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1                   A bill to be entitled  
2           An act relating to aging programs; transferring the  
3           powers, duties, and functions of the Department of  
4           Elderly Affairs relating to hospices, assisted living  
5           facilities, adult family-care homes, and adult day  
6           care centers to the Agency for Health Care  
7           Administration; amending s. 20.41, F.S.; requiring the  
8           department to provide certain documents and  
9           information to the agency upon request; amending s.  
10          20.42, F.S.; establishing that the agency is the lead  
11          agency responsible for the regulation of hospices,  
12          assisted living facilities, adult day care centers,  
13          and adult family-care homes; amending ss. 400.605,  
14          400.60501, 400.6095, 400.610, 429.02, 429.17, 429.23,  
15          429.24, 429.255, 429.256, 429.27, 429.275, 429.31,  
16          429.34, 429.41, 429.42, 429.52, 429.54, 429.63,  
17          429.67, 429.71, 429.73, 429.75, 429.81, 429.929, and  
18          765.110, F.S.; conforming provisions to changes made  
19          by the act; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23        Section 1. All powers, duties, functions, records,  
24 personnel, property, salary rate, budget authority, and  
25 administrative authority of the Department of Elderly Affairs  
26 relating to hospices, assisted living facilities, adult family-  
27 care homes, and adult day care centers, and the administrative  
28 rules in chapters 58A-2, 58A-5, 58A-6, 58A-14, and 58T-1,  
29 Florida Administrative Code, are transferred by a type two

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30 transfer, as defined in s. 20.06(2), Florida Statutes, to the  
31 Agency for Health Care Administration.

32 Section 2. Subsection (9) is added to section 20.41,  
33 Florida Statutes, to read:

34 20.41 Department of Elderly Affairs.—There is created a  
35 Department of Elderly Affairs.

36 (9) Upon request, the department shall provide the Agency  
37 for Health Care Administration with any documents and  
38 information needed for the agency's regulation of hospices,  
39 assisted living facilities, adult family-care homes, and adult  
40 day care centers.

41 Section 3. Subsection (3) of section 20.42, Florida  
42 Statutes, is amended to read:

43 20.42 Agency for Health Care Administration.—

44 (3) The department shall be the chief health policy and  
45 planning entity for the state. The department is responsible for  
46 health facility licensure, inspection, and regulatory  
47 enforcement; investigation of consumer complaints related to  
48 health care facilities and managed care plans; the  
49 implementation of the certificate of need program; the operation  
50 of the Florida Center for Health Information and Transparency;  
51 the administration of the Medicaid program; the administration  
52 of the contracts with the Florida Healthy Kids Corporation; the  
53 certification of health maintenance organizations and prepaid  
54 health clinics as set forth in part III of chapter 641; and any  
55 other duties prescribed by statute or agreement. The department  
56 is the lead agency responsible for the regulation of hospices,  
57 assisted living facilities, adult day care centers, and adult  
58 family-care homes.

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59 Section 4. Subsection (1) of section 400.605, Florida  
60 Statutes, is amended to read:

61 400.605 Administration; forms; fees; rules; inspections;  
62 fines.—

63 (1) The agency, ~~in consultation with the department, may~~  
64 ~~adopt rules to administer the requirements of part II of chapter~~  
65 ~~408. The department, in consultation with the agency,~~ shall by  
66 rule establish minimum standards and procedures for a hospice  
67 pursuant to this part. The rules must include:

68 (a) The qualifications of professional and ancillary  
69 personnel to ensure the provision of appropriate and adequate  
70 hospice care.

71 (b) Standards and procedures for the administrative  
72 management of a hospice.

73 (c) Standards for hospice services that ensure the  
74 provision of quality patient care.

75 (d) Components of a patient plan of care.

76 (e) Procedures relating to the implementation of advanced  
77 directives and do-not-resuscitate orders.

78 (f) Procedures for maintaining and ensuring confidentiality  
79 of patient records.

80 (g) Standards for hospice care provided in freestanding  
81 inpatient facilities that are not otherwise licensed medical  
82 facilities and in residential care facilities such as nursing  
83 homes, assisted living facilities, adult family-care homes, and  
84 hospice residential units and facilities.

85 (h) Components of a comprehensive emergency management  
86 plan, developed in consultation with the Department of Health, ~~7~~  
87 ~~the Department of Elderly Affairs,~~ and the Division of Emergency

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88 Management.

89 (i) Standards and procedures relating to the establishment  
90 and activities of a quality assurance and utilization review  
91 committee.

92 (j) Components and procedures relating to the collection of  
93 patient demographic data and other information on the provision  
94 of hospice care in this state.

95 Section 5. Section 400.60501, Florida Statutes, is amended  
96 to read:

97 400.60501 Outcome measures; adoption of federal quality  
98 measures; public reporting; annual report.—

99 (1) No later than December 31, 2019, ~~the department, in~~  
100 ~~conjunction with~~ the agency, shall adopt the national hospice  
101 outcome measures and survey data in 42 C.F.R. part 418 to  
102 determine the quality and effectiveness of hospice care for  
103 hospices licensed in the state.

104 (2) ~~The department, in conjunction with~~ The agency, shall:

105 (a) Make available to the public the national hospice  
106 outcome measures and survey data in a format that is  
107 comprehensible by a layperson and that allows a consumer to  
108 compare such measures of one or more hospices.

109 (b) Develop an annual report that analyzes and evaluates  
110 the information collected under this act and any other data  
111 collection or reporting provisions of law.

112 Section 6. Subsection (8) of section 400.6095, Florida  
113 Statutes, is amended to read:

114 400.6095 Patient admission; assessment; plan of care;  
115 discharge; death.—

116 (8) The hospice care team may withhold or withdraw

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117 cardiopulmonary resuscitation if presented with an order not to  
118 resuscitate executed pursuant to s. 401.45. The agency  
119 ~~department~~ shall adopt rules providing for the implementation of  
120 such orders. Hospice staff shall not be subject to criminal  
121 prosecution or civil liability, nor be considered to have  
122 engaged in negligent or unprofessional conduct, for withholding  
123 or withdrawing cardiopulmonary resuscitation pursuant to such an  
124 order and applicable rules. The absence of an order to  
125 resuscitate executed pursuant to s. 401.45 does not preclude a  
126 physician from withholding or withdrawing cardiopulmonary  
127 resuscitation as otherwise permitted by law.

128 Section 7. Paragraph (b) of subsection (1) of section  
129 400.610, Florida Statutes, is amended to read:

130 400.610 Administration and management of a hospice.—

131 (1) A hospice shall have a clearly defined organized  
132 governing body, consisting of a minimum of seven persons who are  
133 representative of the general population of the community  
134 served. The governing body shall have autonomous authority and  
135 responsibility for the operation of the hospice and shall meet  
136 at least quarterly. The governing body shall:

137 (b)1. Prepare and maintain a comprehensive emergency  
138 management plan that provides for continuing hospice services in  
139 the event of an emergency that is consistent with local special  
140 needs plans. The plan shall include provisions for ensuring  
141 continuing care to hospice patients who go to special needs  
142 shelters. The plan shall include the means by which the hospice  
143 provider will continue to provide staff to provide the same type  
144 and quantity of services to their patients who evacuate to  
145 special needs shelters which were being provided to those

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146 patients prior to evacuation. The plan is subject to review and  
147 approval by the county health department, except as provided in  
148 subparagraph 2. During its review, the county health department  
149 shall contact state and local health and medical stakeholders  
150 when necessary. The county health department shall complete its  
151 review to ensure that the plan complies with criteria in rules  
152 of the agency ~~Department of Elderly Affairs~~ within 90 days after  
153 receipt of the plan and shall either approve the plan or advise  
154 the hospice of necessary revisions. Hospice providers may  
155 establish links to local emergency operations centers to  
156 determine a mechanism by which to approach specific areas within  
157 a disaster area in order for the provider to reach its clients.  
158 A hospice shall demonstrate a good faith effort to comply with  
159 the requirements of this paragraph by documenting attempts of  
160 staff to follow procedures as outlined in the hospice's  
161 comprehensive emergency management plan and to provide  
162 continuing care for those hospice clients who have been  
163 identified as needing alternative caregiver services in the  
164 event of an emergency.

165       2. For any hospice that operates in more than one county,  
166 the Department of Health during its review shall contact state  
167 and local health and medical stakeholders when necessary. The  
168 Department of Health shall complete its review to ensure that  
169 the plan complies with criteria in rules of the agency  
170 ~~Department of Elderly Affairs~~ within 90 days after receipt of  
171 the plan and shall approve the plan or advise the hospice of  
172 necessary revisions. The Department of Health shall make every  
173 effort to avoid imposing differing requirements on a hospice  
174 that operates in more than one county as a result of differing

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175 or conflicting comprehensive plan requirements of the counties  
176 in which the hospice operates.

177 Section 8. Subsections (13) and (17) of section 429.02,  
178 Florida Statutes, are amended to read:

179 429.02 Definitions.—When used in this part, the term:

180 (13) "Limited nursing services" means acts that may be  
181 performed by a person licensed under part I of chapter 464.  
182 Limited nursing services shall be for persons who meet the  
183 admission criteria established by the agency ~~department~~ for  
184 assisted living facilities but are and shall not be complex  
185 enough to require 24-hour nursing supervision and may include  
186 such services as the application and care of routine dressings,  
187 and care of casts, braces, and splints.

188 (17) "Personal services" means direct physical assistance  
189 with or supervision of the activities of daily living, the self-  
190 administration of medication, or other similar services that  
191 ~~which~~ the agency ~~department~~ may define by rule. The term may not  
192 be construed to mean the provision of medical, nursing, dental,  
193 or mental health services.

194 Section 9. Subsection (6) of section 429.17, Florida  
195 Statutes, is amended to read:

196 429.17 Expiration of license; renewal; conditional  
197 license.—

198 (6) The agency ~~department~~ may by rule establish renewal  
199 procedures, identify forms, and specify documentation necessary  
200 to administer this section and. ~~The agency, in consultation with~~  
201 ~~the department,~~ may adopt rules to administer ~~the requirements~~  
202 ~~of~~ part II of chapter 408.

203 Section 10. Subsection (10) of section 429.23, Florida

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204 Statutes, is amended to read:

205 429.23 Internal risk management and quality assurance  
206 program; adverse incidents and reporting requirements.—

207 (10) The agency ~~Department of Elderly Affairs~~ may adopt  
208 rules necessary to administer this section.

209 Section 11. Subsection (8) of section 429.24, Florida  
210 Statutes, is amended to read:

211 429.24 Contracts.—

212 (8) The agency ~~department~~ may by rule clarify terms,  
213 establish procedures, clarify refund policies and contract  
214 provisions, and specify documentation as necessary to administer  
215 this section.

216 Section 12. Subsections (4) and (5) of section 429.255,  
217 Florida Statutes, are amended to read:

218 429.255 Use of personnel; emergency care.—

219 (4) Facility staff may withhold or withdraw cardiopulmonary  
220 resuscitation or the use of an automated external defibrillator  
221 if presented with an order not to resuscitate executed pursuant  
222 to s. 401.45. The agency ~~department~~ shall adopt rules providing  
223 for the implementation of such orders. Facility staff and  
224 facilities may ~~shall~~ not be subject to criminal prosecution or  
225 civil liability, nor be considered to have engaged in negligent  
226 or unprofessional conduct, for withholding or withdrawing  
227 cardiopulmonary resuscitation or use of an automated external  
228 defibrillator pursuant to such an order and rules adopted by the  
229 agency ~~department~~. The absence of an order to resuscitate  
230 executed pursuant to s. 401.45 does not preclude a physician  
231 from withholding or withdrawing cardiopulmonary resuscitation or  
232 use of an automated external defibrillator as otherwise



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233 permitted by law.

234 (5) The agency ~~Department of Elderly Affairs~~ may adopt  
235 rules to implement the provisions of this section relating to  
236 use of an automated external defibrillator.

237 Section 13. Subsection (6) of section 429.256, Florida  
238 Statutes, is amended to read:

239 429.256 Assistance with self-administration of medication.—

240 (6) The agency ~~department~~ may by rule establish facility  
241 procedures and interpret terms as necessary to implement this  
242 section.

243 Section 14. Subsection (8) of section 429.27, Florida  
244 Statutes, is amended to read:

245 429.27 Property and personal affairs of residents.—

246 (8) The agency ~~department~~ may by rule clarify terms and  
247 specify procedures and documentation necessary to administer the  
248 provisions of this section relating to the proper management of  
249 residents' funds and personal property and the execution of  
250 surety bonds.

251 Section 15. Subsection (4) of section 429.275, Florida  
252 Statutes, is amended to read:

253 429.275 Business practice; personnel records; liability  
254 insurance.—The assisted living facility shall be administered on  
255 a sound financial basis that is consistent with good business  
256 practices.

257 (4) The agency ~~department~~ may by rule clarify terms,  
258 establish requirements for financial records, accounting  
259 procedures, personnel procedures, insurance coverage, and  
260 reporting procedures, and specify documentation as necessary to  
261 implement ~~the requirements of~~ this section.

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262 Section 16. Subsection (2) of section 429.31, Florida  
263 Statutes, is amended to read:

264 429.31 Closing of facility; notice; penalty.—

265 (2) Immediately upon the notice by the agency of the  
266 voluntary or involuntary termination of such operation, the  
267 agency shall monitor the transfer of residents to other  
268 facilities and ensure that residents' rights are being  
269 protected. The agency ~~department~~, in consultation with the  
270 Department of Children and Families, shall specify procedures  
271 for ensuring that all residents who receive services are  
272 appropriately relocated.

273 Section 17. Subsection (1) of section 429.34, Florida  
274 Statutes, is amended to read:

275 429.34 Right of entry and inspection.—

276 (1) In addition to the requirements of s. 408.811, a duly  
277 designated officer or employee of the agency ~~department~~, of the  
278 Department of Children and Families, of the Medicaid Fraud  
279 Control Unit of the Office of the Attorney General, or of the  
280 state or local fire marshal, or a representative of the State  
281 Long-Term Care Ombudsman Program or a member of the state or  
282 local long-term care ombudsman council has the right to enter  
283 unannounced upon and into the premises of any facility licensed  
284 under this part in order to determine the state of compliance  
285 with this part, part II of chapter 408, and applicable rules.  
286 Data collected by the State Long-Term Care Ombudsman Program,  
287 local long-term care ombudsman councils, or the state or local  
288 advocacy councils may be used by the agency in investigations  
289 involving violations of regulatory standards. A person specified  
290 in this section who knows or has reasonable cause to suspect

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291 that a vulnerable adult has been or is being abused, neglected,  
292 or exploited shall immediately report such knowledge or  
293 suspicion to the central abuse hotline pursuant to chapter 415.

294 Section 18. Section 429.41, Florida Statutes, is amended to  
295 read:

296 429.41 Rules establishing standards.—

297 (1) It is the intent of the Legislature that rules  
298 published and enforced pursuant to this section shall include  
299 criteria by which a reasonable and consistent quality of  
300 resident care and quality of life may be ensured and the results  
301 of such resident care may be demonstrated. Such rules shall also  
302 ensure a safe and sanitary environment that is residential and  
303 noninstitutional in design or nature. It is further intended  
304 that reasonable efforts be made to accommodate the needs and  
305 preferences of residents to enhance the quality of life in a  
306 facility. Uniform firesafety standards for assisted living  
307 facilities shall be established by the State Fire Marshal  
308 pursuant to s. 633.206. The agency, ~~in consultation with the~~  
309 ~~department,~~ may adopt rules to administer ~~the requirements of~~  
310 part II of chapter 408. In order to provide safe and sanitary  
311 facilities and the highest quality of resident care  
312 accommodating the needs and preferences of residents, the agency  
313 ~~department,~~ in consultation with the ~~agency,~~ the Department of  
314 Children and Families, and the Department of Health, shall adopt  
315 rules, policies, and procedures to administer this part, which  
316 must include reasonable and fair minimum standards in relation  
317 to:

318 (a) The requirements for and maintenance of facilities, not  
319 in conflict with chapter 553, relating to plumbing, heating,

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320 cooling, lighting, ventilation, living space, and other housing  
321 conditions, which will ensure the health, safety, and comfort of  
322 residents suitable to the size of the structure.

323 1. Firesafety evacuation capability determination.—An  
324 evacuation capability evaluation for initial licensure shall be  
325 conducted within 6 months after the date of licensure.

326 2. Firesafety requirements.—

327 a. The National Fire Protection Association, Life Safety  
328 Code, NFPA 101 and 101A, current editions, shall be used in  
329 determining the uniform firesafety code adopted by the State  
330 Fire Marshal for assisted living facilities, pursuant to s.  
331 633.206.

332 b. A local government or a utility may charge fees only in  
333 an amount not to exceed the actual expenses incurred by the  
334 local government or the utility relating to the installation and  
335 maintenance of an automatic fire sprinkler system in a licensed  
336 assisted living facility structure.

337 c. All licensed facilities must have an annual fire  
338 inspection conducted by the local fire marshal or authority  
339 having jurisdiction.

340 d. An assisted living facility that is issued a building  
341 permit or certificate of occupancy before July 1, 2016, may at  
342 its option and after notifying the authority having  
343 jurisdiction, remain under the provisions of the 1994 and 1995  
344 editions of the National Fire Protection Association, Life  
345 Safety Code, NFPA 101, and NFPA 101A. The facility opting to  
346 remain under such provisions may make repairs, modernizations,  
347 renovations, or additions to, or rehabilitate, the facility in  
348 compliance with NFPA 101, 1994 edition, and may utilize the

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349 alternative approaches to life safety in compliance with NFPA  
350 101A, 1995 edition. However, a facility for which a building  
351 permit or certificate of occupancy is issued before July 1,  
352 2016, that undergoes Level III building alteration or  
353 rehabilitation, as defined in the Florida Building Code, or  
354 seeks to utilize features not authorized under the 1994 or 1995  
355 editions of the Life Safety Code must thereafter comply with all  
356 aspects of the uniform firesafety standards established under s.  
357 633.206, and the Florida Fire Prevention Code, in effect for  
358 assisted living facilities as adopted by the State Fire Marshal.

359 3. Resident elopement requirements.—Facilities are required  
360 to conduct a minimum of two resident elopement prevention and  
361 response drills per year. All administrators and direct care  
362 staff must participate in the drills, which shall include a  
363 review of procedures to address resident elopement. Facilities  
364 must document the implementation of the drills and ensure that  
365 the drills are conducted in a manner consistent with the  
366 facility's resident elopement policies and procedures.

367 (b) The preparation and annual update of a comprehensive  
368 emergency management plan. Such standards must be included in  
369 the rules adopted by the agency ~~department~~ after consultation  
370 with the Division of Emergency Management. At a minimum, the  
371 rules must provide for plan components that address emergency  
372 evacuation transportation; adequate sheltering arrangements;  
373 postdisaster activities, including provision of emergency power,  
374 food, and water; postdisaster transportation; supplies;  
375 staffing; emergency equipment; individual identification of  
376 residents and transfer of records; communication with families;  
377 and responses to family inquiries. The comprehensive emergency

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378 management plan is subject to review and approval by the local  
379 emergency management agency. During its review, the local  
380 emergency management agency shall ensure that the following  
381 agencies, at a minimum, are given the opportunity to review the  
382 plan: ~~the Department of Elderly Affairs,~~ the Department of  
383 Health, the Agency for Health Care Administration, and the  
384 Division of Emergency Management. Also, appropriate volunteer  
385 organizations must be given the opportunity to review the plan.  
386 The local emergency management agency shall complete its review  
387 within 60 days and either approve the plan or advise the  
388 facility of necessary revisions.

389 (c) The number, training, and qualifications of all  
390 personnel having responsibility for the care of residents. The  
391 rules must require adequate staff to provide for the safety of  
392 all residents. Facilities licensed for 17 or more residents are  
393 required to maintain an alert staff for 24 hours per day.

394 (d) All sanitary conditions within the facility and its  
395 surroundings which will ensure the health and comfort of  
396 residents. The rules must clearly delineate the responsibilities  
397 of the agency's licensure and survey staff, the county health  
398 departments, and the local authority having jurisdiction over  
399 firesafety and ensure that inspections are not duplicative. The  
400 agency may collect fees for food service inspections conducted  
401 by the county health departments and transfer such fees to the  
402 Department of Health.

403 (e) License application and license renewal, transfer of  
404 ownership, proper management of resident funds and personal  
405 property, surety bonds, resident contracts, refund policies,  
406 financial ability to operate, and facility and staff records.

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407 (f) Inspections, complaint investigations, moratoriums,  
408 classification of deficiencies, levying and enforcement of  
409 penalties, and use of income from fees and fines.

410 (g) The enforcement of the resident bill of rights  
411 specified in s. 429.28.

412 (h) The care and maintenance of residents, which must  
413 include, but is not limited to:

- 414 1. The supervision of residents;
- 415 2. The provision of personal services;
- 416 3. The provision of, or arrangement for, social and leisure  
417 activities;
- 418 4. The arrangement for appointments and transportation to  
419 appropriate medical, dental, nursing, or mental health services,  
420 as needed by residents;
- 421 5. The management of medication;
- 422 6. The nutritional needs of residents;
- 423 7. Resident records; and
- 424 8. Internal risk management and quality assurance.

425 (i) Facilities holding a limited nursing, extended  
426 congregate care, or limited mental health license.

427 (j) The establishment of specific criteria to define  
428 appropriateness of resident admission and continued residency in  
429 a facility holding a standard, limited nursing, extended  
430 congregate care, and limited mental health license.

431 (k) The use of physical or chemical restraints. The use of  
432 physical restraints is limited to half-bed rails as prescribed  
433 and documented by the resident's physician with the consent of  
434 the resident or, if applicable, the resident's representative or  
435 designee or the resident's surrogate, guardian, or attorney in

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436 fact. The use of chemical restraints is limited to prescribed  
437 dosages of medications authorized by the resident's physician  
438 and must be consistent with the resident's diagnosis. Residents  
439 who are receiving medications that can serve as chemical  
440 restraints must be evaluated by their physician at least  
441 annually to assess:

- 442 1. The continued need for the medication.
- 443 2. The level of the medication in the resident's blood.
- 444 3. The need for adjustments in the prescription.

445 (1) The establishment of specific policies and procedures  
446 on resident elopement. Facilities shall conduct a minimum of two  
447 resident elopement drills each year. All administrators and  
448 direct care staff shall participate in the drills. Facilities  
449 shall document the drills.

450 (2) In adopting any rules pursuant to this part, the  
451 ~~department, in conjunction with the agency,~~ shall make distinct  
452 standards for facilities based upon facility size; the types of  
453 care provided; the physical and mental capabilities and needs of  
454 residents; the type, frequency, and amount of services and care  
455 offered; and the staffing characteristics of the facility. Rules  
456 developed pursuant to this section may not restrict the use of  
457 shared staffing and shared programming in facilities that are  
458 part of retirement communities that provide multiple levels of  
459 care and otherwise meet the requirements of law and rule. If a  
460 continuing care facility licensed under chapter 651 or a  
461 retirement community offering multiple levels of care licenses a  
462 building or part of a building designated for independent living  
463 for assisted living, staffing requirements established in rule  
464 apply only to residents who receive personal, limited nursing,



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465 or extended congregate care services under this part. Such  
466 facilities shall retain a log listing the names and unit number  
467 for residents receiving these services. The log must be  
468 available to surveyors upon request. Except for uniform  
469 firesafety standards, the agency ~~department~~ shall adopt by rule  
470 separate and distinct standards for facilities with 16 or fewer  
471 beds and for facilities with 17 or more beds. The standards for  
472 facilities with 16 or fewer beds must be appropriate for a  
473 noninstitutional residential environment; however, the structure  
474 may not be more than two stories in height and all persons who  
475 cannot exit the facility unassisted in an emergency must reside  
476 on the first floor. The ~~department, in conjunction with the~~  
477 ~~agency,~~ may make other distinctions among types of facilities as  
478 necessary to enforce this part. Where appropriate, the agency  
479 shall offer alternate solutions for complying with established  
480 standards, based on distinctions made by the ~~department and the~~  
481 agency relative to the physical characteristics of facilities  
482 and the types of care offered.

483 (3) ~~The department shall submit a copy of proposed rules to~~  
484 ~~the Speaker of the House of Representatives, the President of~~  
485 ~~the Senate, and appropriate committees of substance for review~~  
486 ~~and comment prior to the promulgation thereof.~~ Rules adopted  
487 ~~promulgated~~ by the agency ~~department~~ shall encourage the  
488 development of homelike facilities that ~~which~~ promote the  
489 dignity, individuality, personal strengths, and decisionmaking  
490 ability of residents.

491 (4) The agency, ~~in consultation with the department,~~ may  
492 waive rules adopted under ~~promulgated pursuant to~~ this part ~~in~~  
493 ~~order~~ to demonstrate and evaluate innovative or cost-effective

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494 congregate care alternatives that ~~which~~ enable individuals to  
495 age in place. Such waivers may be granted only in instances  
496 where there is reasonable assurance that the health, safety, or  
497 welfare of residents will not be endangered. To apply for a  
498 waiver, the licensee shall submit to the agency a written  
499 description of the concept to be demonstrated, including goals,  
500 objectives, and anticipated benefits; the number and types of  
501 residents who will be affected, if applicable; a brief  
502 description of how the demonstration will be evaluated; and any  
503 other information deemed appropriate by the agency. Any facility  
504 granted a waiver shall submit a report of findings to the agency  
505 ~~and the department~~ within 12 months. At such time, the agency  
506 may renew or revoke the waiver or pursue any regulatory or  
507 statutory changes necessary to allow other facilities to adopt  
508 the same practices. The agency ~~department~~ may by rule clarify  
509 terms and establish waiver application procedures, criteria for  
510 reviewing waiver proposals, and procedures for reporting  
511 findings, as necessary to implement this subsection.

512 (5) The agency may use an abbreviated biennial standard  
513 licensure inspection that consists of a review of key quality-  
514 of-care standards in lieu of a full inspection in a facility  
515 that has a good record of past performance. However, a full  
516 inspection must be conducted in a facility that has a history of  
517 class I or class II violations, uncorrected class III  
518 violations, confirmed ombudsman council complaints, or confirmed  
519 licensure complaints, ~~within the previous licensure period~~  
520 immediately preceding the inspection or if a potentially serious  
521 problem is identified during the abbreviated inspection. The  
522 agency, ~~in consultation with the department,~~ shall develop the

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523 key quality-of-care standards with input from the State Long-  
524 Term Care Ombudsman Council and representatives of provider  
525 groups for incorporation into its rules.

526 Section 19. Subsection (4) of section 429.42, Florida  
527 Statutes, is amended to read:

528 429.42 Pharmacy and dietary services.—

529 (4) The agency ~~department~~ may by rule establish procedures  
530 and specify documentation as necessary to implement this  
531 section.

532 Section 20. Subsections (2), (3), (4), and (6) through (12)  
533 of section 429.52, Florida Statutes, are amended to read:

534 429.52 Staff training and educational programs; core  
535 educational requirement.—

536 (2) Administrators and other assisted living facility staff  
537 must meet minimum training and education requirements  
538 established by the agency ~~Department of Elderly Affairs~~ by rule.  
539 This training and education is intended to assist facilities to  
540 appropriately respond to the needs of residents, to maintain  
541 resident care and facility standards, and to meet licensure  
542 requirements.

543 (3) The agency, in conjunction with providers, ~~department~~  
544 shall develop ~~establish~~ a competency test and a minimum required  
545 score to indicate successful completion of the training and  
546 educational requirements. ~~The competency test must be developed~~  
547 ~~by the department in conjunction with the agency and providers.~~  
548 The required training and education must cover at least the  
549 following topics:

550 (a) State law and rules relating to assisted living  
551 facilities.

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552 (b) Resident rights and identifying and reporting abuse,  
553 neglect, and exploitation.

554 (c) Special needs of elderly persons, persons with mental  
555 illness, and persons with developmental disabilities and how to  
556 meet those needs.

557 (d) Nutrition and food service, including acceptable  
558 sanitation practices for preparing, storing, and serving food.

559 (e) Medication management, recordkeeping, and proper  
560 techniques for assisting residents with self-administered  
561 medication.

562 (f) Firesafety requirements, including fire evacuation  
563 drill procedures and other emergency procedures.

564 (g) Care of persons with Alzheimer's disease and related  
565 disorders.

566 (4) A new facility administrator must complete the required  
567 training and education, including the competency test, within 90  
568 days after date of employment as an administrator. Failure to do  
569 so is a violation of this part and subjects the violator to an  
570 administrative fine as prescribed in s. 429.19. Administrators  
571 licensed in accordance with part II of chapter 468 are exempt  
572 from this requirement. Other licensed professionals may be  
573 exempted, as determined by the agency ~~department~~ by rule.

574 (6) Staff involved with the management of medications and  
575 assisting with the self-administration of medications under s.  
576 429.256 must complete a minimum of 6 additional hours of  
577 training provided by a registered nurse, a licensed pharmacist,  
578 or agency ~~department~~ staff. The agency ~~department~~ shall  
579 establish by rule the minimum requirements of this additional  
580 training.

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581 (7) Other facility staff shall participate in training  
582 relevant to their job duties as specified by rule of the agency  
583 ~~department~~.

584 (8) If the ~~department or the~~ agency determines that there  
585 are problems in a facility which ~~that~~ could be reduced through  
586 specific staff training or education beyond that already  
587 required under this section, the ~~department or the~~ agency may  
588 require, and provide, or cause to be provided, the training or  
589 education of any personal care staff in the facility.

590 (9) The agency ~~department~~ shall adopt rules related to  
591 these training requirements, the competency test, necessary  
592 procedures, and competency test fees and shall adopt or contract  
593 with another entity to develop a curriculum, which shall be used  
594 as the minimum core training requirements. The agency ~~department~~  
595 shall consult with representatives of stakeholder associations  
596 and agencies in the development of the curriculum.

597 (10) The training required by this section other than the  
598 preservice orientation must be conducted by persons registered  
599 with the agency ~~department~~ as having the requisite experience  
600 and credentials to conduct the training. A person seeking to  
601 register as a trainer must provide the agency ~~department~~ with  
602 proof of completion of the minimum core training education  
603 requirements, successful passage of the competency test  
604 established under this section, and proof of compliance with the  
605 continuing education requirement in subsection (5).

606 (11) A person seeking to register as a trainer must also:

607 (a) Provide proof of completion of a 4-year degree from an  
608 accredited college or university and must have worked in a  
609 management position in an assisted living facility for 3 years

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610 after being core certified;

611 (b) Have worked in a management position in an assisted  
612 living facility for 5 years after being core certified and have  
613 1 year of teaching experience as an educator or staff trainer  
614 for persons who work in assisted living facilities or other  
615 long-term care settings;

616 (c) Have been previously employed as a core trainer for the  
617 agency or department; or

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

620 (12) The agency ~~department~~ shall adopt rules to establish  
621 trainer registration requirements.

622 Section 21. Section 429.54, Florida Statutes, is amended to  
623 read:

624 429.54 Collection of information; local subsidy.—

625 (1) To enable the agency ~~department~~ to collect the  
626 information requested by the Legislature regarding the actual  
627 cost of providing room, board, and personal care in facilities,  
628 the agency ~~department~~ is authorized to conduct field visits and  
629 audits of facilities as ~~may be~~ necessary. The owners of randomly  
630 sampled facilities shall submit such reports, audits, and  
631 accountings of cost as the agency ~~department~~ may require by  
632 rule; provided that such reports, audits, and accountings shall  
633 be the minimum necessary to implement ~~the provisions of~~ this  
634 section. Any facility selected to participate in the study shall  
635 cooperate with the agency ~~department~~ by providing cost of  
636 operation information to interviewers.

637 (2) Local governments or organizations may contribute to  
638 the cost of care of local facility residents by further

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639 subsidizing the rate of state-authorized payment to such  
640 facilities. Implementation of local subsidy requires agency  
641 ~~shall require departmental~~ approval and may ~~shall~~ not result in  
642 reductions in the state supplement.

643 Section 22. Subsections (4) and (5) of section 429.63,  
644 Florida Statutes, are amended to read:

645 429.63 Legislative intent; purpose.—

646 (4) The Legislature further finds and declares that  
647 licensure under this part is a public trust and a privilege, and  
648 not an entitlement. This principle must guide the finder of fact  
649 or trier of law at any administrative proceeding or circuit  
650 court action initiated by the agency ~~department~~ to enforce this  
651 part.

652 (5) Rules of the agency ~~department~~ relating to adult  
653 family-care homes shall be as minimal and flexible as possible  
654 to ensure the protection of residents while minimizing the  
655 obstacles that could inhibit the establishment of adult family-  
656 care homes.

657 Section 23. Subsections (9), (10), and (11) of section  
658 429.67, Florida Statutes, are amended to read:

659 429.67 Licensure.—

660 (9) In addition to the license categories available in s.  
661 408.808, the agency may issue a conditional license to a  
662 provider for the purpose of bringing the adult family-care home  
663 into compliance with licensure requirements. A conditional  
664 license must be limited to a specific period, not exceeding 6  
665 months. The agency ~~department~~ shall, by rule, establish criteria  
666 for issuing conditional licenses.

667 (10) The agency ~~department~~ may adopt rules to establish

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668 procedures, identify forms, specify documentation, and clarify  
669 terms, as necessary, to administer this section.

670 ~~(11) The agency may adopt rules to administer the~~  
671 ~~requirements of part II of chapter 408.~~

672 Section 24. Subsection (6) of section 429.71, Florida  
673 Statutes, is amended to read:

674 429.71 Classification of deficiencies; administrative  
675 fines.—

676 (6) The agency shall establish ~~department shall set forth,~~  
677 ~~by rule,~~ notice requirements and procedures for correction of  
678 deficiencies.

679 Section 25. Section 429.73, Florida Statutes, is amended to  
680 read:

681 429.73 Rules and standards relating to adult family-care  
682 homes.—

683 (1) The agency, ~~in consultation with the department, may~~  
684 ~~adopt rules to administer the requirements of part II of chapter~~  
685 ~~408. The department,~~ in consultation with the Department of  
686 Health and, the Department of Children and Families, ~~and the~~  
687 ~~agency shall, by rule,~~ establish by rule minimum standards to  
688 ensure the health, safety, and well-being of each resident in  
689 the adult family-care home pursuant to this part. The rules must  
690 address:

691 (a) Requirements for the physical site of the facility and  
692 facility maintenance.

693 (b) Services that must be provided to all residents of an  
694 adult family-care home and standards for such services, which  
695 must include, but need not be limited to:

696 1. Room and board.



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697           2. Assistance necessary to perform the activities of daily  
698 living.

699           3. Assistance necessary to administer medication.

700           4. Supervision of residents.

701           5. Health monitoring.

702           6. Social and leisure activities.

703           (c) Standards and procedures for license application and  
704 annual license renewal, advertising, proper management of each  
705 resident's funds and personal property and personal affairs,  
706 financial ability to operate, medication management,  
707 inspections, complaint investigations, and facility, staff, and  
708 resident records.

709           (d) Qualifications, training, standards, and  
710 responsibilities for providers and staff.

711           (e) Compliance with chapter 419, relating to community  
712 residential homes.

713           (f) Criteria and procedures for determining the  
714 appropriateness of a resident's placement and continued  
715 residency in an adult family-care home. A resident who requires  
716 24-hour nursing supervision may not be retained in an adult  
717 family-care home unless such resident is an enrolled hospice  
718 patient and the resident's continued residency is mutually  
719 agreeable to the resident and the provider.

720           (g) Procedures for providing notice and assuring the least  
721 possible disruption of residents' lives when residents are  
722 relocated, an adult family-care home is closed, or the ownership  
723 of an adult family-care home is transferred.

724           (h) Procedures to protect the residents' rights as provided  
725 in s. 429.85.

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726 (i) Procedures to promote the growth of adult family-care  
727 homes as a component of a long-term care system.

728 (j) Procedures to promote the goal of aging in place for  
729 residents of adult family-care homes.

730 (2) The agency ~~department~~ shall ~~by rule~~ provide by rule  
731 minimum standards and procedures for emergencies. Pursuant to s.  
732 633.206, the State Fire Marshal, in consultation with the  
733 ~~department and the~~ agency, shall adopt uniform firesafety  
734 standards for adult family-care homes.

735 (3) The agency ~~department~~ shall adopt rules providing for  
736 the implementation of orders not to resuscitate. The provider  
737 may withhold or withdraw cardiopulmonary resuscitation if  
738 presented with an order not to resuscitate executed pursuant to  
739 s. 401.45. The provider shall not be subject to criminal  
740 prosecution or civil liability, nor be considered to have  
741 engaged in negligent or unprofessional conduct, for withholding  
742 or withdrawing cardiopulmonary resuscitation pursuant to such an  
743 order and applicable rules.

744 Section 26. Subsections (3), (4), and (5) of section  
745 429.75, Florida Statutes, are amended to read:

746 429.75 Training and education programs.—

747 (3) Providers must complete the training and education  
748 program within a reasonable time determined by the agency  
749 ~~department~~. Failure to complete the training and education  
750 program within the time set by the agency ~~department~~ is a  
751 violation of this part and subjects the provider to revocation  
752 of the license.

753 (4) If the Department of Children and Families or, the  
754 ~~agency, or the department~~ determines that there are problems in

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755 an adult family-care home which could be reduced through  
756 specific training or education beyond that required under this  
757 section, the agency may require the provider or staff to  
758 complete such training or education.

759 (5) The agency ~~department~~ may adopt rules as necessary to  
760 administer this section.

761 Section 27. Subsection (2) of section 429.81, Florida  
762 Statutes, is amended to read:

763 429.81 Residency agreements.—

764 (2) Each residency agreement must specify the personal care  
765 and accommodations to be provided by the adult family-care home,  
766 the rates or charges, a requirement of at least 30 days' notice  
767 before a rate increase, and any other provisions required by  
768 rule of the agency ~~department~~.

769 Section 28. Section 429.929, Florida Statutes, is amended  
770 to read:

771 429.929 Rules establishing standards.—

772 (1) The agency, ~~in consultation with the department, may~~  
773 ~~adopt rules to administer the requirements of part II of chapter~~  
774 ~~408. The Department of Elderly Affairs, in conjunction with the~~  
775 ~~agency,~~ shall adopt rules to implement ~~the provisions of this~~  
776 part. The rules must include reasonable and fair standards. Any  
777 conflict between these standards and those that may be set forth  
778 in local, county, or municipal ordinances shall be resolved in  
779 favor of those having statewide effect. Such standards must  
780 relate to:

781 (a) The maintenance of adult day care centers with respect  
782 to plumbing, heating, lighting, ventilation, and other building  
783 conditions, including adequate meeting space, to ensure the

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784 health, safety, and comfort of participants and protection from  
785 fire hazard. Such standards may not conflict with chapter 553  
786 and must be based upon the size of the structure and the number  
787 of participants.

788 (b) The number and qualifications of all personnel employed  
789 by adult day care centers who have responsibilities for the care  
790 of participants.

791 (c) All sanitary conditions within adult day care centers  
792 and their surroundings, including water supply, sewage disposal,  
793 food handling, and general hygiene, and maintenance of sanitary  
794 conditions, to ensure the health and comfort of participants.

795 (d) Basic services provided by adult day care centers.

796 (e) Supportive and optional services provided by adult day  
797 care centers.

798 (f) Data and information relative to participants and  
799 programs of adult day care centers, including, but not limited  
800 to, the physical and mental capabilities and needs of the  
801 participants, the availability, frequency, and intensity of  
802 basic services and of supportive and optional services provided,  
803 the frequency of participation, the distances traveled by  
804 participants, the hours of operation, the number of referrals to  
805 other centers or elsewhere, and the incidence of illness.

806 (g) Components of a comprehensive emergency management  
807 plan, developed in consultation with the Department of Health,  
808 ~~the Agency for Health Care Administration,~~ and the Division of  
809 Emergency Management.

810 (2) Pursuant to this part, s. 408.811, and applicable  
811 rules, the agency may conduct an abbreviated biennial inspection  
812 of key quality-of-care standards, in lieu of a full inspection,

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813 of a center that has a record of good performance. However, the  
814 agency must conduct a full inspection of a center that has had  
815 one or more confirmed complaints within the licensure period  
816 immediately preceding the inspection or which has a serious  
817 problem identified during the abbreviated inspection. The agency  
818 shall develop the key quality-of-care standards, taking into  
819 consideration the comments and recommendations of ~~the Department~~  
820 ~~of Elderly Affairs and of provider groups~~. These standards shall  
821 be included in rules adopted by the agency ~~Department of Elderly~~  
822 ~~Affairs~~.

823 Section 29. Subsection (4) of section 765.110, Florida  
824 Statutes, is amended to read:

825 765.110 Health care facilities and providers; discipline.-

826 (4) ~~The Department of Elderly Affairs for hospices and, in~~  
827 ~~consultation with the Department of Elderly Affairs, the~~  
828 Department of Health, in consultation with the Department of  
829 Elderly Affairs, for health care providers; the Agency for  
830 Health Care Administration for hospitals, hospices, nursing  
831 homes, home health agencies, and health maintenance  
832 organizations; and the Department of Children and Families for  
833 facilities subject to part I of chapter 394 shall adopt rules to  
834 implement this ~~the provisions of the~~ section.

835 Section 30. This act shall take effect July 1, 2019.