1 A bill to be entitled
2 An act relating to quality improvement initiatives for
3 entities regulated by the Agency for Health Care
4 Administration; amending s. 394.4574, F.S.; providing
5 responsibilities of the Department of Children and
6 Family Services and mental health service providers
7 for mental health residents who reside in assisted
8 living facilities; directing the agency to impose
9 contract penalties on Medicaid prepaid health plans
10 under specified circumstances; directing the
11 department to impose contract penalties on mental
12 health service providers under specified
13 circumstances; directing the department and the agency
14 to enter into an interagency agreement for the
15 enforcement of their respective responsibilities and
16 procedures related thereto; amending s. 395.002, F.S.;
17 revising the definition of the term "accrediting
18 organizations"; amending s. 395.3036, F.S.; amending
19 s. 395.1055, F.S.; revising provisions relating to
20 agency rules regarding standards for infection
21 control, housekeeping, and sanitary conditions in a
22 hospital; requiring housekeeping and sanitation staff
23 to employ and document compliance with specified
24 cleaning and disinfecting procedures; authorizing
25 imposition of administrative fines for noncompliance;
26 amending s. 400.0078, F.S.; requiring specified
27 information regarding the confidentiality of
28 complaints to the State Long-Term Care Ombudsman

29 Program to be provided to residents of a long-term
30 care facility upon admission to the facility; amending
31 s. 408.05, F.S.; directing the agency to collect,
32 compile, analyze, and distribute specified health care
33 information for specified uses; providing for the
34 agency to release data necessary for the
35 administration of the Medicaid program to quality
36 improvement collaboratives for specified purposes;
37 amending s. 408.802, F.S.; providing that the
38 provisions of part II of ch. 408, F.S., the Health
39 Care Licensing Procedures Act, apply to assisted
40 living facility administrators; amending s. 408.820,
41 F.S.; exempting assisted living facility
42 administrators from specified provisions of part II of
43 ch. 408, F.S., the Health Care Licensing Procedures
44 Act; amending s. 409.212, F.S.; increasing a
45 limitation on additional supplementation a person who
46 receives optional supplementation may receive;
47 creating s. 409.986, F.S.; providing definitions;
48 directing the agency to establish and implement
49 methodologies to adjust Medicaid rates for hospitals,
50 nursing homes, and managed care plans; providing
51 criteria for and limits on the amount of Medicaid
52 payment rate adjustments; directing the agency to seek
53 federal approval to implement a performance payment
54 system; providing for implementation of the system in
55 fiscal year 2015-2016; authorizing the agency to
56 appoint a technical advisory panel; providing

57 applicability of the performance payment system to
58 general hospitals, skilled nursing facilities, and
59 managed care plans and providing criteria therefor;
60 amending s. 415.1034, F.S.; providing that specified
61 persons who have regulatory responsibilities over or
62 provide services to persons residing in certain
63 facilities must report suspected incidents of abuse to
64 the central abuse hotline; amending s. 429.02, F.S.;
65 revising definitions applicable to the Assisted Living
66 Facilities Act; amending s. 429.07, F.S.; requiring
67 that an assisted living facility be under the
68 management of a licensed assisted living facility
69 administrator; providing for a reduced number of
70 monitoring visits for an assisted living facility that
71 is licensed to provide extended congregate care
72 services under specified circumstances; providing for
73 a reduced number of monitoring visits for an assisted
74 living facility that is licensed to provide limited
75 nursing services under specified circumstances;
76 amending s. 429.075, F.S.; providing additional
77 requirements for a limited mental health license;
78 removing specified assisted living facility
79 requirements; authorizing a training provider to
80 charge a fee for the training required of facility
81 administrators and staff; revising provisions for
82 application for a limited mental health license;
83 creating s. 429.0751, F.S.; providing requirements for
84 an assisted living facility that has mental health

85 residents; requiring the assisted living facility to
86 enter into a cooperative agreement with a mental
87 health care service provider; providing for the
88 development of a community living support plan;
89 specifying who may have access to the plan; requiring
90 documentation of mental health resident assessments;
91 amending s. 429.178, F.S.; conforming cross-
92 references; amending s. 429.19, F.S.; providing fines
93 and penalties for specified violations by an assisted
94 living facility; amending s. 429.195, F.S.; revising
95 applicability of prohibitions on rebates provided by
96 an assisted living facility for certain referrals;
97 amending s. 817.505, F.S.; providing an exception from
98 prohibitions relating to patient brokering; creating
99 s. 429.231, F.S.; directing the Department of Elderly
100 Affairs to create an advisory council to review the
101 facts and circumstances of unexpected deaths in
102 assisted living facilities and of elopements that
103 result in harm to a resident; providing duties;
104 providing for appointment and terms of members;
105 providing for meetings; requiring a report; providing
106 for per diem and travel expenses; amending s. 429.34,
107 F.S.; providing a schedule for the inspection of
108 assisted living facilities; providing exceptions;
109 providing for fees for additional inspections after
110 specified violations; creating s. 429.50, F.S.;
111 prohibiting a person from performing the duties of an
112 assisted living facility administrator without a

113 license; providing qualifications for licensure;
114 providing requirements for the issuance of assisted
115 living facility administrator certifications;
116 providing agency responsibilities; providing
117 exceptions; providing license and license renewal
118 fees; providing grounds for revocation or denial of
119 licensure; providing rulemaking authority; authorizing
120 the agency to issue a temporary license to an assisted
121 living facility administrator under certain conditions
122 and for a specified period of time; amending s.
123 429.52, F.S.; providing training, competency testing,
124 and continuing education requirements for assisted
125 living facility administrators and license applicants;
126 specifying entities that may provide training;
127 providing a definition; requiring assisted living
128 facility trainers to keep certain training records and
129 submit those records to the agency; providing
130 rulemaking authority; amending s. 429.54, F.S.;
131 requiring the Agency for Health Care Administration,
132 the Department of Elderly Affairs, the Department of
133 Children and Family Services, and the Agency for
134 Persons with Disabilities to develop or modify
135 electronic information systems and other systems to
136 ensure efficient communication regarding regulation of
137 assisted living facilities, subject to the
138 availability of funds; providing an appropriation and
139 authorizing positions; providing an effective date.
140

141 Be It Enacted by the Legislature of the State of Florida:
142
143 Section 1. Section 394.4574, Florida Statutes, is amended
144 to read:
145 394.4574 Department responsibilities for a mental health
146 resident who resides in an assisted living facility ~~that holds a~~
147 ~~limited mental health license~~.—
148 (1) The term "mental health resident," for purposes of
149 this section, means an individual who receives social security
150 disability income due to a mental disorder as determined by the
151 Social Security Administration or receives supplemental security
152 income due to a mental disorder as determined by the Social
153 Security Administration and receives optional state
154 supplementation.
155 (2) The department must ensure that:
156 (a) A mental health resident has been assessed by a
157 psychiatrist, clinical psychologist, clinical social worker, or
158 psychiatric nurse, or an individual who is supervised by one of
159 these professionals, and determined to be appropriate to reside
160 in an assisted living facility. The documentation must be
161 provided to the administrator of the facility within 30 days
162 after the mental health resident has been admitted to the
163 facility. An evaluation completed upon discharge from a state
164 mental hospital meets the requirements of this subsection
165 related to appropriateness for placement as a mental health
166 resident if it was completed within 90 days prior to admission
167 to the facility.
168 (b) A cooperative agreement, as required in s. <u>429.0751</u>

169 ~~429.075~~, is developed between the mental health care services
170 provider that serves a mental health resident and ~~the~~
171 ~~administrator of~~ the assisted living facility ~~with a limited~~
172 ~~mental health license~~ in which the mental health resident is
173 living. ~~Any entity that provides Medicaid prepaid health plan~~
174 ~~services shall ensure the appropriate coordination of health~~
175 ~~care services with an assisted living facility in cases where a~~
176 ~~Medicaid recipient is both a member of the entity's prepaid~~
177 ~~health plan and a resident of the assisted living facility. If~~
178 ~~the entity is at risk for Medicaid targeted case management and~~
179 ~~behavioral health services, the entity shall inform the assisted~~
180 ~~living facility of the procedures to follow should an emergent~~
181 ~~condition arise.~~
182 (c) The community living support plan, as defined in s.
183 429.02, has been prepared by a mental health resident and a
184 mental health case manager of that resident in consultation with
185 the administrator of the facility or the administrator's
186 designee. The plan must be provided to the administrator of the
187 assisted living facility ~~with a limited mental health license~~ in
188 which the mental health resident lives. The support plan and the
189 agreement may be in one document.
190 (d) The assisted living facility ~~with a limited mental~~
191 ~~health license~~ is provided with documentation that the
192 individual meets the definition of a mental health resident.
193 (e) The mental health services provider assign~~s~~ a case
194 manager to each mental health resident who lives in an assisted
195 living facility ~~with a limited mental health license~~. The case
196 manager is responsible for coordinating the development of and

197 implementation of the community living support plan defined in
198 s. 429.02. The plan must be updated as needed, but at least
199 annually, to ensure that the ongoing needs of the residents are
200 addressed.
201
202 The department shall adopt rules to implement the community
203 living support plans and cooperative agreements established
204 under this section.
205 (3) A Medicaid prepaid health plan shall ensure the
206 appropriate coordination of health care services with an
207 assisted living facility when a Medicaid recipient is both a
208 member of the entity's prepaid health plan and a resident of the
209 assisted living facility. If the Medicaid prepaid health plan is
210 responsible for Medicaid-targeted case management and behavioral
211 health services, the plan shall inform the assisted living
212 facility of the procedures to follow when an emergent condition
213 arises.
214 (4) The department shall include in contracts with mental
215 health service providers provisions that require the service
216 provider to assign a case manager for a mental health resident,
217 prepare a community living support plan, enter into a
218 cooperative agreement with the assisted living facility, and
219 otherwise comply with the provisions of this section. The
220 department shall establish and impose contract penalties for
221 mental health service providers under contract with the
222 department that fail to comply with this section.
223 (5) The Agency for Health Care Administration shall
224 include in contracts with Medicaid prepaid health plans

225 provisions that require the mental health service provider to
226 prepare a community living support plan, enter into a
227 cooperative agreement with the assisted living facility, and
228 otherwise comply with the provisions of this section. The agency
229 shall also establish and impose contract penalties for Medicaid
230 prepaid health plans that fail to comply with this section.
231 (6) The department shall enter into an interagency
232 agreement with the Agency for Health Care Administration that
233 delineates their respective responsibilities and procedures for
234 enforcing the requirements of this section with respect to
235 assisted living facilities and mental health service providers.
236 (7) ~~(3)~~ The Secretary of Children and Family Services, in
237 consultation with the Agency for Health Care Administration,
238 shall annually require each district administrator to develop,
239 with community input, detailed plans that demonstrate how the
240 district will ensure the provision of state-funded mental health
241 and substance abuse treatment services to residents of assisted
242 living facilities ~~that hold a limited mental health license~~.
243 These plans must be consistent with the substance abuse and
244 mental health district plan developed pursuant to s. 394.75 and
245 must address case management services; access to consumer-
246 operated drop-in centers; access to services during evenings,
247 weekends, and holidays; supervision of the clinical needs of the
248 residents; and access to emergency psychiatric care.
249 Section 2. Subsection (1) of section 395.002, Florida
250 Statutes, is amended to read:
251 395.002 Definitions.—As used in this chapter:
252 (1) "Accrediting organizations" means national

253 accreditation organizations that are approved by the Centers for
254 Medicare and Medicaid Services and whose standards incorporate
255 comparable licensure regulations required by the state ~~the Joint~~
256 ~~Commission on Accreditation of Healthcare Organizations, the~~
257 ~~American Osteopathic Association, the Commission on~~
258 ~~Accreditation of Rehabilitation Facilities, and the~~
259 ~~Accreditation Association for Ambulatory Health Care, Inc~~.
260 Section 3. Paragraph (b) of subsection (1) of section
261 395.1055, Florida Statutes, is amended to read:
262 395.1055 Rules and enforcement.—
263 (1) The agency shall adopt rules pursuant to ss.
264 120.536(1) and 120.54 to implement the provisions of this part,
265 which shall include reasonable and fair minimum standards for
266 ensuring that:
267 (b) Infection control, housekeeping, sanitary conditions,
268 and medical record procedures that will adequately protect
269 patient care and safety are established and implemented. These
270 procedures shall require housekeeping and sanitation staff to
271 wear masks and gloves when cleaning patient rooms, to disinfect
272 environmental surfaces in patient rooms in accordance with the
273 time instructions on the label of the disinfectant used by the
274 hospital, and to document compliance with this paragraph. The
275 agency may impose an administrative fine for each day that a
276 violation of this paragraph occurs.
277 Section 4. Subsection (2) of section 400.0078, Florida
278 Statutes, is amended to read:
279 400.0078 Citizen access to State Long-Term Care Ombudsman
280 Program services.—

281 (2) ~~Every resident or representative of a resident shall~~
282 ~~receive,~~ Upon admission to a long-term care facility, each
283 resident or representative of a resident must receive
284 information regarding:
285 (a)1. The purpose of the State Long-Term Care Ombudsman
286 Program;~~,~~
287 2. The statewide toll-free telephone number for receiving
288 complaints;~~,~~
289 3. The residents rights under s. 429.28, including
290 information that retaliatory action cannot be taken against a
291 resident for presenting grievances or for exercising any other
292 of these rights; and
293 4. Other relevant information regarding how to contact the
294 program.
295 (b) Residents or their representatives must be furnished
296 additional copies of this information upon request.
297 Section 5. Subsection (3) of section 408.05, Florida
298 Statutes, is amended to read:
299 408.05 Florida Center for Health Information and Policy
300 Analysis.—
301 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—The agency
302 shall collect, compile, analyze, and distribute ~~In order to~~
303 ~~produce comparable and uniform~~ health information and
304 statistics. Such information shall be used for developing ~~the~~
305 ~~development of~~ policy recommendations, evaluating program and
306 provider performance, and facilitating the independent and
307 collaborative quality improvement activities of providers,
308 payors, and others involved in the delivery of health services.

309 The agency shall perform the following functions:
310 (a) Coordinate the activities of state agencies involved
311 in the design and implementation of the comprehensive health
312 information system.
313 (b) Undertake research, development, and evaluation
314 respecting the comprehensive health information system.
315 (c) Review the statistical activities of state agencies to
316 ensure that they are consistent with the comprehensive health
317 information system.
318 (d) Develop written agreements with local, state, and
319 federal agencies for the sharing of health-care-related data or
320 using the facilities and services of such agencies. State
321 agencies, local health councils, and other agencies under state
322 contract shall assist the center in obtaining, compiling, and
323 transferring health-care-related data maintained by state and
324 local agencies. Written agreements must specify the types,
325 methods, and periodicity of data exchanges and specify the types
326 of data that will be transferred to the center.
327 (e) Establish by rule the types of data collected,
328 compiled, processed, used, or shared. Decisions regarding center
329 data sets should be made based on consultation with the State
330 Consumer Health Information and Policy Advisory Council and
331 other public and private users regarding the types of data which
332 should be collected and their uses. The center shall establish
333 standardized means for collecting health information and
334 statistics under laws and rules administered by the agency.
335 (f) Establish minimum health-care-related data sets which
336 are necessary on a continuing basis to fulfill the collection

337 requirements of the center and which shall be used by state
338 agencies in collecting and compiling health-care-related data.
339 The agency shall periodically review ongoing health care data
340 collections of the Department of Health and other state agencies
341 to determine if the collections are being conducted in
342 accordance with the established minimum sets of data.
343 (g) Establish advisory standards to ensure the quality of
344 health statistical and epidemiological data collection,
345 processing, and analysis by local, state, and private
346 organizations.
347 (h) Prescribe standards for the publication of health-
348 care-related data reported pursuant to this section which ensure
349 the reporting of accurate, valid, reliable, complete, and
350 comparable data. Such standards should include advisory warnings
351 to users of the data regarding the status and quality of any
352 data reported by or available from the center.
353 (i) Prescribe standards for the maintenance and
354 preservation of the center's data. This should include methods
355 for archiving data, retrieval of archived data, and data editing
356 and verification.
357 (j) Ensure that strict quality control measures are
358 maintained for the dissemination of data through publications,
359 studies, or user requests.
360 (k) Develop, in conjunction with the State Consumer Health
361 Information and Policy Advisory Council, and implement a long-
362 range plan for making available health care quality measures and
363 financial data that will allow consumers to compare health care
364 services. The health care quality measures and financial data

365 the agency must make available shall include, but is not limited
366 to, pharmaceuticals, physicians, health care facilities, and
367 health plans and managed care entities. The agency shall update
368 the plan and report on the status of its implementation
369 annually. The agency shall also make the plan and status report
370 available to the public on its Internet website. As part of the
371 plan, the agency shall identify the process and timeframes for
372 implementation, any barriers to implementation, and
373 recommendations of changes in the law that may be enacted by the
374 Legislature to eliminate the barriers. As preliminary elements
375 of the plan, the agency shall:
376 1. Make available patient-safety indicators, inpatient
377 quality indicators, and performance outcome and patient charge
378 data collected from health care facilities pursuant to s.
379 408.061(1)(a) and (2). The terms "patient-safety indicators" and
380 "inpatient quality indicators" shall be as defined by the
381 Centers for Medicare and Medicaid Services, the National Quality
382 Forum, the Joint Commission ~~on Accreditation of Healthcare~~
383 ~~Organizations~~, the Agency for Healthcare Research and Quality,
384 the Centers for Disease Control and Prevention, or a similar
385 national entity that establishes standards to measure the
386 performance of health care providers, or by other states. The
387 agency shall determine which conditions, procedures, health care
388 quality measures, and patient charge data to disclose based upon
389 input from the council. When determining which conditions and
390 procedures are to be disclosed, the council and the agency shall
391 consider variation in costs, variation in outcomes, and
392 magnitude of variations and other relevant information. When

393 determining which health care quality measures to disclose, the
394 agency:
395 a. Shall consider such factors as volume of cases; average
396 patient charges; average length of stay; complication rates;
397 mortality rates; and infection rates, among others, which shall
398 be adjusted for case mix and severity, if applicable.
399 b. May consider such additional measures that are adopted
400 by the Centers for Medicare and Medicaid Studies, National
401 Quality Forum, the Joint Commission ~~on Accreditation of~~
402 ~~Healthcare Organizations~~, the Agency for Healthcare Research and
403 Quality, Centers for Disease Control and Prevention, or a
404 similar national entity that establishes standards to measure
405 the performance of health care providers, or by other states.
406
407 When determining which patient charge data to disclose, the
408 agency shall include such measures as the average of
409 undiscounted charges on frequently performed procedures and
410 preventive diagnostic procedures, the range of procedure charges
411 from highest to lowest, average net revenue per adjusted patient
412 day, average cost per adjusted patient day, and average cost per
413 admission, among others.
414 2. Make available performance measures, benefit design,
415 and premium cost data from health plans licensed pursuant to
416 chapter 627 or chapter 641. The agency shall determine which
417 health care quality measures and member and subscriber cost data
418 to disclose, based upon input from the council. When determining
419 which data to disclose, the agency shall consider information
420 that may be required by either individual or group purchasers to

421 assess the value of the product, which may include membership
422 satisfaction, quality of care, current enrollment or membership,
423 coverage areas, accreditation status, premium costs, plan costs,
424 premium increases, range of benefits, copayments and
425 deductibles, accuracy and speed of claims payment, credentials
426 of physicians, number of providers, names of network providers,
427 and hospitals in the network. Health plans shall make available
428 to the agency any such data or information that is not currently
429 reported to the agency or the office.
430 3. Determine the method and format for public disclosure
431 of data reported pursuant to this paragraph. The agency shall
432 make its determination based upon input from the State Consumer
433 Health Information and Policy Advisory Council. At a minimum,
434 the data shall be made available on the agency's Internet
435 website in a manner that allows consumers to conduct an
436 interactive search that allows them to view and compare the
437 information for specific providers. The website must include
438 such additional information as is determined necessary to ensure
439 that the website enhances informed decisionmaking among
440 consumers and health care purchasers, which shall include, at a
441 minimum, appropriate guidance on how to use the data and an
442 explanation of why the data may vary from provider to provider.
443 4. Publish on its website undiscounted charges for no
444 fewer than 150 of the most commonly performed adult and
445 pediatric procedures, including outpatient, inpatient,
446 diagnostic, and preventative procedures.
447 (l) Assist quality improvement collaboratives by releasing
448 information to the providers, payors, or entities representing

449 and working on behalf of providers and payors. The agency shall
450 release such data, which is deemed necessary for the
451 administration of the Medicaid program, to quality improvement
452 collaboratives for evaluation of the incidence of potentially
453 preventable events.
454 Section 6. Subsection (31) is added to section 408.802,
455 Florida Statutes, to read:
456 408.802 Applicability.—The provisions of this part apply
457 to the provision of services that require licensure as defined
458 in this part and to the following entities licensed, registered,
459 or certified by the agency, as described in chapters 112, 383,
460 390, 394, 395, 400, 429, 440, 483, and 765:
461 (31) Assisted living facility administrators, as provided
462 under part I of chapter 429.
463 Section 7. Subsection (29) is added to section 408.820,
464 Florida Statutes, to read:
465 408.820 Exemptions.—Except as prescribed in authorizing
466 statutes, the following exemptions shall apply to specified
467 requirements of this part:
468 (29) Assisted living facility administrators, as provided
469 under part I of chapter 429, are exempt from ss. 408.806(7),
470 408.810(4)-(10), and 408.811.
471 Section 8. Paragraph (c) of subsection (4) of section
472 409.212, Florida Statutes, is amended to read:
473 409.212 Optional supplementation.—
474 (4) In addition to the amount of optional supplementation
475 provided by the state, a person may receive additional
476 supplementation from third parties to contribute to his or her

477 cost of care. Additional supplementation may be provided under
478 the following conditions:
479 (c) The additional supplementation shall not exceed four
480 ~~two~~ times the provider rate recognized under the optional state
481 supplementation program.
482 Section 9. Section 409.986, Florida Statutes, is created
483 to read:
484 409.986 Quality adjustments to Medicaid rates.—
485 (1) As used in this section, the term:
486 (a) "Expected rate" means the risk-adjusted rate for each
487 provider that accounts for the severity of illness, diagnosis
488 related groups, and the age of a patient.
489 (b) "Hospital-acquired infections" means infections not
490 present and without evidence of incubation at the time of
491 admission to a hospital.
492 (c) "Observed rate" means the actual number for each
493 provider of potentially preventable events divided by the number
494 of cases in which potentially preventable events may have
495 occurred.
496 (d) "Potentially preventable admission" means an admission
497 of a person to a hospital that might have reasonably been
498 prevented with adequate access to ambulatory care or health care
499 coordination.
500 (e) "Potentially preventable ancillary service" means a
501 health care service provided or ordered by a physician or other
502 health care provider to supplement or support the evaluation or
503 treatment of a patient, including a diagnostic test, laboratory
504 test, therapy service, or radiology service, that may not be

505 reasonably necessary for the provision of quality health care or
506 treatment.
507 (f) "Potentially preventable complication" means a harmful
508 event or negative outcome with respect to a person, including an
509 infection or surgical complication, that:
510 1. Occurs after the person's admission to a hospital; and
511 2. May have resulted from the care, lack of care, or
512 treatment provided during the hospital stay rather than from a
513 natural progression of an underlying disease.
514 (g) "Potentially preventable emergency department visit"
515 means treatment of a person in a hospital emergency room or
516 freestanding emergency medical care facility for a condition
517 that does not require or should not have required emergency
518 medical attention because the condition can or could have been
519 treated or prevented by a physician or other health care
520 provider in a nonemergency setting.
521 (h) "Potentially preventable event" means a potentially
522 preventable admission, a potentially preventable ancillary
523 service, a potentially preventable complication, a potentially
524 preventable emergency department visit, a potentially
525 preventable readmission, or a combination of those events.
526 (i) "Potentially preventable readmission" means a return
527 hospitalization of a person within 15 days that may have
528 resulted from deficiencies in the care or treatment provided to
529 the person during a previous hospital stay or from deficiencies
530 in posthospital discharge followup. The term does not include a
531 hospital readmission necessitated by the occurrence of unrelated
532 events after the discharge. The term includes the readmission of

533 a person to a hospital for:
534 1. The same condition or procedure for which the person
535 was previously admitted;
536 2. An infection or other complication resulting from care
537 previously provided; or
538 3. A condition or procedure that indicates that a surgical
539 intervention performed during a previous admission was
540 unsuccessful in achieving the anticipated outcome.
541 (j) "Quality improvement collaboration" means a structured
542 process involving multiple providers and subject matter experts
543 to focus on a specific aspect of quality care in order to
544 analyze past performance and plan, implement, and evaluate
545 specific improvement methods.
546 (2) The agency shall establish and implement methodologies
547 to adjust Medicaid payment rates for hospitals, nursing homes,
548 and managed care plans based on evidence of improved patient
549 outcomes. Payment adjustments shall be dependent on
550 consideration of specific outcome measures for each provider
551 category, documented activities by providers to improve
552 performance, and evidence of significant improvement over time.
553 Measurement of outcomes shall include appropriate risk
554 adjustments, exclude cases that cannot be determined to be
555 preventable, and waive adjustments for providers with too few
556 cases to calculate reliable rates.
557 (a) Performance-based payment adjustments may be made up
558 to 1 percent of each qualified provider's rate for hospital
559 inpatient services, hospital outpatient services, nursing home
560 care, and the plan-specific capitation rate for prepaid health

561 plans. Adjustments for activities to improve performance may be
562 made up to 0.25 percent based on evidence of a provider's
563 engagement in activities specified in this section.
564 (b) Outcome measures shall be established for a base year,
565 which may be state fiscal year 2010-2011 or a more recent 12-
566 month period.
567 (3) Methodologies established pursuant to this section
568 shall use existing databases, including Medicaid claims,
569 encounter data compiled pursuant to s. 409.9122(14), and
570 hospital discharge data compiled pursuant to s. 408.061(1)(a).
571 To the extent possible, the agency shall use methods for
572 determining outcome measures in use by other payors.
573 (4) The agency shall seek any necessary federal approval
574 for the performance payment system and implement the system in
575 state fiscal year 2015-2016.
576 (5) The agency may appoint a technical advisory panel for
577 each provider category in order to solicit advice and
578 recommendations during the development and implementation of the
579 performance payment system.
580 (6) The performance payment system for hospitals shall
581 apply to general hospitals as defined in s. 395.002. The outcome
582 measures used to allocate positive payment adjustments shall
583 consist of one or more potentially preventable events such as
584 potentially preventable readmissions and potentially preventable
585 complications.
586 (a) For each 12-month period after the base year, the
587 agency shall determine the expected rate and the observed rate
588 for specific outcome indicators for each hospital. The

589 difference between the expected and observed rates shall be used
590 to establish a performance rate for each hospital. Hospitals
591 shall be ranked based on performance rates.
592 (b) For at least the first three rate-setting periods
593 after the performance payment system is implemented, a positive
594 payment adjustment shall be made to hospitals in the top 10
595 percentiles, based on their performance rates, and the 10
596 hospitals with the best year-to-year improvement among those
597 hospitals that did not rank in the top 10 percentiles. After the
598 third period of performance payment, the agency may replace the
599 criteria specified in this subsection with quantified benchmarks
600 for determining which providers qualify for positive payment
601 adjustments.
602 (c) Quality improvement activities that may earn positive
603 payment adjustments include:
604 1. Complying with requirements that reduce hospital-
605 acquired infections pursuant to s. 395.1055(1)(b); or
606 2. Actively engaging in a quality improvement
607 collaboration that focuses on reducing potentially preventable
608 admissions, potentially preventable readmissions, or hospital-
609 acquired infections.
610 (7) The performance payment system for skilled nursing
611 facilities shall apply to facilities licensed pursuant to part
612 II of chapter 400 with current Medicaid provider service
613 agreements. The agency, after consultation with the technical
614 advisory panel established in subsection (5), shall select
615 outcome measures to be used to allocate positive payment
616 adjustments. The outcome measures shall be consistent with the

617 federal Quality Assurance and Performance Improvement
618 requirements and include one or more of the following clinical
619 care areas: pressure sores, falls, or hospitalizations.
620 (a) For each 12-month period after the base year, the
621 agency shall determine the expected rate and the observed rate
622 for specific outcome indicators for each skilled nursing
623 facility. The difference between the expected and observed rates
624 shall be used to establish a performance rate for each skilled
625 nursing facility. Facilities shall be ranked based on
626 performance rates.
627 (b) For at least the first three rate-setting periods
628 after the performance payment system is implemented, a positive
629 payment adjustment shall be made to facilities in the top three
630 percentiles, based on their performance rates, and the 10
631 facilities with the best year-to-year improvement among
632 facilities that did not rank in the top three percentiles. After
633 the third period of performance payment, the agency may replace
634 the criteria specified in this subsection with quantified
635 benchmarks for determining which facilities qualify for positive
636 payment adjustments.
637 (c) Quality improvement activities that may earn positive
638 payment adjustments include:
639 1. Actively engaging in a comprehensive fall-prevention
640 program.
641 2. Actively engaging in a quality improvement
642 collaboration that focuses on reducing potentially preventable
643 hospital admissions or reducing the percentage of residents with
644 pressure ulcers that are new or worsened.

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645 (8) A performance payment system shall apply to all
646 managed care plans. The outcome measures used to allocate
647 positive payment adjustments shall consist of one or more
648 potentially preventable events, such as potentially preventable
649 initial hospital admissions, potentially preventable emergency
650 department visits, or potentially preventable ancillary
651 services.
652 (a) For each 12-month period after the base year, the
653 agency shall determine the expected rate and the observed rate
654 for specific outcome indicators for each managed care plan. The
655 difference between the expected and observed rates shall be used
656 to establish a performance rate for each plan. Managed care
657 plans shall be ranked based on performance rates.
658 (b) For at least the first three rate-setting periods
659 after the performance payment system is implemented, a positive
660 payment adjustment shall be made to the top 10 managed care
661 plans. After the third period during which the performance
662 payment system is implemented, the agency may replace the
663 criteria specified in this subsection with quantified benchmarks
664 for determining which plans qualify for positive payment
665 adjustments.
666 (9) Payment adjustments made pursuant to this section may
667 not result in expenditures that exceed the amounts appropriated
668 in the General Appropriations Act for hospitals, nursing homes,
669 and managed care plans.
670 Section 10. Paragraph (a) of subsection (1) of section
671 415.1034, Florida Statutes, is amended to read:
672 415.1034 Mandatory reporting of abuse, neglect, or

673 exploitation of vulnerable adults; mandatory reports of death.—
674 (1) MANDATORY REPORTING.—
675 (a) Any person, including, but not limited to, any:
676 1. A physician, osteopathic physician, medical examiner,
677 chiropractic physician, nurse, paramedic, emergency medical
678 technician, or hospital personnel engaged in the admission,
679 examination, care, or treatment of vulnerable adults;
680 2. A health professional or mental health professional
681 other than one listed in subparagraph 1.;
682 3. A practitioner who relies solely on spiritual means for
683 healing;
684 4. Nursing home staff; assisted living facility staff;
685 adult day care center staff; adult family-care home staff;
686 social worker; or other professional adult care, residential, or
687 institutional staff;
688 5. A state, county, or municipal criminal justice employee
689 or law enforcement officer;
690 6. An employee of the Department of Business and
691 Professional Regulation conducting inspections of public lodging
692 establishments under s. 509.032;
693 7. A Florida advocacy council member or long-term care
694 ombudsman council member; or
695 8. A bank, savings and loan, or credit union officer,
696 trustee, or employee; or
697 9. An employee or agent of a state or local agency who has
698 regulatory responsibilities over or who provides services to
699 persons residing in a state-licensed assisted living facility,
700

701 who knows, or has reasonable cause to suspect, that a vulnerable
702 adult has been or is being abused, neglected, or exploited must
703 ~~shall~~ immediately report such knowledge or suspicion to the
704 central abuse hotline.
705 Section 11. Subsections (7) and (8) of section 429.02,
706 Florida Statutes, are amended to read:
707 429.02 Definitions.—When used in this part, the term:
708 (7) "Community living support plan" means a written
709 document prepared by a mental health resident and the resident's
710 mental health case manager in consultation with the
711 administrator of an assisted living facility ~~with a limited~~
712 ~~mental health license~~ or the administrator's designee. A copy
713 must be provided to the administrator. The plan must include
714 information about the supports, services, and special needs of
715 the resident which enable the resident to live in the assisted
716 living facility and a method by which facility staff can
717 recognize and respond to the signs and symptoms particular to
718 that resident which indicate the need for professional services.
719 (8) "Cooperative agreement" means a written statement of
720 understanding between a mental health care provider and the
721 administrator of the assisted living facility ~~with a limited~~
722 ~~mental health license~~ in which a mental health resident is
723 living. The agreement must specify directions for accessing
724 emergency and after-hours care for the mental health resident. A
725 single cooperative agreement may service all mental health
726 residents who are clients of the same mental health care
727 provider.
728 Section 12. Subsection (1) and paragraphs (b) and (c) of

729 subsection (3) of section 429.07, Florida Statutes, are amended
730 to read:
731 429.07 License required; fee.—
732 (1) The requirements of part II of chapter 408 apply to
733 the provision of services that require licensure pursuant to
734 this part and part II of chapter 408 and to entities licensed by
735 or applying for such licensure from the agency pursuant to this
736 part. A license issued by the agency is required in order to
737 operate an assisted living facility in this state. Effective
738 July 1, 2013, an assisted living facility may not operate in
739 this state unless the facility is under the management of an
740 assisted living facility administrator licensed pursuant to s.
741 429.50.
742 (3) In addition to the requirements of s. 408.806, each
743 license granted by the agency must state the type of care for
744 which the license is granted. Licenses shall be issued for one
745 or more of the following categories of care: standard, extended
746 congregate care, limited nursing services, or limited mental
747 health.
748 (b) An extended congregate care license shall be issued to
749 facilities providing, directly or through contract, services
750 beyond those authorized in paragraph (a), including services
751 performed by persons licensed under part I of chapter 464 and
752 supportive services, as defined by rule, to persons who would
753 otherwise be disqualified from continued residence in a facility
754 licensed under this part.
755 1. In order for extended congregate care services to be
756 provided, the agency must first determine that all requirements

757 established in law and rule are met and must specifically
758 designate, on the facility's license, that such services may be
759 provided and whether the designation applies to all or part of
760 the facility. Such designation may be made at the time of
761 initial licensure or relicensure, or upon request in writing by
762 a licensee under this part and part II of chapter 408. The
763 notification of approval or the denial of the request shall be
764 made in accordance with part II of chapter 408. Existing
765 facilities qualifying to provide extended congregate care
766 services must have maintained a standard license and may not
767 have been subject to administrative sanctions during the
768 previous 2 years, or since initial licensure if the facility has
769 been licensed for less than 2 years, for any of the following
770 reasons:
771 a. A class I or class II violation;
772 b. Three or more repeat or recurring class III violations
773 of identical or similar resident care standards from which a
774 pattern of noncompliance is found by the agency;
775 c. Three or more class III violations that were not
776 corrected in accordance with the corrective action plan approved
777 by the agency;
778 d. Violation of resident care standards which results in
779 requiring the facility to employ the services of a consultant
780 pharmacist or consultant dietitian;
781 e. Denial, suspension, or revocation of a license for
782 another facility licensed under this part in which the applicant
783 for an extended congregate care license has at least 25 percent
784 ownership interest; or

785 f. Imposition of a moratorium pursuant to this part or
786 part II of chapter 408 or initiation of injunctive proceedings.
787 2. A facility that is licensed to provide extended
788 congregate care services shall maintain a written progress
789 report on each person who receives services which describes the
790 type, amount, duration, scope, and outcome of services that are
791 rendered and the general status of the resident's health. A
792 registered nurse, or appropriate designee, representing the
793 agency shall visit the facility at least once a year ~~quarterly~~
794 to monitor residents who are receiving extended congregate care
795 services and to determine if the facility is in compliance with
796 this part, part II of chapter 408, and relevant rules. One of
797 the visits may be in conjunction with the regular survey. The
798 monitoring visits may be provided through contractual
799 arrangements with appropriate community agencies. A registered
800 nurse shall serve as part of the team that inspects the
801 facility. The agency may waive a ~~one of the required yearly~~
802 monitoring visit ~~visits~~ for a facility that has been licensed
803 for at least 24 months to provide extended congregate care
804 services, if, during the inspection, the registered nurse
805 determines that extended congregate care services are being
806 provided appropriately, and if the facility has no:
807 a. Class I or class II violations and no uncorrected class
808 III violations;
809 b. Citations for a licensure violation which resulted from
810 referrals by the ombudsman to the agency; or
811 c. Citation for a licensure violation which resulted from
812 complaints to the agency. ~~The agency must first consult with the~~

813 ~~long-term care ombudsman council for the area in which the~~
814 ~~facility is located to determine if any complaints have been~~
815 ~~made and substantiated about the quality of services or care.~~
816 ~~The agency may not waive one of the required yearly monitoring~~
817 ~~visits if complaints have been made and substantiated.~~
818 3. A facility that is licensed to provide extended
819 congregate care services must:
820 a. Demonstrate the capability to meet unanticipated
821 resident service needs.
822 b. Offer a physical environment that promotes a homelike
823 setting, provides for resident privacy, promotes resident
824 independence, and allows sufficient congregate space as defined
825 by rule.
826 c. Have sufficient staff available, taking into account
827 the physical plant and firesafety features of the building, to
828 assist with the evacuation of residents in an emergency.
829 d. Adopt and follow policies and procedures that maximize
830 resident independence, dignity, choice, and decisionmaking to
831 permit residents to age in place, so that moves due to changes
832 in functional status are minimized or avoided.
833 e. Allow residents or, if applicable, a resident's
834 representative, designee, surrogate, guardian, or attorney in
835 fact to make a variety of personal choices, participate in
836 developing service plans, and share responsibility in
837 decisionmaking.
838 f. Implement the concept of managed risk.
839 g. Provide, directly or through contract, the services of
840 a person licensed under part I of chapter 464.

841 h. In addition to the training mandated in s. 429.52,
842 provide specialized training as defined by rule for facility
843 staff.
844 4. A facility that is licensed to provide extended
845 congregate care services is exempt from the criteria for
846 continued residency set forth in rules adopted under s. 429.41.
847 A licensed facility must adopt its own requirements within
848 guidelines for continued residency set forth by rule. However,
849 the facility may not serve residents who require 24-hour nursing
850 supervision. A licensed facility that provides extended
851 congregate care services must also provide each resident with a
852 written copy of facility policies governing admission and
853 retention.
854 5. The primary purpose of extended congregate care
855 services is to allow residents, as they become more impaired,
856 the option of remaining in a familiar setting from which they
857 would otherwise be disqualified for continued residency. A
858 facility licensed to provide extended congregate care services
859 may also admit an individual who exceeds the admission criteria
860 for a facility with a standard license, if the individual is
861 determined appropriate for admission to the extended congregate
862 care facility.
863 6. Before the admission of an individual to a facility
864 licensed to provide extended congregate care services, the
865 individual must undergo a medical examination as provided in s.
866 429.26(4) and the facility must develop a preliminary service
867 plan for the individual.
868 7. When a facility can no longer provide or arrange for

869 services in accordance with the resident's service plan and
870 needs and the facility's policy, the facility shall make
871 arrangements for relocating the person in accordance with s.
872 429.28(1)(k).
873 8. Failure to provide extended congregate care services
874 may result in denial of extended congregate care license
875 renewal.
876 (c) A limited nursing services license shall be issued to
877 a facility that provides services beyond those authorized in
878 paragraph (a) and as specified in this paragraph.
879 1. In order for limited nursing services to be provided in
880 a facility licensed under this part, the agency must first
881 determine that all requirements established in law and rule are
882 met and must specifically designate, on the facility's license,
883 that such services may be provided. Such designation may be made
884 at the time of initial licensure or relicensure, or upon request
885 in writing by a licensee under this part and part II of chapter
886 408. Notification of approval or denial of such request shall be
887 made in accordance with part II of chapter 408. Existing
888 facilities qualifying to provide limited nursing services shall
889 have maintained a standard license and may not have been subject
890 to administrative sanctions that affect the health, safety, and
891 welfare of residents for the previous 2 years or since initial
892 licensure if the facility has been licensed for less than 2
893 years.
894 2. Facilities that are licensed to provide limited nursing
895 services shall maintain a written progress report on each person
896 who receives such nursing services, which report describes the

897 type, amount, duration, scope, and outcome of services that are
898 rendered and the general status of the resident's health. A
899 registered nurse representing the agency shall visit such
900 facilities at least once ~~twice~~ a year to monitor residents who
901 are receiving limited nursing services and to determine if the
902 facility is in compliance with applicable provisions of this
903 part, part II of chapter 408, and related rules. The monitoring
904 visits may be provided through contractual arrangements with
905 appropriate community agencies. A registered nurse shall also
906 serve as part of the team that inspects such facility. The
907 agency may waive a monitoring visit for a facility that has been
908 licensed for at least 24 months to provide limited nursing
909 services and if the facility has no:
910 a. Class I or class II violations and no uncorrected class
911 III violations;
912 b. Citations for a licensure violation which resulted from
913 referrals by the ombudsman to the agency; or
914 c. Citation for a licensure violation which resulted from
915 complaints to the agency.
916 3. A person who receives limited nursing services under
917 this part must meet the admission criteria established by the
918 agency for assisted living facilities. When a resident no longer
919 meets the admission criteria for a facility licensed under this
920 part, arrangements for relocating the person shall be made in
921 accordance with s. 429.28(1)(k), unless the facility is licensed
922 to provide extended congregate care services.
923 Section 13. Section 429.075, Florida Statutes, is amended
924 to read:

925 429.075 Limited mental health license.—In order to serve
926 three or more mental health residents, an assisted living
927 facility ~~that serves three or more mental health residents~~ must
928 obtain a limited mental health license.
929 (1) To obtain a limited mental health license, a facility:
930 (a) Must hold a standard license as an assisted living
931 facility; and~~,~~
932 (b) Must not have been subject to administrative sanctions
933 during the previous 2 years, or since initial licensure if the
934 assisted living facility has been licensed for less than 2
935 years, for any of the following reasons:
936 1. One or more class I violations imposed by final agency
937 action;
938 2. Three or more class II violations imposed by final
939 agency action;
940 3. Ten or more class III violations that were not
941 corrected in accordance with s. 408.811(4);
942 4. Denial, suspension, or revocation of a license for
943 another assisted living facility licensed under this part in
944 which the license applicant had at least a 25-percent ownership
945 interest; or
946 5. Imposition of a moratorium pursuant to this part or
947 part II of chapter 408 or initiation of injunctive proceedings.
948 ~~any current uncorrected deficiencies or violations, and must~~
949 ~~ensure that,~~
950 (2) Within 6 months after receiving a limited mental
951 health license, the facility administrator and the staff of the
952 facility who are in direct contact with mental health residents

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953 must complete training of no less than 6 hours related to their
954 duties. This training shall be approved by the Department of
955 Children and Family Services. A training provider may charge a
956 reasonable fee for the training.
957 (3) Application for a limited mental health license ~~Such~~
958 ~~designation~~ may be made at the time of initial licensure or
959 relicensure or upon request in writing by a licensee under this
960 part and part II of chapter 408. Notification of approval or
961 denial of the license ~~such request~~ shall be made in accordance
962 with this part, part II of chapter 408, and applicable rules.
963 ~~This training will be provided by or approved by the Department~~
964 ~~of Children and Family Services.~~
965 (4)~~(2)~~ Facilities licensed to provide services to mental
966 health residents shall provide appropriate supervision and
967 staffing to provide for the health, safety, and welfare of such
968 residents.
969 ~~(3) A facility that has a limited mental health license~~
970 ~~must:~~
971 ~~(a) Have a copy of each mental health resident's community~~
972 ~~living support plan and the cooperative agreement with the~~
973 ~~mental health care services provider. The support plan and the~~
974 ~~agreement may be combined.~~
975 ~~(b) Have documentation that is provided by the Department~~
976 ~~of Children and Family Services that each mental health resident~~
977 ~~has been assessed and determined to be able to live in the~~
978 ~~community in an assisted living facility with a limited mental~~
979 ~~health license.~~
980 ~~(c) Make the community living support plan available for~~

981 ~~inspection by the resident, the resident's legal guardian, the~~
982 ~~resident's health care surrogate, and other individuals who have~~
983 ~~a lawful basis for reviewing this document.~~
984 ~~(d) Assist the mental health resident in carrying out the~~
985 ~~activities identified in the individual's community living~~
986 ~~support plan.~~
987 ~~(4) A facility with a limited mental health license may~~
988 ~~enter into a cooperative agreement with a private mental health~~
989 ~~provider. For purposes of the limited mental health license, the~~
990 ~~private mental health provider may act as the case manager.~~
991 Section 14. Section 429.0751, Florida Statutes, is created
992 to read:
993 429.0751 Mental health residents.—An assisted living
994 facility that has one or more mental health residents must:
995 (1) Enter into a cooperative agreement with the mental
996 health care service provider responsible for providing services
997 to the mental health resident, including a mental health care
998 service provider responsible for providing private pay services
999 to the mental health resident, to ensure coordination of care.
1000 (2) Consult with the mental health case manager and the
1001 mental health resident in the development of a community living
1002 support plan and maintain a copy of each mental health
1003 resident's community living support plan.
1004 (3) Make the community living support plan available for
1005 inspection by the resident, the resident's legal guardian, the
1006 resident's health care surrogate, and other individuals who have
1007 a lawful basis for reviewing this document.
1008 (4) Assist the mental health resident in carrying out the

1009 activities identified in the individual's community living
1010 support plan.
1011 (5) Have documentation that is provided by the Department
1012 of Children and Family Services that each mental health resident
1013 has been assessed and determined to be able to live in the
1014 community in an assisted living facility.
1015 Section 15. Paragraphs (a) and (b) of subsection (2) of
1016 section 429.178, Florida Statutes, are amended to read:
1017 429.178 Special care for persons with Alzheimer's disease
1018 or other related disorders.—
1019 (2)(a) An individual who is employed by a facility that
1020 provides special care for residents with Alzheimer's disease or
1021 other related disorders, and who has regular contact with such
1022 residents, must complete up to 4 hours of initial dementia-
1023 specific training developed or approved by the department. The
1024 training shall be completed within 3 months after beginning
1025 employment and shall satisfy the core training requirements of
1026 s. 429.52(2)(d) ~~429.52(2)(g)~~.
1027 (b) A direct caregiver who is employed by a facility that
1028 provides special care for residents with Alzheimer's disease or
1029 other related disorders, and who provides direct care to such
1030 residents, must complete the required initial training and 4
1031 additional hours of training developed or approved by the
1032 department. The training shall be completed within 9 months
1033 after beginning employment and shall satisfy the core training
1034 requirements of s. 429.52(2)(d) ~~429.52(2)(g)~~.
1035 Section 16. Subsection (2) of section 429.19, Florida
1036 Statutes, is amended to read:

1037 429.19 Violations; imposition of administrative fines;
1038 grounds.—
1039 (2) Each violation of this part and adopted rules shall be
1040 classified according to the nature of the violation and the
1041 gravity of its probable effect on facility residents.
1042 (a) The agency shall indicate the classification on the
1043 written notice of the violation as follows:
1044 1.(a) Class "I" violations are defined in s. 408.813. The
1045 agency shall issue a citation regardless of correction. The
1046 agency shall impose an administrative fine for a cited class I
1047 violation in an amount not less than $5,000 and not exceeding
1048 $10,000 for each violation.
1049 2.(b) Class "II" violations are defined in s. 408.813. The
1050 agency may issue a citation regardless of correction. The agency
1051 shall impose an administrative fine for a cited class II
1052 violation in an amount not less than $1,000 and not exceeding
1053 $5,000 for each violation.
1054 3.(c) Class "III" violations are defined in s. 408.813.
1055 The agency shall impose an administrative fine for a cited class
1056 III violation in an amount not less than $500 and not exceeding
1057 $1,000 for each violation.
1058 4.(d) Class "IV" violations are defined in s. 408.813. The
1059 agency shall impose an administrative fine for a cited class IV
1060 violation in an amount not less than $100 and not exceeding $200
1061 for each violation.
1062 (b) In lieu of the penalties provided in paragraph (a),
1063 the agency shall impose a $10,000 penalty for a violation that
1064 results in the death of a resident.

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1065 (c) Notwithstanding paragraph (a), if the assisted living
1066 facility is cited for a class I or class II violation and within
1067 24 months the facility is cited for another class I or class II
1068 violation, the agency shall double the fine for the subsequent
1069 violation if the violation is in the same class as the previous
1070 violation.
1071 Section 17. Section 429.195, Florida Statutes, is amended
1072 to read:
1073 429.195 Rebates prohibited; penalties.—
1074 (1) It is unlawful for any assisted living facility
1075 licensed under this part to contract or promise to pay or
1076 receive any commission, bonus, kickback, or rebate or engage in
1077 any split-fee arrangement in any form whatsoever with any
1078 person, health care provider, or health care facility as
1079 provided in s. 817.505 ~~physician, surgeon, organization, agency,~~
1080 ~~or person, either directly or indirectly, for residents referred~~
1081 ~~to an assisted living facility licensed under this part. A~~
1082 ~~facility may employ or contract with persons to market the~~
1083 ~~facility, provided the employee or contract provider clearly~~
1084 ~~indicates that he or she represents the facility~~. ~~A person or~~
1085 ~~agency independent of the facility may provide placement or~~
1086 ~~referral services for a fee to individuals seeking assistance in~~
1087 ~~finding a suitable facility; however, any fee paid for placement~~
1088 ~~or referral services must be paid by the individual looking for~~
1089 ~~a facility, not by the facility.~~
1090 (2) This section does not apply to:
1091 (a) Any individual employed by the assisted living
1092 facility or with whom the facility contracts to market the

1093 facility if the individual clearly indicates that he or she
1094 works with or for the facility.
1095 (b) Payments by an assisted living facility to a referral
1096 service that provides information, consultation, or referrals to
1097 consumers to assist them in finding appropriate care or housing
1098 options for seniors or disabled adults, if such referred
1099 consumers are not Medicaid recipients.
1100 (c) A resident of an assisted living facility who refers
1101 to the assisted living facility a friend, family member, or
1102 other individual with whom the resident has a personal
1103 relationship, in which case the assisted living facility may
1104 provide a monetary reward to the resident for making such
1105 referral.
1106 (3) ~~(2)~~ A violation of this section shall be considered
1107 patient brokering and is punishable as provided in s. 817.505.
1108 Section 18. Paragraph (j) is added to subsection (3) of
1109 section 817.505, Florida Statutes, to read:
1110 817.505 Patient brokering prohibited; exceptions;
1111 penalties.—
1112 (3) This section shall not apply to:
1113 (j) Any payment permitted under s. 429.195(2).
1114 Section 19. Section 429.231, Florida Statutes, is created
1115 to read:
1116 429.231 Advisory council; membership; duties.—
1117 (1) The department shall establish an advisory council to
1118 review the facts and circumstances of unexpected deaths in
1119 assisted living facilities and of elopements that result in harm
1120 to a resident. The purpose of this review is to:

1121 (a) Achieve a greater understanding of the causes and
1122 contributing factors of the unexpected deaths and elopements.
1123 (b) Identify any gaps, deficiencies, or problems in the
1124 delivery of services to the residents.
1125 (2) Based on the review, the advisory council shall make
1126 recommendations for:
1127 (a) Industry best practices that could be used to prevent
1128 unexpected deaths and elopements.
1129 (b) Training and educational requirements for employees
1130 and administrators of assisted living facilities.
1131 (c) Changes in the law, rules, or other policies to
1132 prevent unexpected deaths and elopements.
1133 (3) The advisory council shall prepare an annual
1134 statistical report on the incidence and causes of unexpected
1135 deaths in assisted living facilities and of elopements that
1136 result in harm to residents during the prior calendar year. The
1137 advisory council shall submit a copy of the report by December
1138 31 of each year to the Governor, the President of the Senate,
1139 and the Speaker of the House of Representatives. The report may
1140 make recommendations for state action, including specific
1141 policy, procedural, regulatory, or statutory changes, and any
1142 other recommended preventive action.
1143 (4) The advisory council shall consist of the following
1144 members:
1145 (a) The Secretary of Elderly Affairs, or a designee, who
1146 shall be the chair.
1147 (b) The Secretary of Health Care Administration, or a
1148 designee.

1149 (c) The Secretary of Children and Family Services, or a
1150 designee.
1151 (d) The State Long-Term Care Ombudsman, or a designee.
1152 (e) The following members, selected by the Governor:
1153 1. An owner or administrator of an assisted living
1154 facility with fewer than 17 beds.
1155 2. An owner or administrator of an assisted living
1156 facility with 17 or more beds.
1157 3. An owner or administrator of an assisted living
1158 facility with a limited mental health license.
1159 4. A representative from each of three statewide
1160 associations that represent assisted living facilities.
1161 5. A resident of an assisted living facility.
1162 (5) The advisory council shall meet at the call of the
1163 chair, but at least twice each calendar year. The chair may
1164 appoint ad hoc committees as necessary to carry out the duties
1165 of the council.
1166 (6) The members of the advisory council selected by the
1167 Governor shall be appointed to staggered terms of office which
1168 may not exceed 2 years. Members are eligible for reappointment.
1169 (7) Members of the advisory council shall serve without
1170 compensation, but are entitled to reimbursement for per diem and
1171 travel expenses incurred in the performance of their duties as
1172 provided in s. 112.061 and to the extent that funds are
1173 available.
1174 Section 20. Section 429.34, Florida Statutes, is amended
1175 to read:
1176 429.34 Right of entry and inspection.—

1177 (1) In addition to the requirements of s. 408.811, any
1178 duly designated officer or employee of the department, the
1179 Department of Children and Family Services, the Medicaid Fraud
1180 Control Unit of the Office of the Attorney General, the state or
1181 local fire marshal, or a member of the state or local long-term
1182 care ombudsman council may ~~shall have the right to~~ enter
1183 unannounced upon and into the premises of any facility licensed
1184 pursuant to this part in order to determine the state of
1185 compliance with ~~the provisions of~~ this part, part II of chapter
1186 408, and applicable rules. Data collected by the state or local
1187 long-term care ombudsman councils or the state or local advocacy
1188 councils may be used by the agency in investigations involving
1189 violations of regulatory standards.
1190 (2) In accordance with s. 408.811, every 24 months the
1191 agency shall conduct at least one unannounced inspection to
1192 determine compliance with this part, part II of chapter 408, and
1193 applicable rules. If the assisted living facility is accredited
1194 by the Joint Commission, the Council on Accreditation, or the
1195 Commission on Accreditation of Rehabilitation Facilities, the
1196 agency may conduct inspections less frequently, but in no event
1197 less than once every 5 years.
1198 (a) Two additional inspections shall be conducted every 6
1199 months for the next year if the assisted living facility has
1200 been cited for a class I violation or two or more class II
1201 violations arising from separate inspections within a 60-day
1202 period. In addition to any fines imposed on an assisted living
1203 facility under s. 429.19, the agency shall assess a fee of $69
1204 per bed for each of the additional two inspections, not to

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1205 exceed $12,000 per inspection.
1206 (b) The agency shall verify through subsequent inspections
1207 that any violation identified during an inspection is corrected.
1208 However, the agency may verify the correction of a class III or
1209 class IV violation unrelated to resident rights or resident care
1210 without reinspection if the facility submits adequate written
1211 documentation that the violation has been corrected.
1212 Section 21. Section 429.50, Florida Statutes, is created
1213 to read:
1214 429.50 Assisted living facility administrator;
1215 qualifications; licensure; fees; continuing education.—
1216 (1) The requirements of part II of chapter 408 apply to
1217 the provision of services that require licensure pursuant to
1218 this section. Effective July 1, 2013, an assisted living
1219 facility administrator must have a license issued by the agency.
1220 (2) To be eligible to be licensed as an assisted living
1221 facility administrator, an applicant must provide proof of a
1222 current and valid assisted living facility administrator
1223 certification and complete background screening pursuant to s.
1224 429.174.
1225 (3) Notwithstanding subsection (2), the agency may grant
1226 an initial license to an applicant who:
1227 (a)1. Has been employed as an assisted living facility
1228 administrator for 2 of the 5 years immediately preceding July 1,
1229 2013, or who is employed as an assisted living facility
1230 administrator on July 1, 2013;
1231 2. Is in compliance with the continuing education
1232 requirements in this part;

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1233 3. Within 2 years before the initial application for an
1234 assisted living facility administrator license, has not been the
1235 administrator of an assisted living facility when a Class I or
1236 Class II violation occurred for which the facility was cited by
1237 final agency action; and
1238 4. Has completed background screening pursuant to s.
1239 429.174; or
1240 (b) Is licensed in accordance with part II of chapter 468,
1241 is in compliance with the continuing education requirements in
1242 part II of chapter 468, and has completed background screening
1243 pursuant to s. 429.174.
1244 (4) An assisted living facility administrator
1245 certification must be issued by a third-party credentialing
1246 entity under contract with the agency, and, for the initial
1247 certification, the entity must certify that the individual:
1248 (a) Is at least 21 years old.
1249 (b) Has completed 30 hours of core training and 10 hours
1250 of supplemental training as described in s. 429.52.
1251 (c) Has passed the competency test described in s. 429.52
1252 with a minimum score of 80.
1253 (d) Has otherwise met the requirements of this part.
1254 (5) The agency shall contract with one or more third-party
1255 credentialing entities for the purpose of certifying assisted
1256 living facility administrators. A third-party credentialing
1257 entity must be a nonprofit organization that has met nationally
1258 recognized standards for developing and administering
1259 professional certification programs. The contract must require
1260 that a third-party credentialing entity:

1261 (a) Develop a competency test as described in s.
1262 429.52(7).
1263 (b) Maintain an Internet-based database, accessible to the
1264 public, of all persons holding an assisted living facility
1265 administrator certification.
1266 (c) Require continuing education consistent with s. 429.52
1267 and, at least, biennial certification renewal for persons
1268 holding an assisted living facility administrator certification.
1269 (6) The license shall be renewed biennially.
1270 (7) The fees for licensure shall be $150 for the initial
1271 licensure and $150 for each licensure renewal.
1272 (8) A licensed assisted living facility administrator must
1273 complete continuing education described in s. 429.52 for a
1274 minimum of 18 hours every 2 years.
1275 (9) The agency shall deny or revoke the license if the
1276 applicant or licensee:
1277 (a) Was the assisted living facility administrator of
1278 record for an assisted living facility licensed by the agency
1279 under this chapter, part II of chapter 408, or applicable rules,
1280 when the facility was cited for violations that resulted in
1281 denial or revocation of a license; or
1282 (b) Has a final agency action for unlicensed activity
1283 pursuant to this chapter, part II of chapter 408, or applicable
1284 rules.
1285 (10) The agency may deny or revoke the license if the
1286 applicant or licensee was the assisted living facility
1287 administrator of record for an assisted living facility licensed
1288 by the agency under this chapter, part II of chapter 408, or

1289 applicable rules, when the facility was cited for violations
1290 within the previous 3 years that resulted in a resident's death.
1291 (11) The agency may adopt rules as necessary to administer
1292 this section.
1293 Section 22. For the purpose of staggering license
1294 expiration dates, the Agency for Health Care Administration may
1295 issue a license for less than a 2-year period for assisted
1296 living facility administrator licensure as authorized in this
1297 act. The agency shall charge a prorated licensure fee for this
1298 shortened period. This section and the authority granted under
1299 this section expire December 31, 2013.
1300 Section 23. Section 429.52, Florida Statutes, is amended
1301 to read:
1302 429.52 Staff, administrator, and administrator license
1303 applicant training and educational programs; core educational
1304 requirement.—
1305 (1) Administrators, applicants to become administrators,
1306 and other assisted living facility staff must meet minimum
1307 training and education requirements established by the
1308 Department of Elderly Affairs by rule. This training and
1309 education is intended to assist facilities to appropriately
1310 respond to the needs of residents, to maintain resident care and
1311 facility standards, and to meet licensure requirements.
1312 (2) For assisted living facility staff other than
1313 administrators, ~~The department shall establish a competency test~~
1314 ~~and a minimum required score to indicate successful completion~~
1315 ~~of the training and educational requirements. The competency~~
1316 ~~test must be developed by the department in conjunction with the~~

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1317 ~~agency and providers.~~ the required training and education, which
1318 may be provided as inservice training, must cover at least the
1319 following topics:
1320 (a) Reporting major incidents and reporting adverse
1321 incidents ~~State law and rules relating to assisted living~~
1322 ~~facilities~~.
1323 (b) Resident rights and identifying and reporting abuse,
1324 neglect, and exploitation.
1325 (c) Emergency procedures, including firesafety and
1326 resident elopement response policies and procedures ~~Special~~
1327 ~~needs of elderly persons, persons with mental illness, and~~
1328 ~~persons with developmental disabilities and how to meet those~~
1329 ~~needs~~.
1330 (d) General information on interacting with individuals
1331 with Alzheimer's disease and related disorders ~~Nutrition and~~
1332 ~~food service, including acceptable sanitation practices for~~
1333 ~~preparing, storing, and serving food~~.
1334 ~~(e) Medication management, recordkeeping, and proper~~
1335 ~~techniques for assisting residents with self-administered~~
1336 ~~medication.~~
1337 ~~(f) Firesafety requirements, including fire evacuation~~
1338 ~~drill procedures and other emergency procedures.~~
1339 ~~(g) Care of persons with Alzheimer's disease and related~~
1340 ~~disorders.~~
1341 ~~(3) Effective January 1, 2004, a new facility~~
1342 ~~administrator must complete the required training and education,~~
1343 ~~including the competency test, within a reasonable time after~~
1344 ~~being employed as an administrator, as determined by the~~

1345 ~~department. Failure to do so is a violation of this part and~~
1346 ~~subjects the violator to an administrative fine as prescribed in~~
1347 ~~s. 429.19. Administrators licensed in accordance with part II of~~
1348 ~~chapter 468 are exempt from this requirement. Other licensed~~
1349 ~~professionals may be exempted, as determined by the department~~
1350 ~~by rule.~~
1351 ~~(4) Administrators are required to participate in~~
1352 ~~continuing education for a minimum of 12 contact hours every 2~~
1353 ~~years.~~
1354 (3) ~~(5)~~ Staff involved with the management of medications
1355 and assisting with the self-administration of medications under
1356 s. 429.256 must complete a minimum of 4 additional hours of
1357 training provided by a registered nurse, licensed pharmacist, or
1358 department staff. The department shall establish by rule the
1359 minimum requirements of this additional training.
1360 ~~(6)~~ Other facility staff shall participate in training
1361 relevant to their job duties as specified by rule of the
1362 department.
1363 (4) ~~(7)~~ If the department or the agency determines that
1364 there are problems in a facility that could be reduced through
1365 specific staff training or education beyond that already
1366 required under this section, the department or the agency may
1367 require, and provide, or cause to be provided, the training or
1368 education of any personal care staff in the facility.
1369 (5) The department, in consultation with the agency, the
1370 Department of Children and Family Services, and stakeholders,
1371 shall approve a standardized core training curriculum that must
1372 be completed by an applicant for licensure as an assisted living

1373 facility administrator. The curriculum must be offered in
1374 English and Spanish and timely updated to reflect changes in the
1375 law, rules, and best practices. The required training must
1376 cover, at a minimum, the following topics:
1377 (a) State law and rules relating to assisted living
1378 facilities.
1379 (b) Residents' rights and procedures for identifying and
1380 reporting abuse, neglect, and exploitation.
1381 (c) Special needs of elderly persons, persons who have
1382 mental illnesses, and persons who have developmental
1383 disabilities and how to meet those needs.
1384 (d) Nutrition and food service, including acceptable
1385 sanitation practices for preparing, storing, and serving food.
1386 (e) Medication management, recordkeeping, and proper
1387 techniques for assisting residents who self-administer
1388 medication.
1389 (f) Firesafety requirements, including procedures for fire
1390 evacuation drills and other emergency procedures.
1391 (g) Care of persons who have Alzheimer's disease and
1392 related disorders.
1393 (h) Elopement prevention.
1394 (i) Aggression and behavior management, deescalation
1395 techniques, and proper protocols and procedures of the Baker Act
1396 as provided in part I of chapter 394.
1397 (j) Do-not-resuscitate orders.
1398 (k) Infection control.
1399 (l) Admission, continuing residency, and best practices in
1400 the assisted living industry.

1401 (m) Phases of care and interacting with residents.
1402 (6) The department, in consultation with the agency, the
1403 Department of Children and Family Services, and stakeholders,
1404 shall approve a supplemental training curriculum consisting of
1405 topics related to extended congregate care, limited mental
1406 health, and business operations, including human resources,
1407 financial management, and supervision of staff, which must be
1408 completed by an applicant for licensure as an assisted living
1409 facility administrator.
1410 (7) The department shall approve a competency test for
1411 applicants for licensure as an assisted living facility
1412 administrator which tests the individual's comprehension of the
1413 training required in subsections (5) and (6). The competency
1414 test must be reviewed annually and timely updated to reflect
1415 changes in the law, rules, and best practices. The competency
1416 test must be offered in English and Spanish and may be made
1417 available through testing centers.
1418 (8) The department, in consultation with the agency and
1419 stakeholders, shall approve curricula for continuing education
1420 for administrators and staff members of an assisted living
1421 facility. Continuing education shall include topics similar to
1422 that of the core training required for staff members and
1423 applicants for licensure as assisted living facility
1424 administrators. Continuing education may be offered through
1425 online courses, and any fees associated with the online service
1426 shall be borne by the licensee or the assisted living facility.
1427 Required continuing education must, at a minimum, cover the
1428 following topics:

1429 (a) Elopement prevention.
1430 (b) Deescalation techniques.
1431 (c) Phases of care and interacting with residents.
1432 (9) Effective January 1, 2013, the training required by
1433 this section shall be conducted by:
1434 (a) Any Florida College System institution;
1435 (b) Any nonpublic postsecondary educational institution
1436 licensed or exempted from licensure pursuant to chapter 1005; or
1437 (c) Any statewide association that contracts with the
1438 department to provide training. The department may specify
1439 minimum trainer qualifications in the contract. For the purposes
1440 of this section, the term "statewide association" means any
1441 statewide entity which represents and provides technical
1442 assistance to assisted living facilities.
1443 (10) Assisted living facility trainers shall keep a record
1444 of individuals who complete training and shall, within 30 days
1445 after the individual completes the course, electronically submit
1446 the record to the agency and to all third-party credentialing
1447 entities under contract with the agency pursuant to s.
1448 429.50(5).
1449 (11) The department shall adopt rules as necessary to
1450 administer this section.
1451 ~~(8) The department shall adopt rules related to these~~
1452 ~~training requirements, the competency test, necessary~~
1453 ~~procedures, and competency test fees and shall adopt or contract~~
1454 ~~with another entity to develop a curriculum, which shall be used~~
1455 ~~as the minimum core training requirements. The department shall~~
1456 ~~consult with representatives of stakeholder associations and~~

1457 ~~agencies in the development of the curriculum.~~
1458 ~~(9) The training required by this section shall be~~
1459 ~~conducted by persons registered with the department as having~~
1460 ~~the requisite experience and credentials to conduct the~~
1461 ~~training. A person seeking to register as a trainer must provide~~
1462 ~~the department with proof of completion of the minimum core~~
1463 ~~training education requirements, successful passage of the~~
1464 ~~competency test established under this section, and proof of~~
1465 ~~compliance with the continuing education requirement in~~
1466 ~~subsection (4).~~
1467 ~~(10) A person seeking to register as a trainer must also:~~
1468 ~~(a) Provide proof of completion of a 4-year degree from an~~
1469 ~~accredited college or university and must have worked in a~~
1470 ~~management position in an assisted living facility for 3 years~~
1471 ~~after being core certified;~~
1472 ~~(b) Have worked in a management position in an assisted~~
1473 ~~living facility for 5 years after being core certified and have~~
1474 ~~1 year of teaching experience as an educator or staff trainer~~
1475 ~~for persons who work in assisted living facilities or other~~
1476 ~~long-term care settings;~~
1477 ~~(c) Have been previously employed as a core trainer for~~
1478 ~~the department; or~~
1479 ~~(d) Meet other qualification criteria as defined in rule,~~
1480 ~~which the department is authorized to adopt.~~
1481 ~~(11) The department shall adopt rules to establish trainer~~
1482 ~~registration requirements.~~
1483 Section 24. Section 429.54, Florida Statutes, is amended
1484 to read:

1485 429.54 Collection of information; local subsidy<u>;</u>
1486 <u>interagency communication</u>.—
1487 (1) To enable the department to collect the information
1488 requested by the Legislature regarding the actual cost of
1489 providing room, board, and personal care in <u>assisted living</u>
1490 facilities, the department <u>may</u> ~~is authorized to~~ conduct field
1491 visits and audits of facilities as ~~may be~~ necessary. The owners
1492 of randomly sampled facilities shall submit such reports,
1493 audits, and accountings of cost as the department may require by
1494 rule; <u>however,</u> ~~provided that~~ such reports, audits, and
1495 accountings <u>may not be more than</u> ~~shall be~~ the minimum necessary
1496 to implement the provisions of this <u>subsection</u> ~~section~~. Any
1497 facility selected to participate in the study shall cooperate
1498 with the department by providing cost of operation information
1499 to interviewers.
1500 (2) Local governments or organizations may contribute to
1501 the cost of care of local facility residents by further
1502 subsidizing the rate of state-authorized payment to such
1503 facilities. Implementation of local subsidy shall require
1504 departmental approval and <u>may</u> ~~shall~~ not result in reductions in
1505 the state supplement.
1506 <u>(3) Subject to the availability of funds, the agency, the</u>
1507 <u>department, the Department of Children and Family Services, and</u>
1508 <u>the Agency for Persons with Disabilities shall develop or modify</u>
1509 <u>electronic systems of communication among state-supported</u>
1510 <u>automated systems to ensure that relevant information pertaining</u>
1511 <u>to the regulation of assisted living facilities and assisted</u>
1512 <u>living facility staff is timely and effectively communicated</u>

1513 among agencies in order to facilitate the protection of
1514 residents.
1515 Section 25. For fiscal year 2012-2013, 8 full-time
1516 equivalent positions, with associated salary rate of 324,962,
1517 are authorized and the sum of $554,399 in recurring funds from
1518 the Health Care Trust Fund of the Agency for Health Care
1519 Administration are appropriated to the Agency for Health Care
1520 Administration for the purpose of carrying out the regulatory
1521 activities provided in this act.
1522 Section 26. This act shall take effect July 1, 2012.