

1 A bill to be entitled
2 An act relating to assisted living facilities;
3 amending s. 394.4574, F.S.; providing that Medicaid
4 prepaid behavioral health plans are responsible for
5 enrolled mental health residents; providing that
6 managing entities under contract with the Department
7 of Children and Families are responsible for mental
8 health residents who are not enrolled with a Medicaid
9 prepaid behavioral health plan; providing
10 responsibilities for Medicaid prepaid behavioral
11 health plans and managing entities; deleting
12 provisions relating to coordination of health care
13 services with an assisted living facility under
14 certain circumstances and notice of procedures
15 relating to resident emergent conditions; requiring
16 that the community living support plan be completed
17 and provided to the administrator of a facility upon
18 admission of a mental health resident; requiring the
19 community living support plan to be updated under
20 certain conditions relating to a resident's behavioral
21 health status; requiring the case manager assigned to
22 a mental health resident of an assisted living
23 facility that holds a limited mental health license to
24 keep specified records regarding interactions with the
25 resident and provide those records to the responsible
26 entity and maintain the records for a specified time;
27 requiring the monitoring and enforcement of community
28 living support plans and cooperative agreements by the

29 | case manager; amending s. 400.0078, F.S.; requiring
30 | that, upon admission to a long-term care facility, a
31 | resident or the representative of a resident be
32 | informed that retaliatory action cannot be taken
33 | against a resident for presenting grievances or for
34 | exercising any other resident right; amending s.
35 | 429.07, F.S.; requiring an extended congregate care
36 | license to be issued to certain facilities that have
37 | been licensed as assisted living facilities under
38 | certain circumstances; providing the purpose of an
39 | extended congregate care license; providing that the
40 | initial extended congregate care license of an
41 | assisted living facility is provisional under certain
42 | circumstances; requiring the licensee to notify the
43 | Agency for Health Care Administration whenever it
44 | accepts a resident who qualifies for extended
45 | congregate care services; revising the frequency of
46 | and conditions for monitoring visits to facilities
47 | providing extended congregate care or limited nursing
48 | services to residents; authorizing the agency to deny
49 | or revoke a facility's extended congregate care
50 | license under certain circumstances; providing that
51 | the agency's monitoring visits may be in conjunction
52 | with other agency inspections; amending s. 429.075,
53 | F.S.; requiring an assisted living facility that
54 | serves one or more mental health residents to obtain a
55 | limited mental health license; revising the methods
56 | employed by a limited mental health facility relating

57 | to placement requirements to include providing the
58 | Department of Children and Families that a request for
59 | documentation was sent within a specified period of
60 | time after admission; amending s. 429.14, F.S.;
61 | revising the actions under which the agency may deny,
62 | revoke, or suspend the license of an assisted living
63 | facility or impose an administrative fine; revising
64 | the criteria upon which the agency must deny or revoke
65 | the license of an assisted living facility; providing
66 | that the licensee may present certain factors in
67 | mitigation of the revocation of a license; requiring
68 | the agency to impose an immediate moratorium on the
69 | license of an assisted living facility under certain
70 | circumstances; deleting a requirement that the agency
71 | to provide a list of facilities with denied,
72 | suspended, or revoked licenses to the Department of
73 | Business and Professional Regulation; exempting a
74 | facility from the 45-day notice requirement if the
75 | agency requires the facility to relocate residents
76 | under certain circumstances; amending s. 429.19, F.S.;
77 | revising provisions relating to the determination of
78 | and the amounts and uses of administrative fines;
79 | amending s. 429.41, F.S.; revising provisions relating
80 | to agency inspections of a facility that has been
81 | cited for certain licensure violations; amending s.
82 | 429.52, F.S.; requiring new employees of assisted
83 | living facilities to attend an orientation; requiring
84 | verification of completion of the orientation by the

85 | employee and requiring this information to be
 86 | maintained by the assisted living facility; conforming
 87 | a cross-reference; requiring the agency in conjunction
 88 | with the Department of Elder Affairs to establish a
 89 | database for the collection of employee and
 90 | administrator training documentation; amending s.
 91 | 429.54, F.S.; requiring the development of electronic
 92 | systems of communication among all agencies involved
 93 | in the regulation of assisted living facilities;
 94 | creating s. 429.55, F.S.; requiring the agency to
 95 | submit a report to the Governor and the Legislature;
 96 | creating s. 429.56, F.S.; requiring the agency to
 97 | propose a rating system of assisted living facilities
 98 | for consumers; providing criteria for the content and
 99 | a timetable for the implementation of the rating
 100 | system; providing an effective date.

101

102 | Be It Enacted by the Legislature of the State of Florida:

103

104 | Section 1. Section 394.4574, Florida Statutes, is amended
 105 | to read:

106 | 394.4574 ~~Department~~ Responsibilities for coordination of
 107 | services for a mental health resident who resides in an assisted
 108 | living facility that holds a limited mental health license.—

109 | (1) As used in this section, the term "mental health
 110 | resident," ~~for purposes of this section,~~ means an individual who
 111 | receives social security disability income due to a mental
 112 | disorder as determined by the Social Security Administration or

113 receives supplemental security income due to a mental disorder
114 as determined by the Social Security Administration and receives
115 optional state supplementation.

116 (2) Medicaid prepaid behavioral health plans are
117 responsible for enrolled mental health residents, and managing
118 entities under contract with the department are responsible for
119 mental health residents who are not enrolled with a Medicaid
120 prepaid behavioral health plan. Each responsible entity shall
121 ~~The department must~~ ensure that:

122 (a) A mental health resident has been assessed by a
123 psychiatrist, clinical psychologist, clinical social worker, or
124 psychiatric nurse, or an individual who is supervised by one of
125 these professionals, and determined to be appropriate to reside
126 in an assisted living facility. The documentation must be
127 provided to the administrator of the facility within 30 days
128 after the mental health resident has been admitted to the
129 facility. An evaluation completed upon discharge from a state
130 mental hospital meets the requirements of this subsection
131 related to appropriateness for placement as a mental health
132 resident if it was completed within 90 days before ~~prior to~~
133 admission to the facility.

134 (b) A cooperative agreement, as required in s. 429.075, is
135 developed between the mental health care services provider that
136 serves a mental health resident and the administrator of the
137 assisted living facility with a limited mental health license in
138 which the mental health resident is living. ~~Any entity that~~
139 ~~provides Medicaid prepaid health plan services shall ensure the~~
140 ~~appropriate coordination of health care services with an~~

141 ~~assisted living facility in cases where a Medicaid recipient is~~
142 ~~both a member of the entity's prepaid health plan and a resident~~
143 ~~of the assisted living facility. If the entity is at risk for~~
144 ~~Medicaid targeted case management and behavioral health~~
145 ~~services, the entity shall inform the assisted living facility~~
146 ~~of the procedures to follow should an emergent condition arise.~~

147 (c) The community living support plan, as defined in s.
148 429.02, has been prepared by a mental health resident and a
149 mental health case manager of that resident in consultation with
150 the administrator of the facility or the administrator's
151 designee. The plan must be completed and provided to the
152 administrator of the assisted living facility with a limited
153 mental health license in which the mental health resident lives
154 upon the resident's admission. The support plan and the
155 agreement may be in one document.

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

159 (e) The mental health services provider assigns a case
160 manager to each mental health resident for whom the entity is
161 responsible ~~who lives in an assisted living facility with a~~
162 ~~limited mental health license~~. The case manager is responsible
163 for coordinating the development of and implementation of the
164 community living support plan defined in s. 429.02. The plan
165 must be updated at least annually or when there is a significant
166 change to the resident's behavioral health status, such as an
167 inpatient admission, medications, level of service, or
168 residence. Each case manager shall keep a record of the date and

169 time of any face-to-face interaction with the resident and make
170 the record available to the responsible entity for inspection.
171 The record must be retained for at least 2 years after the date
172 of the most recent interaction.

173 (f) Adequate and consistent monitoring and enforcement of
174 community living support plans and cooperative agreements are
175 conducted by the resident's case manager.

176 (g) Concerns are reported to the appropriate regulatory
177 oversight organization if a regulated provider fails to deliver
178 appropriate services or otherwise acts in a manner that has the
179 potential to result in harm to the resident.

180 (3) The Secretary of Children and Families ~~Family~~
181 ~~Services~~, in consultation with the Agency for Health Care
182 Administration, shall ~~annually~~ require each district
183 administrator to develop, with community input, a detailed
184 annual plan that demonstrates ~~detailed plans that demonstrate~~
185 how the district will ensure the provision of state-funded
186 mental health and substance abuse treatment services to
187 residents of assisted living facilities that hold a limited
188 mental health license. These plans must be consistent with the
189 substance abuse and mental health district plan developed
190 pursuant to s. 394.75 and must address case management services;
191 access to consumer-operated drop-in centers; access to services
192 during evenings, weekends, and holidays; supervision of the
193 clinical needs of the residents; and access to emergency
194 psychiatric care.

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

197 400.0078 Citizen access to State Long-Term Care Ombudsman
 198 Program services.—

199 (2) ~~Every resident or representative of a resident shall~~
 200 ~~receive,~~ Upon admission to a long-term care facility, each
 201 resident or representative of a resident must receive
 202 information regarding the purpose of the State Long-Term Care
 203 Ombudsman Program, the statewide toll-free telephone number for
 204 receiving complaints, information that retaliatory action cannot
 205 be taken against a resident for presenting grievances or for
 206 exercising any other resident right, and other relevant
 207 information regarding how to contact the program. Residents or
 208 their representatives must be furnished additional copies of
 209 this information upon request.

210 Section 3. Paragraphs (b) and (c) of subsection (3) of
 211 section 429.07, Florida Statutes, are amended to read:

212 429.07 License required; fee.—

213 (3) In addition to the requirements of s. 408.806, each
 214 license granted by the agency must state the type of care for
 215 which the license is granted. Licenses shall be issued for one
 216 or more of the following categories of care: standard, extended
 217 congregate care, limited nursing services, or limited mental
 218 health.

219 (b) An extended congregate care license shall be issued to
 220 facilities that have been licensed as assisted living facilities
 221 for 2 years or more and that provide ~~providing,~~ directly or
 222 through contract, services beyond those authorized in paragraph
 223 (a), including services performed by persons licensed under part
 224 I of chapter 464 and supportive services, as defined by rule, to

225 persons who would otherwise be disqualified from continued
226 residence in a facility licensed under this part. An extended
227 congregate care license may also be issued to those facilities
228 that have provisional extended congregate care licenses and meet
229 the requirements for licensure under subparagraph 2. The primary
230 purpose of extended congregate care services is to allow
231 residents, as they become more impaired, the option of remaining
232 in a familiar setting from which they would otherwise be
233 disqualified for continued residency. A facility licensed to
234 provide extended congregate care services may also admit an
235 individual who exceeds the admission criteria for a facility
236 with a standard license if the individual is determined
237 appropriate for admission to the facility.

238 1. In order for extended congregate care services to be
239 provided, the agency must first determine that all requirements
240 established in law and rule are met and must specifically
241 designate, on the facility's license, that such services may be
242 provided and whether the designation applies to all or part of
243 the facility. Such designation may be made at the time of
244 initial licensure or relicensure, or upon request in writing by
245 a licensee under this part and part II of chapter 408. The
246 notification of approval or the denial of the request shall be
247 made in accordance with part II of chapter 408. Existing
248 facilities qualifying to provide extended congregate care
249 services must have maintained a standard license and may not
250 have been subject to administrative sanctions during the
251 previous 2 years, or since initial licensure if the facility has
252 been licensed for less than 2 years, for any of the following

253 reasons:

- 254 a. A class I or class II violation;
- 255 b. Three or more repeat or recurring class III violations
- 256 of identical or similar resident care standards from which a
- 257 pattern of noncompliance is found by the agency;
- 258 c. Three or more class III violations that were not
- 259 corrected in accordance with the corrective action plan approved
- 260 by the agency;
- 261 d. Violation of resident care standards which results in
- 262 requiring the facility to employ the services of a consultant
- 263 pharmacist or consultant dietitian;
- 264 e. Denial, suspension, or revocation of a license for
- 265 another facility licensed under this part in which the applicant
- 266 for an extended congregate care license has at least 25 percent
- 267 ownership interest; or
- 268 f. Imposition of a moratorium pursuant to this part or
- 269 part II of chapter 408 or initiation of injunctive proceedings.

270 2. If an assisted living facility has been licensed for
 271 less than 2 years but meets all other licensure requirements for
 272 an extended congregate care license, the facility shall be
 273 issued a provisional extended congregate care license for 6
 274 months. Within the first 3 months after the provisional license
 275 is issued, the licensee shall notify the agency when the
 276 facility has admitted an extended congregate care resident,
 277 after which an unannounced inspection shall be made to determine
 278 compliance with requirements of an extended congregate care
 279 license. If the licensee demonstrates compliance with all of the
 280 requirements of an extended congregate care license during the

281 inspection, the licensee shall be issued an extended congregate
282 care license. In addition to sanctions authorized under this
283 part, if violations are found during the inspection and the
284 licensee fails to demonstrate compliance with all assisted
285 living requirements during a followup inspection, the licensee
286 shall immediately suspend extended congregate care services and
287 the provisional extended congregate care license expires.

288 3.2. A facility that is licensed to provide extended
289 congregate care services shall maintain a written progress
290 report on each person who receives services which describes the
291 type, amount, duration, scope, and outcome of services that are
292 rendered and the general status of the resident's health. A
293 registered nurse, or appropriate designee, representing the
294 agency shall visit the facility at least twice a year ~~quarterly~~
295 to monitor residents who are receiving extended congregate care
296 services and to determine if the facility is in compliance with
297 this part, part II of chapter 408, and relevant rules. One of
298 the visits may be in conjunction with the regular survey. The
299 monitoring visits may be provided through contractual
300 arrangements with appropriate community agencies. A registered
301 nurse shall serve as part of the team that inspects the
302 facility. The agency may waive one of the required yearly
303 monitoring visits for a facility ~~that has been licensed for at~~
304 ~~least 24 months to provide extended congregate care services,~~
305 ~~if, during the inspection, the registered nurse determines that~~
306 ~~extended congregate care services are being provided~~
307 ~~appropriately, and if the facility has held an extended~~
308 congregate care license during the last 24 months, has had no

309 | class I or class II violations, has had ~~and~~ no uncorrected class
310 | III violations, and has had no confirmed ombudsman council
311 | complaints that resulted in a citation for licensure. ~~The agency~~
312 | ~~must first consult with the long-term care ombudsman council for~~
313 | ~~the area in which the facility is located to determine if any~~
314 | ~~complaints have been made and substantiated about the quality of~~
315 | ~~services or care. The agency may not waive one of the required~~
316 | ~~yearly monitoring visits if complaints have been made and~~
317 | ~~substantiated.~~

318 | 4.3. A facility that is licensed to provide extended
319 | congregate care services must:

320 | a. Demonstrate the capability to meet unanticipated
321 | resident service needs.

322 | b. Offer a physical environment that promotes a homelike
323 | setting, provides for resident privacy, promotes resident
324 | independence, and allows sufficient congregate space as defined
325 | by rule.

326 | c. Have sufficient staff available, taking into account
327 | the physical plant and firesafety features of the building, to
328 | assist with the evacuation of residents in an emergency.

329 | d. Adopt and follow policies and procedures that maximize
330 | resident independence, dignity, choice, and decisionmaking to
331 | permit residents to age in place, so that moves due to changes
332 | in functional status are minimized or avoided.

333 | e. Allow residents or, if applicable, a resident's
334 | representative, designee, surrogate, guardian, or attorney in
335 | fact to make a variety of personal choices, participate in
336 | developing service plans, and share responsibility in

337 decisionmaking.

338 f. Implement the concept of managed risk.

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

341 h. In addition to the training mandated in s. 429.52,
342 provide specialized training as defined by rule for facility
343 staff.

344 5.4. A facility that is licensed to provide extended
345 congregate care services is exempt from the criteria for
346 continued residency set forth in rules adopted under s. 429.41.
347 A licensed facility must adopt its own requirements within
348 guidelines for continued residency set forth by rule. However,
349 the facility may not serve residents who require 24-hour nursing
350 supervision. A licensed facility that provides extended
351 congregate care services must also provide each resident with a
352 written copy of facility policies governing admission and
353 retention.

354 ~~5. The primary purpose of extended congregate care~~
355 ~~services is to allow residents, as they become more impaired,~~
356 ~~the option of remaining in a familiar setting from which they~~
357 ~~would otherwise be disqualified for continued residency. A~~
358 ~~facility licensed to provide extended congregate care services~~
359 ~~may also admit an individual who exceeds the admission criteria~~
360 ~~for a facility with a standard license, if the individual is~~
361 ~~determined appropriate for admission to the extended congregate~~
362 ~~care facility.~~

363 6. Before the admission of an individual to a facility
364 licensed to provide extended congregate care services, the

365 individual must undergo a medical examination as provided in s.
366 429.26(4) and the facility must develop a preliminary service
367 plan for the individual.

368 7. ~~If~~ When a facility can no longer provide or arrange for
369 services in accordance with the resident's service plan and
370 needs and the facility's policy, the facility must ~~shall~~ make
371 arrangements for relocating the person in accordance with s.
372 429.28(1)(k).

373 ~~8. Failure to provide extended congregate care services~~
374 ~~may result in denial of extended congregate care license~~
375 ~~renewal.~~

376
377 The agency may deny or revoke a facility's extended congregate
378 care license for not meeting the standards of an extended
379 congregate care license or for any of the grounds listed in this
380 paragraph.

381 (c) A limited nursing services license shall be issued to
382 a facility that provides services beyond those authorized in
383 paragraph (a) and as specified in this paragraph.

384 1. In order for limited nursing services to be provided in
385 a facility licensed under this part, the agency must first
386 determine that all requirements established in law and rule are
387 met and must specifically designate, on the facility's license,
388 that such services may be provided. Such designation may be made
389 at the time of initial licensure or licensure renewal
390 ~~relicensure~~, or upon request in writing by a licensee under this
391 part and part II of chapter 408. Notification of approval or
392 denial of such request shall be made in accordance with part II

393 of chapter 408. An existing facility that qualifies ~~facilities~~
 394 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have
 395 maintained a standard license and may not have been subject to
 396 administrative sanctions that affect the health, safety, and
 397 welfare of residents for the previous 2 years or since initial
 398 licensure if the facility has been licensed for less than 2
 399 years.

400 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide
 401 limited nursing services shall maintain a written progress
 402 report on each person who receives such nursing services. The~~r~~
 403 ~~which~~ report must describe ~~describes~~ the type, amount, duration,
 404 scope, and outcome of services that are rendered and the general
 405 status of the resident's health. A registered nurse representing
 406 the agency shall visit the facility ~~such facilities~~ at least
 407 annually ~~twice a year~~ to monitor residents who are receiving
 408 limited nursing services and to determine if the facility is in
 409 compliance with applicable provisions of this part, part II of
 410 chapter 408, and related rules. The monitoring visits may be
 411 provided through contractual arrangements with appropriate
 412 community agencies. A registered nurse shall also serve as part
 413 of the team that inspects such facility. Visits may be in
 414 conjunction with other agency inspections. The agency may waive
 415 one of the required yearly monitoring visits for a facility that
 416 has:

417 a. A limited nursing services license for at least 24
 418 months;

419 b. No class I or class II violations and no uncorrected
 420 class III violations; and

421 c. No confirmed ombudsman council complaints that resulted
 422 in a citation for licensure.

423 3. A person who receives limited nursing services under
 424 this part must meet the admission criteria established by the
 425 agency for assisted living facilities. When a resident no longer
 426 meets the admission criteria for a facility licensed under this
 427 part, arrangements for relocating the person shall be made in
 428 accordance with s. 429.28(1)(k), unless the facility is licensed
 429 to provide extended congregate care services.

430 Section 4. Section 429.075, Florida Statutes, is amended
 431 to read:

432 429.075 Limited mental health license.—An assisted living
 433 facility that serves one ~~three~~ or more mental health residents
 434 must obtain a limited mental health license.

435 (1) To obtain a limited mental health license, a facility
 436 must hold a standard license as an assisted living facility,
 437 must not have any current uncorrected ~~deficiencies or~~
 438 violations, and must ensure that, within 6 months after
 439 receiving a limited mental health license, the facility
 440 administrator and the staff of the facility who are in direct
 441 contact with mental health residents must complete training of
 442 no less than 6 hours related to their duties. Such designation
 443 may be made at the time of initial licensure or relicensure or
 444 upon request in writing by a licensee under this part and part
 445 II of chapter 408. Notification of approval or denial of such
 446 request shall be made in accordance with this part, part II of
 447 chapter 408, and applicable rules. This training must ~~will~~ be
 448 provided by or approved by the Department of Children and

449 Families ~~Family Services~~.

450 (2) A facility that is ~~Facilities~~ licensed to provide
451 services to mental health residents must ~~shall~~ provide
452 appropriate supervision and staffing to provide for the health,
453 safety, and welfare of such residents.

454 (3) A facility that has a limited mental health license
455 must:

456 (a) Have a copy of each mental health resident's community
457 living support plan and the cooperative agreement with the
458 mental health care services provider. The support plan and the
459 agreement may be combined.

460 (b) Have documentation that is provided by the Department
461 of Children and Families ~~Family Services~~ that each mental health
462 resident has been assessed and determined to be able to live in
463 the community in an assisted living facility that has ~~with~~ a
464 limited mental health license or provide written evidence that a
465 request for documentation was sent to the Department of Children
466 and Families within 72 hours of admission.

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

471 (d) Assist the mental health resident in carrying out the
472 activities identified in the individual's community living
473 support plan.

474 (4) A facility that has ~~with~~ a limited mental health
475 license may enter into a cooperative agreement with a private
476 mental health provider. For purposes of the limited mental

477 health license, the private mental health provider may act as
 478 the case manager.

479 Section 5. Section 429.14, Florida Statutes, is amended to
 480 read:

481 429.14 Administrative penalties.—

482 (1) In addition to the requirements of part II of chapter
 483 408, the agency may deny, revoke, and suspend any license issued
 484 under this part and impose an administrative fine in the manner
 485 provided in chapter 120 against a licensee for a violation of
 486 any provision of this part, part II of chapter 408, or
 487 applicable rules, or for any of the following actions by a
 488 licensee, for the actions of any person subject to level 2
 489 background screening under s. 408.809, or for the actions of any
 490 facility staff ~~employee~~:

491 (a) An intentional or negligent act seriously affecting
 492 the health, safety, or welfare of a resident of the facility.

493 (b) A ~~The~~ determination by the agency that the owner lacks
 494 the financial ability to provide continuing adequate care to
 495 residents.

496 (c) Misappropriation or conversion of the property of a
 497 resident of the facility.

498 (d) Failure to follow the criteria and procedures provided
 499 under part I of chapter 394 relating to the transportation,
 500 voluntary admission, and involuntary examination of a facility
 501 resident.

502 (e) A citation of any of the following violations
 503 ~~deficiencies~~ as specified in s. 429.19:

504 1. One or more cited class I violations ~~deficiencies~~.

505 2. Three or more cited class II violations ~~deficiencies~~.

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

509 (f) Failure to comply with the background screening
 510 standards of this part, s. 408.809(1), or chapter 435.

511 (g) Violation of a moratorium.

512 (h) Failure of the license applicant, the licensee during
 513 relicensure, or a licensee that holds a provisional license to
 514 meet the minimum license requirements of this part, or related
 515 rules, at the time of license application or renewal.

516 (i) An intentional or negligent life-threatening act in
 517 violation of the uniform firesafety standards for assisted
 518 living facilities or other firesafety standards which ~~that~~
 519 threatens the health, safety, or welfare of a resident of a
 520 facility, as communicated to the agency by the local authority
 521 having jurisdiction or the State Fire Marshal.

522 (j) Knowingly operating any unlicensed facility or
 523 providing without a license any service that must be licensed
 524 under this chapter or chapter 400.

525 (k) Any act constituting a ground upon which application
 526 for a license may be denied.

527 (2) Upon notification by the local authority having
 528 jurisdiction or by the State Fire Marshal, the agency may deny
 529 or revoke the license of an assisted living facility that fails
 530 to correct cited fire code violations that affect or threaten
 531 the health, safety, or welfare of a resident of a facility.

532 (3) The agency may deny or revoke a license of an ~~to any~~

533 applicant or controlling interest as defined in part II of
534 chapter 408 which has or had a 25-percent or greater financial
535 or ownership interest in any other facility that is licensed
536 under this part, or in any entity licensed by this state or
537 another state to provide health or residential care, if that
538 ~~which~~ facility or entity during the 5 years prior to the
539 application for a license closed due to financial inability to
540 operate; had a receiver appointed or a license denied,
541 suspended, or revoked; was subject to a moratorium; or had an
542 injunctive proceeding initiated against it.

543 (4) The agency shall deny or revoke the license of an
544 assisted living facility if:

545 (a) The applicant or licensee had a license that was
546 revoked by the agency, the Department of Children and Families,
547 the Department of Juvenile Justice, or the Agency for Persons
548 with Disabilities;

549 (b) There are two moratoria, issued pursuant to this part
550 or part II of chapter 408, within a 2-year period which are
551 imposed by final order;

552 (c) The facility is cited for two or more class I
553 violations arising from unrelated circumstances during the same
554 survey or investigation; or

555 (d) The facility is cited for two or more class I
556 violations arising from separate surveys or investigations
557 within a 2-year period that has two or more class I violations
558 that are similar or identical to violations identified by the
559 agency during a survey, inspection, monitoring visit, or
560 complaint investigation occurring within the previous 2 years.

561 The licensee may present factors in mitigation of revocation,
562 and the agency may make a determination not to revoke a license
563 based upon a showing that revocation is inappropriate under the
564 circumstances.

565 (5) An action taken by the agency to suspend, deny, or
566 revoke a facility's license under this part or part II of
567 chapter 408, in which the agency claims that the facility owner
568 or an employee of the facility has threatened the health,
569 safety, or welfare of a resident of the facility must be heard
570 by the Division of Administrative Hearings of the Department of
571 Management Services within 120 days after receipt of the
572 facility's request for a hearing, unless that time limitation is
573 waived by both parties. The administrative law judge shall ~~must~~
574 render a decision within 30 days after receipt of a proposed
575 recommended order.

576 (6) The agency shall impose an immediate moratorium, as
577 provided under s. 408.814, on an assisted living facility that
578 fails to provide the agency access to the facility or prohibits
579 the agency from conducting a regulatory inspection. The licensee
580 may not restrict agency staff in accessing and copying records
581 or in conducting interviews with facility staff or any
582 individual who receives services from the facility ~~provide to~~
583 ~~the Division of Hotels and Restaurants of the Department of~~
584 ~~Business and Professional Regulation, on a monthly basis, a list~~
585 ~~of those assisted living facilities that have had their licenses~~
586 ~~denied, suspended, or revoked or that are involved in an~~
587 ~~appellate proceeding pursuant to s. 120.60 related to the~~
588 ~~denial, suspension, or revocation of a license.~~

589 (7) Agency notification of a license suspension or
590 revocation, or denial of a license renewal, shall be posted and
591 visible to the public at the facility.

592 (8) If a facility is required to relocate some or all of
593 its residents due to agency action, that facility is exempt from
594 the 45 days' notice requirement in s. 429.28(1)(k). This
595 provision does not exempt the facility from any deadlines for
596 corrective action set by the agency.

597 Section 6. Section 429.19, Florida Statutes, is amended to
598 read:

599 429.19 Violations; imposition of administrative fines;
600 grounds.—

601 (1) In addition to the requirements of part II of chapter
602 408, the agency shall impose an administrative fine in the
603 manner provided in chapter 120 for the violation of any
604 provision of this part, part II of chapter 408, and applicable
605 rules by an assisted living facility, for the actions of any
606 person subject to level 2 background screening under s. 408.809,
607 for the actions of any facility employee, or for an intentional
608 or negligent act seriously affecting the health, safety, or
609 welfare of a resident of the facility.

610 (2) Each violation of this part and adopted rules must
611 ~~shall~~ be classified according to the nature of the violation and
612 the gravity of its probable effect on facility residents. The
613 agency shall indicate the classification on the written notice
614 of the violation as follows:

615 (a) Class "I" violations are defined in s. 408.813. The
616 agency shall impose an administrative fine of \$7,500 for each a

617 cited class I violation in a facility that is licensed for fewer
618 than 100 beds at the time of the violation in an amount not less
619 than \$5,000 and not exceeding \$10,000 for each violation. The
620 agency shall impose an administrative fine of \$11,250 for each
621 cited class I violation in a facility that is licensed for 100
622 or more beds at the time of the violation. If the noncompliance
623 occurs within the prior 12 months, the fine must be levied for
624 violations that are corrected before an inspection.

625 (b) Class "II" violations are defined in s. 408.813. The
626 agency shall impose an administrative fine of \$3,000 for each a
627 cited class II violation in a facility that is licensed for
628 fewer than 100 beds at the time of the violation in an amount
629 not less than \$1,000 and not exceeding \$5,000 for each
630 violation. The agency shall impose an administrative fine of
631 \$4,500 for each cited class II violation in a facility that is
632 licensed for 100 or more beds at the time of the violation.

633 (c) Class "III" violations are defined in s. 408.813. The
634 agency shall impose an administrative fine of \$750 for each a
635 cited class III violation in a facility that is licensed for
636 fewer than 100 beds at the time of the violation in an amount
637 not less than \$500 and not exceeding \$1,000 for each violation.
638 The agency shall impose an administrative fine of \$1,125 for
639 each cited class III violation in a facility that is licensed
640 for 100 or more beds at the time of the violation.

641 (d) Class "IV" violations are defined in s. 408.813. The
642 agency shall impose an administrative fine of \$150 for each a
643 cited class IV violation in a facility that is licensed for
644 fewer than 100 beds at the time of the violation in an amount

645 ~~not less than \$100 and not exceeding \$200 for each violation.~~
646 The agency shall impose an administrative fine of \$225 for each
647 cited class IV violation in a facility that is licensed for 100
648 or more beds at the time of the violation.

649 (e) Any fine imposed for a class I or class II violation
650 must be doubled if a facility was previously cited for one or
651 more class I or class II violations during the agency's last
652 licensure inspection or any inspection or complaint
653 investigation since the last licensure inspection.

654 (f) Notwithstanding s. 408.813(2)(c) and (d) and s.
655 408.832, a fine must be imposed for each class III or class IV
656 violation, regardless of correction, if a facility was
657 previously cited for one or more class III or class IV
658 violations during the agency's last licensure inspection or any
659 inspection or complaint investigation since the last licensure
660 inspection for the same regulatory violation. A fine imposed for
661 a class III or class IV violation must be doubled if a facility
662 was previously cited for one or more class III or class IV
663 violations during the agency's last two licensure inspections
664 for the same regulatory violation.

665 (g) Regardless of the class of violation cited, instead of
666 the fine amounts listed in paragraphs (a)-(d), the agency shall
667 impose an administrative fine of \$500 if a facility is found not
668 to be in compliance with the background screening requirements
669 as provided in s. 408.809.

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

673 ~~(a) The gravity of the violation, including the~~
674 ~~probability that death or serious physical or emotional harm to~~
675 ~~a resident will result or has resulted, the severity of the~~
676 ~~action or potential harm, and the extent to which the provisions~~
677 ~~of the applicable laws or rules were violated.~~

678 ~~(b) Actions taken by the owner or administrator to correct~~
679 ~~violations.~~

680 ~~(c) Any previous violations.~~

681 ~~(d) The financial benefit to the facility of committing or~~
682 ~~continuing the violation.~~

683 ~~(e) The licensed capacity of the facility.~~

684 (3)~~(4)~~ Each day of continuing violation after the date
685 established by the agency ~~fixed for~~ correction ~~termination~~ of
686 the violation, ~~as ordered by the agency,~~ constitutes an
687 additional, separate, and distinct violation.

688 (4)~~(5)~~ An ~~Any~~ action taken to correct a violation shall be
689 documented in writing by the owner or administrator of the
690 facility and verified through followup visits by agency
691 personnel. The agency may impose a fine and, in the case of an
692 owner-operated facility, revoke or deny a facility's license
693 when a facility administrator fraudulently misrepresents action
694 taken to correct a violation.

695 (5)~~(6)~~ A ~~Any~~ facility whose owner fails to apply for a
696 change-of-ownership license in accordance with part II of
697 chapter 408 and operates the facility under the new ownership is
698 subject to a fine of \$5,000.

699 (6)~~(7)~~ In addition to any administrative fines imposed,
700 the agency may assess a survey fee, equal to the lesser of one

CS/HB 1319

2013

701 half of the facility's biennial license and bed fee or \$500, to
702 cover the cost of conducting initial complaint investigations
703 that result in the finding of a violation that was the subject
704 of the complaint or monitoring visits conducted under s.
705 429.28(3)(c) to verify the correction of the violations.

706 (7)~~(8)~~ During an inspection, the agency shall make a
707 reasonable attempt to discuss each violation with the owner or
708 administrator of the facility, prior to written notification.

709 (8)~~(9)~~ The agency shall develop and disseminate an annual
710 list of all facilities sanctioned or fined for violations of
711 state standards, the number and class of violations involved,
712 the penalties imposed, and the current status of cases. The list
713 shall be disseminated, at no charge, to the Department of
714 Elderly Affairs, the Department of Health, the Department of
715 Children and Families ~~Family Services~~, the Agency for Persons
716 with Disabilities, the area agencies on aging, the Florida
717 Statewide Advocacy Council, and the state and local ombudsman
718 councils. The Department of Children and Families ~~Family~~
719 ~~Services~~ shall disseminate the list to service providers under
720 contract to the department who are responsible for referring
721 persons to a facility for residency. The agency may charge a fee
722 commensurate with the cost of printing and postage to other
723 interested parties requesting a copy of this list. This
724 information may be provided electronically or through the
725 agency's Internet site.

726 Section 7. Subsection (5) of section 429.41, Florida
727 Statutes, is amended to read:

728 429.41 Rules establishing standards.—

729 (5) In order to allocate resources effectively, the agency
730 may use an abbreviated biennial standard licensure inspection
731 that consists of a review of key quality-of-care standards in
732 lieu of a full inspection in a facility that has a good record
733 of past performance. However, a full inspection must be
734 conducted in a facility that has a history of class I or class
735 II violations, uncorrected class III violations, confirmed
736 ombudsman council complaints that resulted in a citation for
737 licensure, or confirmed licensure complaints which resulted in a
738 citation for a licensure violation, within the previous
739 licensure period immediately preceding the inspection or if a
740 potentially serious problem is identified during the abbreviated
741 inspection. The agency, in consultation with the department,
742 shall develop the key quality-of-care standards with input from
743 the State Long-Term Care Ombudsman Council and representatives
744 of provider groups for incorporation into its rules.

745 Section 8. Present subsections (1) through (11) of section
746 429.52, Florida Statutes, are renumbered as subsections (2)
747 through (12), respectively, new subsections (1) and (11) are
748 added to that section, and present subsection (9) of that
749 section is amended, to read:

750 429.52 Staff training and educational programs; core
751 educational requirement.—

752 (1) Effective October 1, 2013, each new assisted living
753 facility employee who has not previously completed core training
754 must attend a preservice orientation provided by the facility
755 before interacting with residents. The preservice orientation
756 must be at least 2 hours in duration and cover topics that help

757 the employee provide responsible care and respond to the needs
758 of residents of the facility. Upon completion, the employee and
759 the administrator of the facility must sign an affidavit stating
760 that the employee completed the required preservice orientation.
761 The facility must keep the affidavit in the employee's work
762 file.

763 (10)-(9) The training required by this section must ~~shall~~
764 be conducted by persons registered with the department as having
765 the requisite experience and credentials to conduct the
766 training. A person seeking to register as a trainer must provide
767 the department with proof of completion of the minimum core
768 training education requirements, successful passage of the
769 competency test established under this section, and proof of
770 compliance with the continuing education requirement in
771 subsection (5)-(4).

772 (11) The agency in conjunction with the department shall
773 establish a database for collection of training requirements,
774 competency testing, and documentation required under this part.
775 The database shall be used by administrators and licensees to
776 determine eligibility of staff. The department may adopt
777 additional reporting requirements by rule. Effective July 1,
778 2014, organizations and individuals providing training, testing,
779 or documentation under this part must submit electronically the
780 following information to the agency:

781 (a) The trainee's name and identifying information; dates
782 of training, tests, or certificates of successful passage,
783 completion, and attendance; and scores for competency testing
784 for persons trained, tested, or issued certificates.

785 (b) Identifying information for the organization or
 786 individual providing the training, testing, or certificates.

787
 788 Failure to comply with reporting requirements may result in
 789 suspension of the authority to offer training, testing, or issue
 790 certificates.

791 Section 9. Subsection (3) is added to section 429.54,
 792 Florida Statutes, to read:

793 429.54 Collection of information; local subsidy.—

794 (3) Subject to the availability of funds, the agency, the
 795 department, the Department of Children and Families, and the
 796 Agency for Persons with Disabilities shall develop or modify
 797 electronic systems of communication among state-supported
 798 automated systems to ensure that relevant information pertaining
 799 to the regulation of assisted living facilities and facility
 800 staff is timely and effectively communicated among agencies in
 801 order to facilitate the protection of residents.

802 Section 10. Section 429.55, Florida Statutes, is created
 803 to read:

804 429.55 Intersurveyor reliability.—The Legislature finds
 805 that consistent regulation of assisted living facilities
 806 benefits residents and operators of such facilities. To
 807 determine whether all surveys are consistent, the agency shall
 808 conduct a study of intersurveyor reliability for assisted living
 809 facilities. By November 1, 2013, the agency shall submit a
 810 report to the Governor, the President of the Senate, and the
 811 Speaker of the House of Representatives of its findings and make
 812 any recommendations to improve intersurveyor reliability.

813 Section 11. Section 429.56, Florida Statutes, is created
814 to read:

815 429.56 Consumer information.—The Legislature finds that
816 consumers need additional information on the quality of care and
817 service provided in assisted living facilities in order to
818 select the best facility for themselves or their loved ones.

819 Therefore, the agency shall:

820 (1) Propose a rating system for assisted living
821 facilities. The proposal must include, but is not limited to,
822 the data elements to be used, the method of collecting the data,
823 the method of determining the rating, an estimate of the initial
824 and ongoing costs of a rating system to both the agency and
825 assisted living facilities, and a timetable for the
826 implementation of the rating system for assisted living
827 facilities. The agency shall submit its proposal to the
828 Governor, the President of the Senate, and the Speaker of the
829 House of Representatives by November 1, 2013.

830 (2) By January 1, 2014, create a content that is easily
831 accessible through the front page of the agency's website. At a
832 minimum, the content must include:

833 (a) Information on each licensed assisted living facility,
834 including, but not limited to:

- 835 1. The name and address of the facility.
836 2. The number and type of licensed beds in the facility.
837 3. The types of licenses held by the facility.
838 4. The facility's license expiration date and status.
839 5. Other relevant information that the agency currently
840 collects.

CS/HB 1319

2013

841 (b) A list of the facility's violations, including, for
842 each violation:

843 1. A summary of the violation which is presented in a
844 manner understandable by the general public;

845 2. Any sanctions imposed by final order; and

846 3. The date of the correction.

847 (c) Links to inspection reports that the agency has on
848 file.

849 Section 12. This act shall take effect July 1, 2013.