

By Senator Farmer

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1 A bill to be entitled
2 An act relating to nursing homes and related health
3 care facilities; creating s. 366.042, F.S.; requiring
4 the Florida Public Service Commission to ensure that
5 public utilities effectively prioritize the
6 restoration of services to certain health care
7 facilities in the event of emergencies; amending s.
8 366.15, F.S.; deleting a provision specifying that
9 noncompliance with certain provisions related to
10 medically essential electric public utility service
11 does not form the basis for a cause of action against
12 a public utility; deleting a provision specifying that
13 a public utility's failure to comply with certain
14 obligations does not constitute negligence; amending
15 s. 400.0060, F.S.; defining the term "autonomy";
16 amending s. 400.0063, F.S.; establishing an Office of
17 the State Long-Term Care Ombudsman within the
18 Department of Elderly Affairs to administer the State
19 Long-Term Care Ombudsman Program; requiring the office
20 to contract with or make a grant to a private
21 nonprofit organization to manage the day-to-day
22 operations of the program; providing that the office
23 is not responsible for the licensing or certification
24 of long-term care facilities and prohibiting the
25 office from having a relationship with any such
26 facility; revising the appointment and removal
27 processes for the state ombudsman; requiring the state
28 ombudsman and the office's legal advocate to register
29 as lobbyists; expanding the duties of the legal

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30 advocate to include assisting the state ombudsman with
31 certain tasks related to the autonomy of the program;
32 amending s. 400.0065, F.S.; providing that a purpose
33 of the State Long-Term Care Ombudsman Program is to
34 support, rather than to administer, the state and
35 local councils; revising requirements for the annual
36 report required to be prepared by the State Long-Term
37 Care Ombudsman; amending s. 400.0067, F.S.; revising
38 the membership of the State Long-Term Care Ombudsman
39 Council; revising the number of consecutive terms that
40 may be served by the chair of the state council;
41 amending s. 400.0069, F.S.; requiring each state long-
42 term care ombudsman district to convene a public
43 meeting at least monthly, rather than quarterly;
44 requiring representatives of the program, upon an
45 affirmative vote of the state council, to comment on
46 certain existing and proposed rules, regulations, and
47 policies; amending s. 400.0073, F.S.; authorizing
48 state and local councils to hold public hearings
49 related to certain investigations; requiring the legal
50 advocate to pursue legal remedies under certain
51 circumstances; amending s. 400.0074, F.S.; requiring
52 that onsite administrative assessments include the
53 review of the facility's emergency management plan;
54 authorizing the office's legal advocate to pursue
55 legal remedies for certain violations; requiring,
56 rather than authorizing, the department to adopt rules
57 implementing procedures for conducting onsite
58 administrative assessments of long-term care

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59 facilities; amending s. 400.0077, F.S.; specifying
60 that the public discussion of administrative
61 assessments before the council is open to the public
62 and subject to ch. 119 and s. 286.011, F.S.; amending
63 s. 400.0078, F.S.; requiring the State Long-Term Care
64 Ombudsman Program to create and make available a
65 poster that contains certain information; requiring
66 each long-term care facility to display the State
67 Long-Term Care Ombudsman Program poster; creating s.
68 400.008, F.S.; providing legislative intent; requiring
69 the Office of the State Long-Term Care Ombudsman to
70 conduct unannounced quality-of-care evaluations of
71 certain health and long-term care facilities;
72 providing civil immunity from liability for certain
73 personnel of the office who participate in
74 evaluations; amending s. 400.0081, F.S.; requiring
75 long-term care facilities to timely provide to the
76 program, upon request, copies of records, policies, or
77 documents needed to complete an investigation or
78 assessment; requiring, rather than authorizing, the
79 department to adopt rules to establish procedures to
80 ensure access to facilities, residents, and records;
81 amending s. 400.0083, F.S.; revising a penalty;
82 requiring the Office of the State Long-Term Care
83 Ombudsman to investigate alleged violations of willful
84 interference with representatives of the State Long-
85 Term Care Ombudsman Program and retaliation against
86 specified persons; requiring the office to report to
87 the Agency for Health Care Administration if it is

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88 determined that a violation occurred; requiring the
89 agency to impose a fine for certain instances of
90 interference with or retaliation against the State
91 Long-Term Care Ombudsman Program; requiring the agency
92 to collect and transfer fines into the Quality of
93 Long-Term Care Facility Improvement Trust Fund;
94 requiring that the Division of Administrative Hearings
95 conduct a hearing if a determination of a violation is
96 contested; requiring the division to adopt rules;
97 requiring the administrative law judge to render a
98 decision within a specified timeframe after a hearing;
99 requiring the Chief Inspector General to investigate
100 any willful agency interference with the State Long-
101 Term Care Ombudsman Program; amending s. 400.0087,
102 F.S.; requiring the nonprofit organization responsible
103 for the day-to-day operations of the State Long-Term
104 Care Ombudsman Program to consult with the state
105 ombudsman in developing and submitting a budget to the
106 department; limiting to a specified percentage the
107 amount that the department may divert from the federal
108 ombudsman appropriation to cover administrative costs
109 associated with the State Long-Term Care Ombudsman
110 Program; amending s. 400.0089, F.S.; specifying the
111 information that must be included in quarterly reports
112 required to be made by the State Long-Term Care
113 Ombudsman Program; requiring the State Long-Term Care
114 Ombudsman Program to include an analysis of such
115 information in an annual report; amending s. 400.0091,
116 F.S.; revising the subject areas that must be

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117 addressed in the curriculum for initial and continuing
118 education training provided to representatives of the
119 State Long-Term Care Ombudsman Program; creating s.
120 400.0223, F.S.; defining the term "electronic
121 monitoring device"; requiring nursing homes to allow
122 residents, and certain individuals on their behalf, to
123 monitor the residents' rooms through the use of
124 electronic monitoring devices; requiring nursing homes
125 to require persons who conduct such monitoring to post
126 a specific notice on the door to the residents' rooms;
127 providing that such monitoring is voluntary and may be
128 conducted only at the request and expense of residents
129 or certain individuals on their behalf; prohibiting
130 nursing homes from making certain inquiries of
131 prospective residents or of the representatives of
132 prospective residents; prohibiting nursing homes from
133 rejecting applications for residency or removing
134 residents because of intent to use or use of
135 electronic monitoring devices; requiring nursing homes
136 to inform residents and specified individuals of the
137 resident's right to conduct electronic monitoring;
138 requiring nursing homes to make reasonable physical
139 accommodations for electronic monitoring and to
140 provide a place for mounting and access to a power
141 source; authorizing nursing homes to require that
142 electronic monitoring be conducted in plain view;
143 authorizing nursing homes to require that a request to
144 conduct electronic monitoring be made in writing;
145 providing that audio or video recordings created

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146 through the use of electronic monitoring may be
147 admitted into evidence in court or administrative
148 proceedings; providing criminal penalties for nursing
149 home administrators who violate specified provisions
150 relating to electronic monitoring; requiring prior
151 written consent from a resident or certain individuals
152 acting on the resident's behalf before a nursing home
153 employee, officer, or agent may interfere with an
154 electronic monitoring device; providing a criminal
155 penalty for such interference without prior written
156 consent; imposing a civil penalty on nursing homes
157 that violate provisions related to electronic
158 monitoring; requiring the agency to transfer certain
159 funds into the Quality of Long-Term Care Facility
160 Improvement Trust Fund; repealing s. 400.0238, F.S.,
161 relating to limitations on punitive damages; amending
162 s. 400.0239, F.S.; conforming provisions to changes
163 made by the act; creating s. 400.1185, F.S.; requiring
164 licensed facilities to establish internal resident
165 safety and quality-of-care coordinator programs;
166 specifying required components for the programs,
167 including development and implementation of a
168 reporting system for adverse incidents; requiring that
169 the reporting system require employees and agents to
170 report adverse incidents to the facility's quality-of-
171 care coordinator within a specified timeframe;
172 assigning responsibility for the programs to facility
173 governing boards; requiring facilities to hire a risk
174 manager to serve as the quality-of-care coordinator;

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175 limiting the number of internal resident safety and
176 quality-of-care programs that coordinators may be
177 responsible for; encouraging the development of other
178 approaches to reducing adverse incidents and
179 violations of residents' rights; requiring the agency
180 to adopt rules to administer the programs; requiring
181 that programs file all incident reports with a
182 designated employee of the facility, who must meet
183 certain requirements; providing immunity from civil
184 liability for individuals who file incident reports;
185 defining the term "adverse incident"; requiring
186 facilities to submit annual reports that must include
187 specified information to the agency by a specified
188 date; requiring the agency to review the information
189 submitted to determine whether disciplinary action is
190 warranted; requiring facilities to submit an incident
191 report and specified information to the agency within
192 a certain timeframe after they receive the report;
193 requiring the agency to determine within a certain
194 timeframe whether certain adverse incidents have
195 occurred; requiring the agency to require a written
196 plan of correction from facilities that violate
197 reporting requirements or provisions relating to the
198 internal resident safety and quality-of-care
199 coordinator programs; authorizing the agency to impose
200 specified civil penalties and administrative fines for
201 certain violations; requiring facilities to provide
202 the agency with access to certain facility records;
203 requiring the agency to review quality-of-care

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204 programs as part of its licensure inspection process;
205 providing that, in the absence of intentional fraud,
206 quality-of-care coordinators may not be held
207 financially liable for actions taken within the scope
208 of their authority in connection with the
209 administration of this section; requiring the agency
210 to report to the appropriate regulatory board its
211 reasonable belief that the conduct of an agent or
212 employee of a licensed facility constitutes grounds
213 for disciplinary action; requiring the agency to
214 publish on its website an annual report card
215 containing specific information for licensed
216 facilities beginning on a specified date; requiring
217 the report card to include a specified statement;
218 amending s. 400.141, F.S.; requiring a licensed
219 nursing home to satisfy certain financial
220 requirements; providing that the required funds may
221 not be used for litigation costs or attorney fees in
222 certain circumstances; creating s. 400.1411, F.S.;

223 requiring nursing home facilities, as a condition of
224 licensure, to demonstrate to the satisfaction of the
225 agency and the Office of Insurance Regulation of the
226 Financial Services Commission the financial ability to
227 pay claims and costs arising out of the rendering of,
228 or the failure to render, care or services; providing
229 proper means of documentation; requiring insurers,
230 self-insurers, and risk retention groups to promptly
231 notify the agency and the office of cancellation or
232 nonrenewal of insurance; requiring a licensee to pay

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233 the entire amount of a judgment, award, or settlement
234 and all accrued interest if a court orders a final
235 judgment against the licensee; providing that certain
236 deceptive, untrue, or fraudulent representations or
237 violations of financial requirements by any individual
238 or entity on behalf of a facility may result in
239 disciplinary action or a civil penalty with no
240 aggregate limit; requiring the agency to issue a
241 conditional license and authorizing the agency to
242 immediately suspend a license if a facility shows a
243 continuous pattern of violation of this section;
244 amending s. 400.19, F.S.; requiring the agency to
245 determine compliance with standards for electricity
246 and emergency power sources during routine unannounced
247 inspections of licensed nursing home facilities;
248 amending s. 400.191, F.S.; requiring facilities that
249 are on the Nursing Home Guide Watch List to
250 conspicuously post a sign that meets certain
251 requirements on each entrance to the facility for a
252 certain period of time; requiring the agency to cite
253 for a class I violation, place a facility on a 6-month
254 inspection cycle, and extend the duration of a
255 facility's inclusion on the watch list for a specified
256 additional period of time under certain circumstances;
257 creating s. 400.226, F.S.; requiring licensed nursing
258 homes to comply with certain federal rules and
259 regulations; providing that a violation of such
260 federal regulations is considered negligence per se;
261 amending s. 400.23, F.S.; requiring the agency, in

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262 consultation with the Department of Health and the
263 Department of Elderly Affairs, to adopt and enforce
264 rules requiring a licensed nursing home facility to
265 have adequate electrical equipment, an emergency power
266 source, and a supply of fuel which meet specified
267 criteria; requiring a comprehensive emergency plan to
268 provide for the evacuation of all residents of a
269 facility if the facility experiences a power outage
270 and is unable to sustain adequate emergency power;
271 requiring the agency to immediately impose a civil
272 penalty in a specified amount on a facility if it
273 determines that a resident of the facility died as the
274 result of abuse or neglect; amending s. 406.11, F.S.;
275 requiring medical examiners to determine the cause of
276 death when a person dies in their district in a
277 nursing home on the federal Special Focus Facility
278 list or on the Nursing Home Guide Watch List; amending
279 s. 406.13, F.S.; requiring a medical examiner to
280 notify and forward documentation to the state attorney
281 if he or she determines that a nursing home resident
282 died as a result of abuse, sexual abuse, or
283 negligence; requiring the state attorney to seat a
284 grand jury within 90 days after receipt of such
285 notification and investigate whether criminal charges
286 are warranted; repealing s. 429.298, F.S., relating to
287 limitations on punitive damages; amending s. 429.34,
288 F.S.; requiring the agency to determine compliance
289 with certain standards during the routine inspection
290 of a licensed assisted living facility, including

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291 those related to construction and emergency power
292 sources; amending s. 429.41, F.S.; requiring the
293 Department of Elderly Affairs, in consultation with
294 the agency, the Department of Children and Families,
295 and the Department of Health, to adopt and enforce
296 rules relating to electricity and requiring a licensed
297 assisted living facility to maintain equipment
298 sufficient to provide an emergency power source and a
299 supply of fuel which meet specified criteria;
300 requiring that a comprehensive emergency plan provide
301 for the evacuation of all residents of a facility if
302 the facility experiences a power outage and is unable
303 to sustain emergency power as required; providing an
304 effective date.

305

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

307

308 Section 1. Section 366.042, Florida Statutes, is created to
309 read:

310 366.042 Power restoration priority.—The commission shall
311 ensure that public utilities have effectively prioritized, in
312 the event of an emergency, the restoration of services to
313 critical medical facilities, including nursing homes licensed
314 under part II of chapter 400 and assisted living facilities
315 licensed under part I of chapter 429.

316 Section 2. Subsection (11) of section 366.15, Florida
317 Statutes, is amended, and subsections (1) through (10) of that
318 section are republished, to read:

319 366.15 Medically essential electric public utility

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320 service.—

321 (1) As used in this section, the term “medically essential”
322 means the medical dependence on electric-powered equipment that
323 must be operated continuously or as circumstances require as
324 specified by a physician to avoid the loss of life or immediate
325 hospitalization of the customer or another permanent resident at
326 the residential service address.

327 (2) Each public utility shall designate employees who are
328 authorized to direct an ordered continuation or restoration of
329 medically essential electric service. A public utility shall not
330 impose upon any customer any additional deposit to continue or
331 restore medically essential electric service.

332 (3) (a) Each public utility shall annually provide a written
333 explanation of the certification process for medically essential
334 electric service to each utility customer. Certification of a
335 customer’s electricity needs as medically essential requires the
336 customer to complete forms supplied by the public utility and to
337 submit a form completed by a physician licensed in this state
338 pursuant to chapter 458 or chapter 459 which states in medical
339 and nonmedical terms why the electric service is medically
340 essential. False certification of medically essential service by
341 a physician is a violation of s. 458.331(1)(h) or s.
342 459.015(1)(i).

343 (b) Medically essential service shall be recertified once
344 every 12 months. The public utility shall send the certified
345 customer by regular mail a package of recertification materials,
346 including recertification forms, at least 30 days prior to the
347 expiration of the customer’s certification. The materials shall
348 advise the certified customer that he or she must complete and

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349 submit the recertification forms within 30 days after the
350 expiration of customer's existing certification. If the
351 recertification forms are not received within this 30-day
352 period, the public utility may terminate the customer's
353 certification.

354 (4) Each public utility shall certify a customer's electric
355 service as medically essential if the customer completes the
356 requirements of subsection (3).

357 (5) Notwithstanding any other provision of this section, a
358 public utility may disconnect service to a residence whenever an
359 emergency may threaten the health or safety of a person, the
360 surrounding area, or the public utility's distribution system.
361 The public utility shall act promptly to restore service as soon
362 as feasible.

363 (6) No later than 24 hours before any scheduled
364 disconnection of service for nonpayment of bills to a customer
365 who requires medically essential service, a public utility shall
366 attempt to contact the customer by telephone in order to provide
367 notice of the scheduled disconnection. If the customer does not
368 have a telephone number listed on the account or if the public
369 utility cannot reach the customer or other adult resident of the
370 premises by telephone by the specified time, the public utility
371 shall send a representative to the customer's residence to
372 attempt to contact the customer, no later than 4 p.m. of the day
373 before scheduled disconnection. If contact is not made, however,
374 the public utility may leave written notification at the
375 residence advising the customer of the scheduled disconnection.
376 Thereafter, the public utility may disconnect service on the
377 specified date.

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378 (7) Each public utility customer who requires medically
379 essential service is responsible for making satisfactory
380 arrangements with the public utility to ensure payment for such
381 service, and such arrangements must be consistent with the
382 requirements of the utility's tariff.

383 (8) Each public utility customer who requires medically
384 essential service is solely responsible for any backup equipment
385 or power supply and a planned course of action in the event of a
386 power outage or interruption of service.

387 (9) Each public utility that provides electric service to
388 any customer who requires medically essential service shall
389 call, contact, or otherwise advise such customer of scheduled
390 service interruptions.

391 (10) (a) Each public utility shall provide information on
392 sources of state or local agency funding which may provide
393 financial assistance to the public utility's customers who
394 require medically essential service and who notify the public
395 utility of their need for financial assistance.

396 (b)1. Each public utility that operates a program to
397 receive voluntary financial contributions from the public
398 utility's customers to provide assistance to persons who are
399 unable to pay for the public utility's services shall maintain a
400 list of all agencies to which the public utility distributes
401 such funds for such purposes and shall make the list available
402 to any such person who requests the list.

403 2. Each public utility that operates such a program shall:

404 a. Maintain a system of accounting for the specific amounts
405 distributed to each such agency, and the public utility and such
406 agencies shall maintain a system of accounting for the specific

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407 amounts distributed to persons under such respective programs.

408 b. Train its customer service representatives to assist any
409 person who possesses a medically essential certification as
410 provided in this section in identifying such agencies and
411 programs.

412 ~~(11) Nothing in this act shall form the basis for any cause~~
413 ~~of action against a public utility. Failure to comply with any~~
414 ~~obligation created by this act does not constitute evidence of~~
415 ~~negligence on the part of the public utility.~~

416 Section 3. Present subsections (3) through (14) of section
417 400.0060, Florida Statutes, are redesignated as subsections (4)
418 through (15), respectively, and a new subsection (3) is added to
419 that section, to read:

420 400.0060 Definitions.—When used in this part, unless the
421 context clearly dictates otherwise, the term:

422 (3) "Autonomy" means the freedom of residents from threats
423 of interference, coercion, retaliation, or intimidation as they
424 reside and receive care in a long-term care facility and as
425 advocated for by the Office of the State Long-Term Care
426 Ombudsman.

427 Section 4. Section 400.0063, Florida Statutes, is amended
428 to read:

429 400.0063 Establishment of the State Long-Term Care
430 Ombudsman Program; designation of ombudsman and legal advocate.—

431 (1) The Office of ~~There is created~~ the State Long-Term Care
432 Ombudsman is established within ~~Program in~~ the Department of
433 Elderly Affairs to administer the State Long-Term Care Ombudsman
434 Program. The office shall enter into a contract with, or make a
435 grant to, a private nonprofit organization to oversee the day-

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436 to-day operations of the program. The office does not have any
437 responsibility with regard to the licensing or certification of
438 long-term care facilities and may not have a relationship with
439 any long-term care facility.

440 (2) (a) The State Long-Term Care Ombudsman Program shall be
441 headed by the State Long-Term Care Ombudsman, who shall serve on
442 a full-time basis and shall personally, or through
443 representatives of the program, carry out the its purposes and
444 functions of the program in accordance with state and federal
445 law.

446 (b) A five-member selection panel appointed by the
447 Secretary of Elderly Affairs shall appoint the state ombudsman,
448 who must have shall be appointed by and shall serve at the
449 pleasure of the Secretary of Elderly Affairs. The secretary
450 shall appoint a person who has expertise in the operation of a
451 nonprofit organization and at least 5 years of experience in the
452 fields of long-term care resident and advocacy. The state
453 ombudsman may be removed from office only by a two-thirds vote
454 of the state council with the consent of the secretary and the
455 private nonprofit organization that oversees the operations of
456 the program. The to serve as state ombudsman shall register as a
457 lobbyist pursuant to s. 11.045.

458 (3) (a) The state ombudsman shall select a person who is a
459 member in good standing of The Florida Bar to serve in the
460 position of There is created in the office the position of legal
461 advocate, which is created within the office. The legal
462 advocate, who shall be selected by and serve at the pleasure of
463 the state ombudsman, shall register as a lobbyist pursuant to s.
464 11.045 and shall be a member in good standing of The Florida

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465 ~~Bar.~~

466 (b) The duties of the legal advocate ~~shall~~ include, but are
 467 not ~~be~~ limited to:

468 1. Assisting the state ombudsman in carrying out the duties
 469 of the office with respect to the abuse, neglect, exploitation,
 470 or violation of rights of residents of long-term care
 471 facilities.

472 2. Assisting the representatives of the State Long-Term
 473 Care Ombudsman Program in carrying out their responsibilities
 474 under this part.

475 3. Pursuing administrative, legal, and other appropriate
 476 remedies on behalf of residents.

477 4. Serving as legal counsel to the representatives of the
 478 State Long-Term Care Ombudsman Program in any suit or other
 479 legal action that is initiated in connection with the
 480 performance of the official duties of the representatives of the
 481 State Long-Term Care Ombudsman Program.

482 5. Assisting the state ombudsman in ensuring that the
 483 program is operated autonomously; without conflict of interest;
 484 and without interference, coercion, or retaliation against those
 485 associated with the operation of the program.

486 Section 5. Paragraph (f) of subsection (1) and paragraph
 487 (h) of subsection (2) of section 400.0065, Florida Statutes, are
 488 amended to read:

489 400.0065 State Long-Term Care Ombudsman Program; duties and
 490 responsibilities.—

491 (1) The purpose of the State Long-Term Care Ombudsman
 492 Program is to:

493 (f) Support ~~Administer~~ the state and local councils.

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494 (2) The State Long-Term Care Ombudsman has the duty and
495 authority to:

496 (h) Prepare an annual report describing the activities
497 carried out by the office, the state council, the districts, and
498 the local councils in the year for which the report is prepared.
499 The state ombudsman shall submit the report to the secretary,
500 the United States Assistant Secretary for Aging, the Governor,
501 the President of the Senate, the Speaker of the House of
502 Representatives, the Secretary of Children and Families, and the
503 Secretary of the Agency for Health Care Administration at least
504 30 days before the convening of the regular session of the
505 Legislature. The report must, at a minimum:

506 1. Contain and analyze data collected concerning complaints
507 about and conditions in long-term care facilities and the
508 disposition of such complaints.

509 2. Evaluate the problems experienced by residents.

510 3. Analyze the successes of the State Long-Term Care
511 Ombudsman Program during the preceding year, including an
512 assessment of how successfully the program has carried out its
513 responsibilities under the Older Americans Act and the laws of
514 this state.

515 4. Provide recommendations for policy, regulatory, and
516 statutory changes designed to solve identified problems; resolve
517 residents' complaints; improve residents' lives and quality of
518 care; protect residents' rights, health, safety, and welfare;
519 and remove any barriers to the optimal operation of the State
520 Long-Term Care Ombudsman Program.

521 5. Contain recommendations from the State Long-Term Care
522 Ombudsman Council, local councils, resident and family councils,

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523 and consumer advocacy groups regarding program functions and
 524 activities and recommendations for policy, regulatory, and
 525 statutory changes designed to protect residents' rights, health,
 526 safety, and welfare.

527 6. Contain any relevant recommendations from the
 528 representatives of the State Long-Term Care Ombudsman Program
 529 regarding program functions and activities.

530 Section 6. Subsection (3) and paragraph (c) of subsection
 531 (4) of section 400.0067, Florida Statutes, are amended to read:

532 400.0067 State Long-Term Care Ombudsman Council; duties;
 533 membership.-

534 (3) The State Long-Term Care Ombudsman Council consists of
 535 one active certified ombudsman from each local council in each a
 536 district and one resident, one family member of a resident, and
 537 one consumer advocate, each appointed by the state ombudsman
 538 ~~plus three at-large members.~~

539 ~~(a) Each local council in a district must select a~~
 540 ~~representative of its choice to serve on the state council.~~

541 ~~(b)1. The state ombudsman shall submit to the secretary a~~
 542 ~~list of individuals recommended for appointment to the at-large~~
 543 ~~positions on the state council. The list may not include the~~
 544 ~~name of any individual who is currently serving in a district.~~

545 ~~2. The secretary shall appoint three at-large members~~
 546 ~~chosen from the list.~~

547 (4)

548 (c)1. The state council shall elect a chair to serve for a
 549 term of 1 year. A chair may not serve more than three ~~two~~
 550 consecutive terms.

551 2. The chair shall select a vice chair from among the

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552 members. The vice chair shall preside over the state council in
553 the absence of the chair.

554 3. The chair may create additional executive positions as
555 necessary to carry out the duties of the state council. Any
556 person appointed to an executive position shall serve at the
557 pleasure of the chair, and his or her term shall expire on the
558 same day as the term of the chair.

559 4. A chair may be immediately removed from office before
560 the expiration of his or her term by a vote of two-thirds of all
561 state council members present at any meeting at which a quorum
562 is present. If a chair is removed from office before the
563 expiration of his or her term, a replacement chair shall be
564 chosen during the same meeting in the same manner as described
565 in this paragraph, and the term of the replacement chair shall
566 begin immediately. The replacement chair shall serve for the
567 remainder of the term and is eligible to serve three ~~two~~
568 subsequent consecutive terms.

569 Section 7. Paragraphs (b) and (c) of subsection (1) and
570 paragraph (d) of subsection (2) of section 400.0069, Florida
571 Statutes, are amended to read:

572 400.0069 Long-term care ombudsman districts; local long-
573 term care ombudsman councils; duties; appointment.—

574 (1)

575 (b) The state ombudsman shall ensure that there is at least
576 one employee of the department certified as a long-term care
577 ombudsman and a least one local council operating in each
578 district. The state ombudsman may create additional local
579 councils as necessary to ensure that residents throughout the
580 state have meaningful ~~adequate~~ access to State Long-Term Care

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581 Ombudsman Program services.

582 (c) Each district shall convene a public meeting at least
583 monthly ~~quarterly~~.

584 (2) The duties of the representatives of the State Long-
585 Term Care Ombudsman Program are to:

586 (d) Review and, upon an affirmative vote of the state
587 council, if necessary, comment on all existing or proposed
588 rules, regulations, and other governmental policies and actions
589 relating to long-term care facilities which ~~that~~ may potentially
590 have an effect on the health, safety, welfare, and rights of
591 residents.

592 Section 8. Section 400.0073, Florida Statutes, is amended
593 to read:

594 400.0073 State and local ombudsman council investigations.-

595 (1) A representative of the State Long-Term Care Ombudsman
596 Program shall identify and investigate, within a reasonable time
597 after a complaint is made, by or on behalf of a resident
598 relating to actions or omissions by providers or representatives
599 of providers of long-term care services, other public agencies,
600 guardians, or representative payees which may adversely affect
601 the health, safety, welfare, or rights of residents.

602 (2) Subsequent to an appeal from a local council, the state
603 council may investigate any complaint received by the local
604 council involving a long-term care facility or a resident.

605 (3) The state council or a local council may hold a public
606 hearing to assist the State Long-Term Care Ombudsman Program in
607 its investigation of a complaint.

608 (4) ~~(3)~~ If a representative of the State Long-Term Care
609 Ombudsman Program is not allowed to enter a long-term care

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610 facility, the administrator of the facility shall be considered
611 to have interfered with a representative of the State Long-Term
612 Care Ombudsman Program in the performance of official duties as
613 described in s. 400.0083(1) and to have violated this part. The
614 representative of the State Long-Term Care Ombudsman Program
615 shall report a facility's refusal to allow entry to the state
616 ombudsman or his or her designee, who shall report the incident
617 to the agency, and the agency shall record the report and take
618 it into consideration when determining actions allowable under
619 s. 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.
620 429.71. The legal advocate shall pursue legal remedies against a
621 person, a long-term care facility, or another entity that
622 violates s. 400.0083(1).

623 Section 9. Subsections (1), (4), and (5) of section
624 400.0074, Florida Statutes, are amended to read:

625 400.0074 Local ombudsman council onsite administrative
626 assessments.—

627 (1) A representative of the State Long-Term Care Ombudsman
628 Program shall conduct, at least annually, an onsite
629 administrative assessment of each nursing home, assisted living
630 facility, and adult family-care home. This administrative
631 assessment must be comprehensive in nature, must be resident-
632 centered, must include a review of the facility's emergency
633 management plan, and must focus on factors affecting residents'
634 rights, health, safety, and welfare. Each local council is
635 encouraged to conduct a similar onsite administrative assessment
636 of each new ~~additional~~ long-term care facility within its
637 jurisdiction.

638 (4) An onsite administrative assessment may not be

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639 accomplished by forcible entry. However, if a representative of
640 the State Long-Term Care Ombudsman Program is not allowed to
641 enter a long-term care facility, the administrator of the
642 facility shall be considered to have interfered with a
643 representative of the State Long-Term Care Ombudsman Program in
644 the performance of official duties as described in s.
645 400.0083(1) and to have committed a violation of this part. The
646 representative of the State Long-Term Care Ombudsman Program
647 shall report the refusal by a facility to allow entry to the
648 state ombudsman or his or her designee, who shall report the
649 incident to the agency, and the agency shall record the report
650 and take it into consideration when determining actions
651 allowable under s. 400.102, s. 400.121, s. 429.14, s. 429.19, s.
652 429.69, or s. 429.71. The legal advocate may pursue legal
653 remedies for any violation of s. 400.0083.

654 (5) The department, in consultation with the state
655 ombudsman, shall ~~may~~ adopt rules implementing procedures for
656 conducting onsite administrative assessments of long-term care
657 facilities.

658 Section 10. Subsection (3) of section 400.0077, Florida
659 Statutes, is amended to read:

660 400.0077 Confidentiality.—

661 (3) All other matters before the council, including the
662 public discussion of administrative assessments, shall be open
663 to the public and subject to chapter 119 and s. 286.011.

664 Section 11. Subsection (3) is added to section 400.0078,
665 Florida Statutes, and subsections (1) and (2) of that section
666 are republished, to read:

667 400.0078 Citizen access to State Long-Term Care Ombudsman

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668 Program services.—

669 (1) The office shall establish a statewide toll-free
670 telephone number and e-mail address for receiving complaints
671 concerning matters adversely affecting the health, safety,
672 welfare, or rights of residents.

673 (2) Upon admission to a long-term care facility, each
674 resident or representative of a resident must receive
675 information regarding:

676 (a) The purpose of the State Long-Term Care Ombudsman
677 Program.

678 (b) The statewide toll-free telephone number and e-mail
679 address for receiving complaints.

680 (c) Information that retaliatory action cannot be taken
681 against a resident for presenting grievances or for exercising
682 any other resident right.

683 (d) Other relevant information regarding how to contact
684 representatives of the State Long-Term Care Ombudsman Program.

685
686 Each resident or his or her representative must be furnished
687 additional copies of this information upon request.

688 (3) The State Long-Term Care Ombudsman Program shall create
689 and make available a poster that includes the statewide toll-
690 free telephone number as described in subsection (1) and other
691 relevant contact information for receiving complaints or a
692 summary of residents' rights. Each long-term care facility shall
693 display a State Long-Term Care Ombudsman Program poster in
694 multiple, conspicuous places.

695 Section 12. Section 400.008, Florida Statutes, is created
696 to read:

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697 400.008 Unannounced quality-of-care evaluations.-

698 (1) It is the intent of the Legislature that the
699 environment in long-term care facilities be conducive to the
700 dignity and autonomy of residents and that investigations by the
701 Office of the State Long-Term Care Ombudsman safeguard the
702 health, safety, and welfare of residents.

703 (2) The Office of the State Long-Term Care Ombudsman shall
704 conduct unannounced quality-of-care evaluations of health and
705 long-term care facilities that provide services to the elderly.
706 The office may use undercover personnel to act as patients or
707 employees of the facility. The purpose of the evaluations is to:

708 (a) Identify and track abuse and neglect issues and
709 potential abuse and neglect issues in facilities;

710 (b) Evaluate positive and negative aspects of facility care
711 based on state rules and federal laws and regulations; and

712 (c) Observe facilities' actions to correct and resolve
713 complaints or allegations of abuse, neglect, or exploitation.

714 (3) Any employee or contractor of the Office of the State
715 Long-Term Care Ombudsman who participates in an evaluation is
716 immune from liability in any civil action related to the
717 evaluation, provided that he or she acted in good faith during
718 the course of the evaluation.

719 Section 13. Section 400.0081, Florida Statutes, is amended
720 to read:

721 400.0081 Access to facilities, residents, and records.-

722 (1) A long-term care facility shall provide representatives
723 of the State Long-Term Care Ombudsman Program with access to:

724 (a) The long-term care facility and its residents.

725 (b) ~~When~~ Where appropriate, medical and social records of a

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726 resident for review if:

727 1. The representative of the State Long-Term Care Ombudsman
728 Program has the permission of the resident or the legal
729 representative of the resident; or

730 2. The resident is unable to consent to the review and does
731 not have a legal representative.

732 (c) Medical and social records of a resident as necessary
733 to investigate a complaint, if:

734 1. A legal representative or guardian of the resident
735 refuses to give permission;

736 2. The representative of the State Long-Term Care Ombudsman
737 Program has reasonable cause to believe that the legal
738 representative or guardian is not acting in the best interests
739 of the resident; and

740 3. The representative of the State Long-Term Care Ombudsman
741 Program obtains the approval of the state ombudsman.

742 (d) Administrative records, policies, and documents to
743 which residents or the general public have access.

744 (e) Upon request, copies of all licensing and certification
745 records maintained by the state with respect to a long-term care
746 facility.

747 (2) Copies of records, policies, or documents needed to
748 complete an investigation or assessment must be timely provided
749 by the facility upon request and at no expense to the program.

750 (3)~~(2)~~ The department, in consultation with the state
751 ombudsman, shall ~~may~~ adopt rules to establish procedures to
752 ensure access to facilities, residents, and records as described
753 in this section.

754 Section 14. Section 400.0083, Florida Statutes, is amended

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755 to read:

756 400.0083 Interference by a person, facility, or entity;
757 retaliation prohibited; criminal penalties; administrative
758 fines; interference by agency.—

759 (1) A person, long-term care facility, or other entity may
760 not willfully interfere with a representative of the State Long-
761 Term Care Ombudsman Program in the performance of his or her
762 official duties.

763 (2) A person, long-term care facility, or other entity may
764 not knowingly or willfully take action or retaliate against any
765 resident, employee, or other person for filing a complaint with,
766 providing information to, or otherwise cooperating with any
767 representative of the State Long-Term Care Ombudsman Program.

768 (3) A person, long-term care facility, or other entity that
769 violates this section:

770 (a) Is liable for damages and equitable relief as
771 determined by law.

772 (b) Commits a misdemeanor of the first ~~second~~ degree,
773 punishable as provided in s. 775.083.

774 (4) The Office of the State Long-Term Care Ombudsman shall
775 investigate each alleged violation of subsection (1) or
776 subsection (2) to determine if a violation occurred. If the
777 office determines that a violation occurred, it must report the
778 determination to the agency. The agency shall impose a civil
779 penalty of up to \$5,000 per occurrence on a person, long-term
780 care facility, or other entity that the office finds in
781 violation of subsection (1) and a civil penalty of up to \$10,000
782 per occurrence on a person, long-term care facility, or other
783 entity that the office finds in violation of subsection (2). The

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784 agency shall transfer funds collected pursuant to this
785 subsection into the Quality of Long-Term Care Facility
786 Improvement Trust Fund established under s. 400.0239. The
787 Division of Administrative Hearings shall conduct a hearing if a
788 determination of a violation is contested. The division shall
789 establish by rule procedures for hearing requests. The
790 administrative law judge must render a decision within 90 days
791 after the hearing.

792 (5) The Chief Inspector General shall investigate any
793 willful agency interference with the activities of the State
794 Long-Term Care Ombudsman Program in the performance of its
795 official duties.

796 Section 15. Subsections (1), (3), and (4) of section
797 400.0087, Florida Statutes, are amended to read:

798 400.0087 Department oversight; funding.—

799 (1) The department shall perform its duties ~~meet the costs~~
800 associated with the State Long-Term Care Ombudsman Program from
801 funds appropriated for that purpose ~~to it~~.

802 (a) The nonprofit organization responsible for the day-to-
803 day operations of the program, in consultation with the state
804 ombudsman, shall develop and submit a budget to the department
805 which must ~~shall~~ include the costs associated with
806 administrative support of the State Long-Term Care Ombudsman
807 Program ~~when developing its budget requests for consideration by~~
808 ~~the Governor and~~ ~~submittal to the Legislature.~~

809 (b) The department may divert from the federal ombudsman
810 appropriation an amount equal to the department's administrative
811 cost ratio, which may not exceed 5 percent, to cover the costs
812 associated with administering the State Long-Term Care Ombudsman

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813 Program. The remaining allotment from the Older Americans Act
814 program shall be expended on direct ombudsman activities.

815 (3) The department is responsible for ensuring that the
816 State Long-Term Care Ombudsman Program:

817 (a) Has the objectivity and autonomy ~~independence~~ required
818 to qualify it for funding under the federal Older Americans Act.

819 (b) Provides information to public and private agencies,
820 legislators, and others.

821 (c) Provides appropriate training to representatives of the
822 State Long-Term Care Ombudsman Program.

823 (d) Coordinates ombudsman services with Disability Rights
824 Florida, the Advocacy Center for Persons with Disabilities and
825 with providers of legal services to residents of long-term care
826 facilities in compliance with state and federal laws.

827 (4) The department shall also:

828 (a) Receive and disburse state and federal funds for
829 purposes that the state ombudsman has formulated in accordance
830 with the Older Americans Act.

831 (b) Whenever the state ombudsman deems necessary, act as
832 liaison between agencies and branches of the federal and state
833 governments and the State Long-Term Care Ombudsman Program.

834 Section 16. Section 400.0089, Florida Statutes, is amended
835 to read:

836 400.0089 Complaint data reports.—

837 (1) The State Long-Term Care Ombudsman Program shall
838 maintain a statewide uniform reporting system to collect and
839 analyze data relating to complaints and conditions in long-term
840 care facilities and to residents for the purpose of identifying
841 and resolving complaints.

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842 (2) Information pertaining to the number and types of
843 complaints received by the State Long-Term Care Ombudsman
844 Program shall be published quarterly and made readily available
845 and shall include all of the following:

846 (a) The license number, name, address, and county of each
847 facility that is the subject of a complaint.

848 (b) The case number and dates that each investigation was
849 opened and closed.

850 (c) The identified complaint codes for each case.

851 (d) The National Ombudsman Reporting System description for
852 each case.

853 (e) The disposition of each case, specified by complaint
854 code.

855 (3) The State Long-Term Care Ombudsman Program shall
856 include an analysis of such information in the annual report
857 required under s. 400.0065.

858 Section 17. Subsection (2) of section 400.0091, Florida
859 Statutes, is amended to read:

860 400.0091 Training.—The state ombudsman shall ensure that
861 appropriate training is provided to all representatives of the
862 State Long-Term Care Ombudsman Program.

863 (2) The state ombudsman shall approve the curriculum for
864 the initial and continuing education training, which must, at a
865 minimum, address:

866 (a) Resident confidentiality.

867 (b) Guardianships and powers of attorney.

868 (c) Medication administration.

869 (d) Care and medication of residents with dementia and
870 Alzheimer's disease.

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- 871 (e) Accounting for residents' funds.
- 872 (f) Discharge rights and responsibilities.
- 873 (g) Cultural sensitivity.
- 874 (h) Person-centered care initiatives.
- 875 (i) Abuse and neglect of residents.
- 876 (j)~~(h)~~ Any other topic related to residency in a long-term
877 care facility.

878 Section 18. Section 400.0223, Florida Statutes, is created
879 to read:

880 400.0223 Resident use of electronic monitoring devices in
881 nursing homes.—

882 (1) As used in this section, the term "electronic
883 monitoring device" includes both of the following:

884 (a) Video surveillance cameras installed in the room of a
885 resident.

886 (b) Audio devices installed in the room of a resident
887 designed to acquire communications or other sounds occurring in
888 the room.

889 (2) A nursing home shall allow a resident; the resident's
890 surrogate; the resident's guardian; or, at the resident's
891 request, the resident's personal representative to monitor the
892 resident's room through the use of electronic monitoring
893 devices.

894 (3) The nursing home shall require the person who conducts
895 electronic monitoring to post a notice on the door to the
896 resident's room stating that the room is being monitored by an
897 electronic monitoring device.

898 (4) Electronic monitoring conducted under this section is
899 voluntary and may be conducted only at the request and expense

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900 of the resident, the resident's surrogate, the resident's
901 guardian, or the resident's personal representative. To the
902 extent possible, such monitoring must protect the privacy rights
903 of other residents and visitors to the nursing home.

904 (5) (a) A nursing home may not inquire of a prospective
905 resident or the representative of a prospective resident who is
906 applying to reside at the facility regarding the resident's
907 intentions to use an electronic monitoring device and may not
908 refuse an application for residency or remove a resident from
909 the nursing home on the basis of intent to use or use of an
910 electronic monitoring device.

911 (b) A nursing home shall inform a resident, the resident's
912 surrogate, the resident's guardian, or the personal
913 representative of the resident of the resident's right to
914 conduct electronic monitoring.

915 (6) A nursing home shall make reasonable physical
916 accommodations to facilitate electronic monitoring and shall
917 provide a reasonably secure place to mount an electronic
918 monitoring device and access to a power source for the device.

919 (7) If electronic monitoring is conducted by or on behalf
920 of a resident, the nursing home may require the resident, the
921 resident's surrogate, the resident's guardian, or the resident's
922 personal representative to conduct the electronic monitoring in
923 plain view.

924 (8) A nursing home may require that a request to conduct
925 electronic monitoring be made in writing.

926 (9) Subject to applicable rules of evidence and procedure,
927 an audio or video recording created through the use of
928 electronic monitoring conducted under this section may be

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929 admitted into evidence in any court or administrative
930 proceeding.

931 (10) An administrator of a nursing home who knowingly
932 refuses to allow a resident; the resident's surrogate; the
933 resident's guardian; or, at the request of the resident, the
934 resident's personal representative to monitor the room of the
935 resident in accordance with this section through the use of an
936 electronic monitoring device commits a misdemeanor of the second
937 degree, punishable under s. 775.082 or s. 775.083.

938 (11) An administrator of a nursing home who knowingly
939 refuses to admit a person to residency or knowingly allows the
940 removal of a resident from the nursing home because of a request
941 to conduct electronic monitoring under this section commits a
942 misdemeanor of the second degree, punishable under s. 775.082 or
943 s. 775.083.

944 (12) (a) An employee, officer, or other agent of a nursing
945 home may not intentionally hamper, obstruct, tamper with, or
946 destroy an electronic monitoring device installed in a
947 resident's room in accordance with this section, or a tape or
948 recording made by such a device, unless he or she first obtains
949 the written consent of the resident, the resident's surrogate,
950 the resident's guardian, or the resident's personal
951 representative on a form provided by the agency. Such consent
952 form must be signed by the resident or the person representing
953 the resident who made the request and one other witness.

954 (b) In the absence of such written consent, an employee,
955 officer, or other agent of a nursing home who intentionally
956 hampers, obstructs, tampers with, or destroys an electronic
957 monitoring device installed in a resident's room in accordance

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958 with this section, or a tape or recording made by such a device,
959 commits a misdemeanor of the first degree, punishable under s.
960 775.082 or s. 775.083.

961 (13) The agency shall impose a civil penalty not to exceed
962 \$500 per violation per day on a licensee who operates a nursing
963 home found to be in violation of this section. The agency shall
964 transfer funds collected pursuant to this subsection into the
965 Quality of Long-Term Care Facility Improvement Trust Fund
966 established under s. 400.0239.

967 Section 19. Section 400.0238, Florida Statutes, is
968 repealed.

969 Section 20. Subsection (1) of section 400.0239, Florida
970 Statutes, is amended to read:

971 400.0239 Quality of Long-Term Care Facility Improvement
972 Trust Fund.—

973 (1) There is created within the Agency for Health Care
974 Administration a Quality of Long-Term Care Facility Improvement
975 Trust Fund to support activities and programs directly related
976 to improvement of the care of nursing home and assisted living
977 facility residents. The trust fund shall be funded through
978 proceeds generated pursuant to ss. 400.0083 and 400.0223 ~~ss.~~
979 ~~400.0238 and 429.298~~, through funds specifically appropriated by
980 the Legislature, through gifts, endowments, and other charitable
981 contributions allowed under federal and state law, and through
982 federal nursing home civil monetary penalties collected by the
983 Centers for Medicare and Medicaid Services and returned to the
984 state. These funds must be utilized in accordance with federal
985 requirements.

986 Section 21. Section 400.1185, Florida Statutes, is created

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987 to read:

988 400.1185 Internal resident safety and quality-of-care
989 coordinator program.-

990 (1) Each licensed facility shall establish an internal
991 resident safety and quality-of-care coordinator program that
992 includes all of the following:

993 (a) An analysis of the frequency and causes of violations
994 of residents' rights and of adverse incidents.

995 (b) An analysis of resident and family member grievances
996 that relate to resident safety and quality of care.

997 (c) The development and implementation of measures to
998 promote autonomy within the facility, to enhance the quality of
999 life and the safety of residents, and to decrease the frequency
1000 of violations of residents' rights and of adverse incidents.

1001 (d) Safety and risk prevention education and the training
1002 of all nonphysician personnel who provide resident care, which
1003 must be included as part of the initial orientation of such
1004 personnel. Such personnel must complete at least 5 additional
1005 hours of education and training annually.

1006 (e) The development and implementation of a reporting
1007 system that requires all employees and agents of the licensed
1008 facility to report adverse incidents to the quality-of-care
1009 coordinator, as described in subsection (2), or to his or her
1010 designee, within 3 business days after the adverse incident
1011 occurs.

1012 (2) The internal resident safety and quality-of-care
1013 coordinator programs are the responsibility of the governing
1014 board of each facility. Each facility shall hire a risk manager
1015 who shall act as the quality-of-care coordinator and be

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1016 responsible for implementation and oversight of the facility's
1017 internal resident safety and quality-of-care coordinator
1018 program. The risk manager may not be made responsible for
1019 internal resident safety and quality-of-care coordinator
1020 programs in more than four facilities licensed under this
1021 chapter.

1022 (3) In addition to the programs created under this section,
1023 the development of other innovative approaches is encouraged to
1024 reduce the frequency and severity of adverse incidents and of
1025 violations of residents' rights.

1026 (4) The agency shall adopt rules to administer the internal
1027 resident safety and quality-of-care coordinator programs. Each
1028 program must file any collected incident reports with an
1029 employee designated by the facility, who must be proficient in
1030 resident safety techniques and must have access to all resident
1031 care and safety records of the facility, including internal and
1032 state-required incident reports. An individual who files an
1033 incident report is not subject to civil suit by virtue of filing
1034 the incident report. For purposes of this section, the term
1035 "adverse incident" means a situation that facility personnel
1036 were in control of and that appropriate safety measures could
1037 have prevented which results in any of the following to a
1038 resident:

1039 (a) Death.

1040 (b) Brain or spinal damage.

1041 (c) Permanent disfigurement.

1042 (d) A fracture or dislocation of bones or joints.

1043 (e) A limitation of neurological, physical, or sensory
1044 function.

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- 1045 (f) Sexual abuse.
- 1046 (g) Assault or battery.
- 1047 (h) Any condition that requires the transfer of a resident
1048 to a unit, within or outside of the facility, to provide a more
1049 acute level of care.
- 1050 (5) (a) By January 31 of each year, each licensed facility
1051 shall submit a report to the agency summarizing incident reports
1052 filed during the previous calendar year. The report must
1053 include:
- 1054 1. The total number of adverse incidents.
- 1055 2. A listing, by category, of the causes of each injury or
1056 death and the number of incidents occurring within each
1057 category.
- 1058 3. A code number using the facility staff's licensure
1059 number and a separate code number identifying all other
1060 individuals directly involved in adverse incidents of residents,
1061 the relationship of the individual to the licensed facility, and
1062 the number of incidents in which each individual has been
1063 directly involved. Each licensed facility shall maintain names
1064 of the health care professionals and individuals identified by
1065 code numbers for purposes of this section.
- 1066 4. A description of all claims filed against the licensed
1067 facility for a violation of a resident's rights, as specified in
1068 s. 400.022, including the total number of pending and closed
1069 claims, the names of the individuals involved in each claim, the
1070 nature of the incident that led to each claim, and the status
1071 and disposition of each claim. Each report must provide an
1072 updated status for any claims identified as being unresolved or
1073 pending in the prior year report.

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1074 5. The number and nature of disciplinary actions taken
1075 against agents or employees of the facility related to patient
1076 care and safety.

1077 (b) The agency shall review the information submitted
1078 pursuant to paragraph (a) and determine if any reported
1079 incidents may subject a facility or an employee or agent of a
1080 facility to disciplinary action.

1081 (c) The report submitted to the agency must also provide
1082 the name and license number of the quality-of-care coordinator
1083 of the licensed facility, a copy of the facility's policies and
1084 procedures that govern the actions taken by the facility and its
1085 quality-of-care coordinator to reduce the risk of injuries and
1086 deaths and violations of residents' rights, and the results of
1087 actions taken by the facility.

1088 (6) (a) A licensed facility shall submit an adverse incident
1089 report to the agency no later than 1 business day after the
1090 quality-of-care coordinator or his or her designee has received
1091 the report through the system implemented pursuant to paragraph
1092 (1) (e). The report may be submitted to the agency through e-
1093 mail, facsimile, or overnight mail delivery. The facility must
1094 submit the following information with the report:

- 1095 1. The identity of the affected resident;
- 1096 2. The type of adverse incident;
- 1097 3. Information on any investigation into the incident
1098 conducted by the facility; and
- 1099 4. An assessment as to whether the events causing or
1100 resulting in the adverse incident represent a potential risk to
1101 other residents.

1102 (b) After receiving the report, the agency must determine

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1103 by the end of the next business day if any of the following
1104 adverse incidents has occurred, whether arising from events that
1105 occurred in the licensed facility or from events that occurred
1106 before the resident's admission into the licensed facility:

- 1107 1. The death of a resident;
- 1108 2. Brain or spinal damage to a resident;
- 1109 3. Sexual abuse of a resident; or
- 1110 4. The assault or battery of a resident.

1111 (7) The agency shall require a written plan of correction
1112 from a facility that violates this section. For a single
1113 incident or a series of isolated incidents that are nonwillful
1114 violations of the reporting requirements of this section, the
1115 agency shall first demand that the facility take corrective
1116 action. If the facility does not demonstrate completion of the
1117 corrective action within the timeframe allowed by the agency or
1118 demonstrates a pattern of nonwillful violations of this section,
1119 the agency may impose a civil penalty not to exceed \$5,000 for
1120 each violation of the reporting requirements of this section.
1121 The civil penalty for repeated nonwillful violations may not
1122 exceed \$10,000 for each violation. The administrative fine for
1123 each intentional and willful violation may not exceed \$25,000
1124 per violation per day.

1125 (8) The agency must be given access to facility records
1126 needed in the administration of this section.

1127 (9) The agency shall review, as part of its licensure
1128 inspection process, the internal resident safety and quality-of-
1129 care coordinator program at each licensed facility subject to
1130 this section to determine whether it complies with this section,
1131 is being conducted in a manner designed to reduce adverse

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1132 incidents and violations of residents' rights, and is
1133 appropriately reporting incidents under subsections (4) through
1134 (6).

1135 (10) There shall be no monetary liability on the part of,
1136 and no cause of action for damages shall arise against, any
1137 quality-of-care coordinator for the implementation and oversight
1138 of an internal resident safety and quality-of-care coordinator
1139 program for any act or proceeding undertaken or performed within
1140 the scope of the functions of the program so long as the
1141 quality-of-care coordinator acts without intentional fraud.

1142 (11) If the agency, through its receipt of the annual
1143 reports required in subsection (5) or through any investigation,
1144 has a reasonable belief that the conduct of an agent or employee
1145 of a licensed facility constitutes grounds for disciplinary
1146 action by the appropriate regulatory board, the agency must
1147 report its findings to that board.

1148 (12) Beginning on July 1, 2019, and by each July 1
1149 thereafter, the agency shall publish on its website a report
1150 card summarizing the information contained in the annual reports
1151 submitted by licensed facilities pursuant to subsection (5) and
1152 disciplinary actions reported to the agency. The report card
1153 must be organized by county and, for each licensed facility in
1154 the state, must include an itemized list that provides the
1155 following information:

1156 (a) The name and address of the facility.

1157 (b) If the facility is structured as a private for-profit,
1158 not-for-profit, or public company.

1159 (c) The total number of beds in the facility.

1160 (d) A description of the categories of services provided by

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1161 the facility.

1162 (e) The percentage of adverse incidents per total number of
1163 residents in the facility, by category of reported incident.

1164 (f) The number of claims filed for violations of the
1165 resident's rights under s. 400.022, by category of violation.

1166 (g) A listing, by category, of the actions or inactions
1167 giving rise to the adverse incidents and claims filed for a
1168 violation of a resident's rights and the number in each
1169 category.

1170 (h) The number of and descriptions of disciplinary actions
1171 taken against a facility or agents or employees of that
1172 facility.

1173 (i) The following statement:

1174
1175 "This report card is just one measure of the quality
1176 of a facility. You may want to obtain and consider
1177 other information to determine whether this facility
1178 is right for you or your loved ones. This report card
1179 is not adjusted to reflect the size of the facility or
1180 the severity or complexity of the custodial and health
1181 care needs of the residents it serves, and, therefore,
1182 some facilities may appear to have more frequent
1183 adverse incidents and claims involving violations of
1184 residents' rights than others."

1185
1186 The first report card issued pursuant to this subsection may be
1187 based on a partial year of data, if necessary.

1188 Section 22. Paragraph (q) of subsection (1) of section
1189 400.141, Florida Statutes, is amended to read:

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1190 400.141 Administration and management of nursing home
1191 facilities.—

1192 (1) Every licensed facility shall comply with all
1193 applicable standards and rules of the agency and shall:

1194 (q) Satisfy the financial requirements in s. 400.1411,
1195 which may not be used for litigation costs or attorney fees for
1196 the defense of any claim against a nursing home facility
1197 pursuant to common law or s. 400.023 or s. 400.0233 ~~Maintain~~
1198 ~~general and professional liability insurance coverage that is in~~
1199 ~~force at all times.~~ In lieu of satisfying the financial
1200 requirements in s. 400.1411 ~~such coverage~~, a state-designated
1201 teaching nursing home and its affiliated assisted living
1202 facilities created under s. 430.80 may demonstrate proof of
1203 financial responsibility as provided in s. 430.80(3)(g).

1204 Section 23. Section 400.1411, Florida Statutes, is created
1205 to read:

1206 400.1411 Financial requirements.—

1207 (1) As a condition of licensure, a nursing home facility
1208 must at all times demonstrate to the satisfaction of the agency
1209 and the Office of Insurance Regulation of the Financial Services
1210 Commission the financial ability to pay claims, and costs
1211 ancillary thereto, arising out of the rendering of, or the
1212 failure to render, care or services, by doing one of the
1213 following:

1214 (a) Establishing and maintaining an escrow account
1215 consisting of cash or assets eligible for deposit in accordance
1216 with s. 625.52 in the per-claim amounts specified in paragraph

1217 (b).

1218 (b) Obtaining and maintaining general and professional

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1219 liability coverage in an amount not less than \$1 million per
1220 claim, with a minimum annual aggregate of not less than \$3
1221 million, from an authorized insurer as defined in s. 624.09,
1222 from an eligible surplus lines insurer as defined in s.
1223 626.914(2), or from a Florida-domiciled risk retention group as
1224 defined in s. 627.942(9).

1225 (c) Obtaining and maintaining an unexpired, irrevocable
1226 letter of credit, established pursuant to chapter 675, in an
1227 amount not less than \$1 million per claim, with a minimum
1228 aggregate availability of credit not less than \$3 million. The
1229 letter of credit must be payable to the nursing home facility as
1230 beneficiary upon presentment of a final judgment indicating
1231 liability and awarding damages to be paid by the nursing home
1232 facility or upon presentment of a settlement agreement signed by
1233 all parties to such agreement when such final judgment or
1234 settlement is a result of a claim arising out of the rendering
1235 of, or the failure to render, care and services. The letter of
1236 credit must be nonassignable and nontransferable. The letter of
1237 credit must be issued by a bank or savings association organized
1238 and existing under the laws of this state or under the laws of
1239 the United States which has its principal place of business in
1240 this state or has a branch office authorized under the laws of
1241 this state or of the United States to receive deposits in this
1242 state.

1243 (2) Each insurer, self-insurer, or risk retention group
1244 must promptly notify the agency and the office of cancellation
1245 or nonrenewal of insurance required by this section.

1246 (3) Upon the entry by a Florida court of an adverse final
1247 judgment against a licensee as defined in s. 400.023(2) which

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1248 arises from an award pursuant to s. 400.023, including an
 1249 arbitration award, for a claim of negligence or a violation of
 1250 residents' rights, in contract or tort, or from noncompliance
 1251 with the terms of a settlement agreement as determined by a
 1252 court or arbitration panel which arises from a claim pursuant to
 1253 s. 400.023, the licensee shall pay the plaintiff the entire
 1254 amount of the judgment, award, or settlement and all accrued
 1255 interest pursuant to s. 400.024.

1256 (4) Any deceptive, untrue, or fraudulent representation or
 1257 violation of this section by any individual or entity on behalf
 1258 of the facility may result in disciplinary action pursuant to s.
 1259 400.121 with no aggregate limit. If a nursing home shows a
 1260 continuous pattern of violation of this section, the agency must
 1261 issue a conditional license and may immediately suspend the
 1262 license.

1263 Section 24. Subsection (3) of section 400.19, Florida
 1264 Statutes, is amended to read:

1265 400.19 Right of entry and inspection.—

1266 (3) Every 15 months, the agency shall ~~every 15 months~~
 1267 conduct at least one unannounced inspection to determine
 1268 compliance by the licensee with the laws of this state and
 1269 administrative rules that govern statutes, ~~and with rules~~
 1270 ~~promulgated under the provisions of those statutes, governing~~
 1271 minimum standards of construction, electricity, and emergency
 1272 power sources; quality and adequacy of care; ~~and rights of~~
 1273 residents. ~~The survey shall be conducted every 6 months for the~~
 1274 ~~next 2-year period~~ If a ~~the~~ facility has been cited for a class
 1275 I deficiency or, ~~has been cited~~ for two or more class II
 1276 deficiencies arising from separate surveys or investigations

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1277 within a 60-day period~~,~~ or has had three or more substantiated
1278 complaints within a 6-month period, each resulting in at least
1279 one class I or class II deficiency, the agency shall conduct
1280 unannounced inspections at 6-month intervals over the course of
1281 the next 2-year period. In addition to any other fees or fines
1282 in this part, the agency shall assess a fine for each facility
1283 that is subject to the 6-month survey cycle. The fine for the 2-
1284 year period is ~~shall be~~ \$6,000, one-half to be paid at the
1285 completion of each survey. The agency may adjust this fine by
1286 the change in the Consumer Price Index, based on the 12 months
1287 immediately preceding the increase, to cover the cost of the
1288 additional surveys. The agency shall verify through subsequent
1289 inspection that any deficiency identified during inspection is
1290 corrected. However, the agency may verify the correction of a
1291 class III or class IV deficiency unrelated to resident rights or
1292 resident care without reinspecting the facility if adequate
1293 written documentation has been received from the facility~~,~~ which
1294 provides assurance that the deficiency has been corrected. The
1295 giving or causing to be given of advance notice of such
1296 unannounced inspections by an employee of the agency to any
1297 unauthorized person constitutes grounds ~~shall constitute cause~~
1298 for the suspension of such person, pursuant to chapter 110, for
1299 not fewer than 5 working days ~~according to the provisions of~~
1300 ~~chapter 110.~~

1301 Section 25. Subsection (3) of section 400.191, Florida
1302 Statutes, is amended to read:

1303 400.191 Availability, distribution, and posting of reports
1304 and records.—

1305 (3) Each nursing home facility licensee shall maintain as

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1306 public information, available upon request, records of all cost
1307 and inspection reports pertaining to that facility which ~~that~~
1308 have been filed with, or issued by, any governmental agency.
1309 Copies of the reports shall be retained in the records for not
1310 less than 5 years following the date the reports are filed or
1311 issued.

1312 (a) The agency shall publish in the Nursing Home Guide a
1313 "Nursing Home Guide Watch List" to assist consumers in
1314 evaluating the quality of nursing home care in Florida. The
1315 watch list must identify each facility that met the criteria for
1316 a conditional licensure status and each facility that is
1317 operating under bankruptcy protection. The watch list must
1318 include, but need ~~is~~ not be limited to, the facility's name,
1319 address, and ownership; the county in which the facility
1320 operates; the license expiration date; the number of licensed
1321 beds; a description of the deficiency causing the facility to be
1322 placed on the list; any corrective action taken; and the
1323 cumulative number of days and percentage of days the facility
1324 had a conditional license in the past 30 months. The watch list
1325 must include a brief description regarding how to choose a
1326 nursing home, the categories of licensure, the agency's
1327 inspection process, an explanation of terms used in the watch
1328 list, and the addresses and phone numbers of the agency's health
1329 quality assurance field offices.

1330 (b) Upon publication of each Nursing Home Guide, the agency
1331 shall ~~must~~ post a copy of the guide on its website by the 15th
1332 calendar day of the second month following the end of the
1333 calendar quarter. Each nursing home licensee must retrieve the
1334 most recent version of the Nursing Home Guide from the agency's

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1335 website.

1336 (c)1. A facility on the watch list must conspicuously post
1337 a sign on each entrance to the facility. The lettering must be
1338 red, in at least 48-point type, and printed on white card stock.
1339 The sign must read as follows:

1341 "NOTICE: THIS FACILITY IS ON FLORIDA'S NURSING HOME GUIDE WATCH
1342 LIST."

1343
1344 2. Signs must remain posted for the duration of the 30-
1345 month watch list period. If the agency determines that a
1346 facility is in violation of this section, the agency must cite
1347 the facility for a class I violation, place the facility on a 6-
1348 month inspection cycle, and extend the duration of the
1349 facility's inclusion on the watch list for an additional 30
1350 months.

1351 Section 26. Section 400.226, Florida Statutes, is created
1352 to read:

1353 400.226 Mandatory compliance with federal requirements.-
1354 Licensed nursing homes shall comply with the requirements of 42
1355 C.F.R. 483, which are incorporated herein by reference. A
1356 violation of the residents' rights established under this
1357 section is considered negligence per se.

1358 Section 27. Paragraphs (d) and (g) of subsection (2) and
1359 paragraph (a) of subsection (8) of section 400.23, Florida
1360 Statutes, are amended to read:

1361 400.23 Rules; evaluation and deficiencies; licensure
1362 status.-

1363 (2) Pursuant to the intention of the Legislature, the

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1364 agency, in consultation with the Department of Health and the
1365 Department of Elderly Affairs, shall adopt and enforce rules to
1366 implement this part and part II of chapter 408, which shall
1367 include reasonable and fair criteria in relation to:

1368 (d) The equipment essential to the health and welfare of
1369 the residents, including equipment sufficient to provide
1370 adequate day-to-day electricity, a fully operational emergency
1371 power source, and a supply of fuel sufficient to sustain the
1372 emergency power source for at least 96 hours during a power
1373 outage. The emergency power source must provide enough
1374 electricity to consistently maintain an air temperature between
1375 71° and 81° F in the facility.

1376 (g) The preparation and annual update of a comprehensive
1377 emergency management plan. The agency shall adopt rules
1378 establishing minimum criteria for the plan after consultation
1379 with the Division of Emergency Management. At a minimum, the
1380 rules must provide for plan components that address emergency
1381 evacuation transportation; adequate sheltering arrangements;
1382 postdisaster activities, including emergency power, food, and
1383 water; postdisaster transportation; supplies; staffing;
1384 emergency equipment; individual identification of residents and
1385 transfer of records; and responding to family inquiries. The
1386 plan must provide for the evacuation of all residents in the
1387 event that the facility experiences a power outage and is unable
1388 to sustain adequate emergency power as required in paragraph
1389 (d). The comprehensive emergency management plan is subject to
1390 review and approval by the local emergency management agency.
1391 During its review, the local emergency management agency shall
1392 ensure that the following agencies, at a minimum, are given the

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1393 opportunity to review the plan: the Department of Elderly
1394 Affairs, the Department of Health, the Agency for Health Care
1395 Administration, and the Division of Emergency Management. Also,
1396 appropriate volunteer organizations must be given the
1397 opportunity to review the plan. The local emergency management
1398 agency shall complete its review within 60 days and either
1399 approve the plan or advise the facility of necessary revisions.

1400 (8) The agency shall adopt rules pursuant to this part and
1401 part II of chapter 408 to provide that, when the criteria
1402 established under subsection (2) are not met, such deficiencies
1403 shall be classified according to the nature and the scope of the
1404 deficiency. The scope shall be cited as isolated, patterned, or
1405 widespread. An isolated deficiency is a deficiency affecting one
1406 or a very limited number of residents, or involving one or a
1407 very limited number of staff, or a situation that occurred only
1408 occasionally or in a very limited number of locations. A
1409 patterned deficiency is a deficiency where more than a very
1410 limited number of residents are affected, or more than a very
1411 limited number of staff are involved, or the situation has
1412 occurred in several locations, or the same resident or residents
1413 have been affected by repeated occurrences of the same deficient
1414 practice but the effect of the deficient practice is not found
1415 to be pervasive throughout the facility. A widespread deficiency
1416 is a deficiency in which the problems causing the deficiency are
1417 pervasive in the facility or represent systemic failure that has
1418 affected or has the potential to affect a large portion of the
1419 facility's residents. The agency shall indicate the
1420 classification on the face of the notice of deficiencies as
1421 follows:

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1422 (a) A class I deficiency is a deficiency that the agency
1423 determines presents a situation in which immediate corrective
1424 action is necessary because the facility's noncompliance has
1425 caused, or is likely to cause, serious injury, harm, impairment,
1426 or death to a resident receiving care in a facility. The
1427 condition or practice constituting a class I violation shall be
1428 abated or eliminated immediately, unless a fixed period of time,
1429 as determined by the agency, is required for correction. A class
1430 I deficiency is subject to a civil penalty of \$10,000 for an
1431 isolated deficiency, \$12,500 for a patterned deficiency, and
1432 \$15,000 for a widespread deficiency. If the agency determines
1433 that a resident died as the result of abuse or neglect, it shall
1434 immediately impose a \$1 million civil penalty on the facility
1435 for the deficiency. The fine amount shall be doubled for each
1436 deficiency if the facility was previously cited for one or more
1437 class I or class II deficiencies during the last licensure
1438 inspection or any inspection or complaint investigation since
1439 the last licensure inspection. A fine must be levied
1440 notwithstanding the correction of the deficiency.

1441 Section 28. Paragraph (a) of subsection (1) of section
1442 406.11, Florida Statutes, is amended to read:

1443 406.11 Examinations, investigations, and autopsies.—

1444 (1) In any of the following circumstances involving the
1445 death of a human being, the medical examiner of the district in
1446 which the death occurred or the body was found shall determine
1447 the cause of death and shall, for that purpose, make or have
1448 performed such examinations, investigations, and autopsies as he
1449 or she shall deem necessary or as shall be requested by the
1450 state attorney:

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- 1451 (a) When any person dies in the state:
- 1452 1. Of criminal violence.
- 1453 2. By accident.
- 1454 3. By suicide.
- 1455 4. Suddenly, when in apparent good health.
- 1456 5. Unattended by a practicing physician or other recognized
- 1457 practitioner.
- 1458 6. In any prison or penal institution.
- 1459 7. In any nursing home on the federal Special Focus
- 1460 Facility list or on the Nursing Home Guide Watch List as
- 1461 described in s. 400.191(3)(a).
- 1462 ~~8.7.~~ In police custody.
- 1463 ~~9.8.~~ In any suspicious or unusual circumstance.
- 1464 ~~10.9.~~ By criminal abortion.
- 1465 ~~11.10.~~ By poison.
- 1466 ~~12.11.~~ By disease constituting a threat to public health.
- 1467 ~~13.12.~~ By disease, injury, or toxic agent resulting from
- 1468 employment.

1469 Section 29. Section 406.13, Florida Statutes, is amended to

1470 read:

1471 406.13 Examiner's report; maintenance of records.—Upon

1472 receipt of such notification pursuant to s. 406.12, the district

1473 medical examiner or her or his associate shall examine or

1474 otherwise take charge of the dead body and shall notify the

1475 appropriate law enforcement agency pursuant to s. 406.145. When

1476 the cause of death has been established within reasonable

1477 medical certainty by the district medical examiner or her or his

1478 associate, she or he shall so report or make available to the

1479 state attorney, in writing, her or his determination as to the

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1480 cause of said death. If it is determined that a nursing home
1481 resident died as the result of abuse, sexual abuse, or
1482 negligence, the medical examiner must notify and forward all
1483 documentation in support of the determination to the state
1484 attorney. Upon receipt of such notification, the state attorney
1485 shall seat a grand jury within 90 days and investigate whether
1486 the filing of criminal charges is warranted. Duplicate copies of
1487 records and the detailed findings of autopsy and laboratory
1488 investigations shall be maintained by the district medical
1489 examiner. Any evidence or specimen coming into the possession of
1490 said medical examiner in connection with any investigation or
1491 autopsy may be retained by the medical examiner or be delivered
1492 to one of the law enforcement officers assigned to the
1493 investigation of the death.

1494 Section 30. Section 429.298, Florida Statutes, is repealed.

1495 Section 31. Subsection (2) of section 429.34, Florida
1496 Statutes, is amended to read:

1497 429.34 Right of entry and inspection.—

1498 (2) The agency shall inspect each licensed assisted living
1499 facility at least once every 24 months to determine compliance
1500 by the licensee with this chapter and related rules governing
1501 minimum standards of construction, electricity, and emergency
1502 power sources; quality and adequacy of care; and resident
1503 rights. If an assisted living facility is cited for a class I
1504 violation or three or more class II violations arising from
1505 separate surveys within a 60-day period or due to unrelated
1506 circumstances during the same survey, the agency must conduct an
1507 additional licensure inspection within 6 months.

1508 Section 32. Paragraphs (a) and (b) of subsection (1) of

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1509 section 429.41, Florida Statutes, are amended to read:

1510 429.41 Rules establishing standards.—

1511 (1) It is the intent of the Legislature that rules
1512 published and enforced pursuant to this section shall include
1513 criteria by which a reasonable and consistent quality of
1514 resident care and quality of life may be ensured and the results
1515 of such resident care may be demonstrated. Such rules shall also
1516 ensure a safe and sanitary environment that is residential and
1517 noninstitutional in design or nature. It is further intended
1518 that reasonable efforts be made to accommodate the needs and
1519 preferences of residents to enhance the quality of life in a
1520 facility. Uniform firesafety standards for assisted living
1521 facilities shall be established by the State Fire Marshal
1522 pursuant to s. 633.206. The agency, in consultation with the
1523 department, may adopt rules to administer the requirements of
1524 part II of chapter 408. In order to provide safe and sanitary
1525 facilities and the highest quality of resident care
1526 accommodating the needs and preferences of residents, the
1527 department, in consultation with the agency, the Department of
1528 Children and Families, and the Department of Health, shall adopt
1529 rules, policies, and procedures to administer this part, which
1530 must include reasonable and fair minimum standards in relation
1531 to:

1532 (a) The requirements for and maintenance of facilities, not
1533 in conflict with chapter 553, relating to electricity, plumbing,
1534 heating, cooling, lighting, ventilation, living space, and other
1535 housing conditions, which will ensure the health, safety, and
1536 comfort of residents suitable to the size of the structure.

1537 1. Firesafety evacuation capability determination.—An

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1538 evacuation capability evaluation for initial licensure shall be
1539 conducted within 6 months after the date of licensure.

1540 2. Firesafety requirements.-

1541 a. The National Fire Protection Association, Life Safety
1542 Code, NFPA 101 and 101A, current editions, shall be used in
1543 determining the uniform firesafety code adopted by the State
1544 Fire Marshal for assisted living facilities, pursuant to s.
1545 633.206.

1546 b. A local government or a utility may charge fees only in
1547 an amount not to exceed the actual expenses incurred by the
1548 local government or the utility relating to the installation and
1549 maintenance of an automatic fire sprinkler system in a licensed
1550 assisted living facility structure.

1551 c. All licensed facilities must have an annual fire
1552 inspection conducted by the local fire marshal or authority
1553 having jurisdiction.

1554 d. An assisted living facility that is issued a building
1555 permit or certificate of occupancy before July 1, 2016, may at
1556 its option and after notifying the authority having
1557 jurisdiction, remain under the provisions of the 1994 and 1995
1558 editions of the National Fire Protection Association, Life
1559 Safety Code, NFPA 101, and NFPA 101A. The facility opting to
1560 remain under such provisions may make repairs, modernizations,
1561 renovations, or additions to, or rehabilitate, the facility in
1562 compliance with NFPA 101, 1994 edition, and may utilize the
1563 alternative approaches to life safety in compliance with NFPA
1564 101A, 1995 edition. However, a facility for which a building
1565 permit or certificate of occupancy is issued before July 1,
1566 2016, that undergoes Level III building alteration or

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1567 rehabilitation, as defined in the Florida Building Code, or
1568 seeks to utilize features not authorized under the 1994 or 1995
1569 editions of the Life Safety Code must thereafter comply with all
1570 aspects of the uniform firesafety standards established under s.
1571 633.206, and the Florida Fire Prevention Code, in effect for
1572 assisted living facilities as adopted by the State Fire Marshal.

1573 3. Resident elopement requirements.—Facilities are required
1574 to conduct a minimum of two resident elopement prevention and
1575 response drills per year. All administrators and direct care
1576 staff must participate in the drills which shall include a
1577 review of procedures to address resident elopement. Facilities
1578 must document the implementation of the drills and ensure that
1579 the drills are conducted in a manner consistent with the
1580 facility's resident elopement policies and procedures.

1581 4. Emergency power sources for use during power outages.—
1582 Facilities are required to maintain a fully operational
1583 emergency power source and a supply of fuel sufficient to
1584 sustain the emergency power source for at least 96 hours during
1585 a power outage. The emergency power source must provide enough
1586 electricity to consistently maintain an air temperature between
1587 71° and 81° F in the facility.

1588 (b) The preparation and annual update of a comprehensive
1589 emergency management plan. Such standards must be included in
1590 the rules adopted by the department after consultation with the
1591 Division of Emergency Management. At a minimum, the rules must
1592 provide for plan components that address emergency evacuation
1593 transportation; adequate sheltering arrangements; postdisaster
1594 activities, including provision of emergency power, food, and
1595 water; postdisaster transportation; supplies; staffing;

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1596 emergency equipment; individual identification of residents and
1597 transfer of records; communication with families; and responses
1598 to family inquiries. The comprehensive emergency management plan
1599 must provide for the evacuation of all residents of a facility
1600 if the facility experiences a power outage and is unable to
1601 sustain emergency power, as required in subparagraph (a)4. The
1602 comprehensive emergency management plan is subject to review and
1603 approval by the local emergency management agency. During its
1604 review, the local emergency management agency shall ensure that
1605 the following agencies, at a minimum, are given the opportunity
1606 to review the plan: the Department of Elderly Affairs, the
1607 Department of Health, the Agency for Health Care Administration,
1608 and the Division of Emergency Management. Also, appropriate
1609 volunteer organizations must be given the opportunity to review
1610 the plan. The local emergency management agency shall complete
1611 its review within 60 days and either approve the plan or advise
1612 the facility of necessary revisions.

1613 Section 33. This act shall take effect July 1, 2018.