approve and provide oversight for
1478 third-party credentialing entities for the purpose of
1479 developing and administering trainer certification
1480 programs for persons providing training to applicants
1481 for licensure as an assisted living facility
1482 administrator, to administrators of an assisted living
1483 facility, and to staff members of an assisted living
1484 facility; requiring that a third-party credentialing
1485 entity meet certain requirements in order to obtain
1486 approval for developing and administering the trainer
1487 certification programs; requiring that an individual
1488 seeking trainer certification provide a third-party
1489 credentialing entity with proof of certain
1490 requirements; requiring that the Department of Elderly
1491 Affairs adopt rules; creating s. 429.55, F.S. ;



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1492 providing definitions; defining when an electronic
1493 monitoring device that is placed in the room of a
1494 resident of an assisted living facility is considered
1495 to be covert; providing that the Agency for Health
1496 Care Administration and the facility are not civilly
1497 liable in connection with the covert placement or use
1498 of an electronic monitoring device in the room of the
1499 resident; requiring that the agency prescribe by rule
1500 a form that must be completed and signed when a
1501 resident is admitted to a facility; providing
1502 requirements for the form; authorizing certain persons
1503 to request electronic monitoring; providing for the
1504 form prescribed by the agency to require that the
1505 resident release the facility from any civil liability
1506 for a violation of the resident's privacy rights in
1507 connection with the use of the electronic monitoring
1508 device, choose whether the camera will be
1509 unobstructed, and obtain the consent of the other
1510 residents in the room if the resident resides in a
1511 multiperson room; requiring prior consent under
1512 certain circumstances; requiring that the agency adopt
1513 rules; requiring that the facility allow a resident or
1514 the resident's guardian or legal representative to
1515 monitor the room of the resident through the use of
1516 electronic monitoring devices; requiring that the
1517 facility require a resident who conducts authorized
1518 electronic monitoring to post a conspicuous notice at
1519 the entrance of the resident's room; providing that
1520 electronic monitoring of the room of a resident is not



1521 compulsory; prohibiting a facility from refusing to
1522 admit an individual to residency in the facility or
1523 from removing a resident from the facility because of
1524 a request to conduct authorized electronic monitoring;
1525 requiring that a facility make reasonable physical
1526 accommodations for authorized electronic monitoring;
1527 authorizing a facility to require that an electronic
1528 monitoring device be installed in a manner that is
1529 safe; authorizing a facility to require that a
1530 resident conduct electronic monitoring in plain view;
1531 authorizing a facility to place a resident in a
1532 different room in order to accommodate a request to
1533 conduct authorized electronic monitoring; requiring
1534 that a person report abuse or neglect to the central
1535 abuse hotline of the Department of Children and Family
1536 Services based on the person's viewing of or listening
1537 to a tape or recording; providing requirements for
1538 reporting the abuse or neglect; providing that a tape
1539 or recording created through the use of covert or
1540 authorized electronic monitoring may be admitted into
1541 evidence in a civil or criminal court action or
1542 administrative proceeding; providing requirements for
1543 such admission; requiring that each facility post a
1544 notice at the entrance to the facility stating that
1545 the rooms of some residents are monitored
1546 electronically by or on behalf of the residents;
1547 authorizing the Agency for Health Care Administration
1548 to impose administrative sanctions against an
1549 administrator of an assisted living facility under



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certain circumstances; requiring the agency to adopt
rules; providing an effective date.