

1 A bill to be entitled
 2 An act relating to aging programs; transferring the
 3 powers, duties, functions, and contractual
 4 responsibilities of the Department of Elderly Affairs
 5 relating to hospices, assisted living facilities,
 6 adult family-care homes, and adult day care centers to
 7 the Agency for Health Care Administration; amending s.
 8 20.41, F.S.; requiring the department to provide
 9 certain documents and information to the agency upon
 10 request; amending s. 20.42, F.S.; establishing that
 11 the agency is the lead agency responsible for the
 12 regulation of hospices, assisted living facilities,
 13 adult family-care homes, and adult day care centers;
 14 amending ss. 400.605, 400.60501, 400.6095, 400.610,
 15 429.02, 429.17, 429.19, 429.23, 429.24, 429.255,
 16 429.256, 429.27, 429.275, 429.31, 429.34, 429.41,
 17 429.42, 429.52, 429.54, 429.63, 429.67, 429.71,
 18 429.73, 429.75, 429.81, 429.929, and 765.110, F.S.;
 19 conforming provisions to changes made by the act;
 20 providing an effective date.

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

23
 24 Section 1. All powers, duties, functions, records,
 25 personnel, property, salary rate, budget authority, and

26 administrative authority of the Department of Elderly Affairs
27 relating to hospices, assisted living facilities, adult family-
28 care homes, and adult day care centers, and the administrative
29 rules in chapters 58A-2, 58A-5, 58A-6, 58A-14, and 58T-1,
30 Florida Administrative Code, are transferred by a type two
31 transfer, as defined in s. 20.06(2), Florida Statutes, to the
32 Agency for Health Care Administration. Any contract or
33 interagency agreement existing before July 1, 2019, between the
34 Department of Elderly Affairs and any other agency, entity, or
35 person executed to administer any program, activity, or function
36 authorized under statutory authority or rules transferred herein
37 shall continue as a contract or agreement with the Agency for
38 Health Care Administration.

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

41 20.41 Department of Elderly Affairs.—There is created a
42 Department of Elderly Affairs.

43 (9) Upon request, the department shall provide the Agency
44 for Health Care Administration with any documents and
45 information needed for the agency's regulation of hospices,
46 assisted living facilities, adult family-care homes, and adult
47 day care centers.

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

50 20.42 Agency for Health Care Administration.—

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

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

68 400.605 Administration; forms; fees; rules; inspections;
 69 fines.—

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

75 (a) The qualifications of professional and ancillary

76 | personnel to ensure the provision of appropriate and adequate
77 | hospice care.

78 | (b) Standards and procedures for the administrative
79 | management of a hospice.

80 | (c) Standards for hospice services that ensure the
81 | provision of quality patient care.

82 | (d) Components of a patient plan of care.

83 | (e) Procedures relating to the implementation of advanced
84 | directives and do-not-resuscitate orders.

85 | (f) Procedures for maintaining and ensuring
86 | confidentiality of patient records.

87 | (g) Standards for hospice care provided in freestanding
88 | inpatient facilities that are not otherwise licensed medical
89 | facilities and in residential care facilities such as nursing
90 | homes, assisted living facilities, adult family-care homes, and
91 | hospice residential units and facilities.

92 | (h) Components of a comprehensive emergency management
93 | plan, developed in consultation with the Department of Health,
94 | ~~the Department of Elderly Affairs,~~ and the Division of Emergency
95 | Management.

96 | (i) Standards and procedures relating to the establishment
97 | and activities of a quality assurance and utilization review
98 | committee.

99 | (j) Components and procedures relating to the collection
100 | of patient demographic data and other information on the

101 provision of hospice care in this state.

102 Section 5. Section 400.60501, Florida Statutes, is amended
 103 to read:

104 400.60501 Outcome measures; adoption of federal quality
 105 measures; public reporting; annual report.—

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

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

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

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

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

121 400.6095 Patient admission; assessment; plan of care;
 122 discharge; death.—

123 (8) The hospice care team may withhold or withdraw
 124 cardiopulmonary resuscitation if presented with an order not to
 125 resuscitate executed pursuant to s. 401.45. The agency

126 ~~department~~ shall adopt rules providing for the implementation of
127 such orders. Hospice staff shall not be subject to criminal
128 prosecution or civil liability, nor be considered to have
129 engaged in negligent or unprofessional conduct, for withholding
130 or withdrawing cardiopulmonary resuscitation pursuant to such an
131 order and applicable rules. The absence of an order to
132 resuscitate executed pursuant to s. 401.45 does not preclude a
133 physician from withholding or withdrawing cardiopulmonary
134 resuscitation as otherwise permitted by law.

135 Section 7. Paragraph (b) of subsection (1) of section
136 400.610, Florida Statutes, is amended to read:

137 400.610 Administration and management of a hospice.—

138 (1) A hospice shall have a clearly defined organized
139 governing body, consisting of a minimum of seven persons who are
140 representative of the general population of the community
141 served. The governing body shall have autonomous authority and
142 responsibility for the operation of the hospice and shall meet
143 at least quarterly. The governing body shall:

144 (b)1. Prepare and maintain a comprehensive emergency
145 management plan that provides for continuing hospice services in
146 the event of an emergency that is consistent with local special
147 needs plans. The plan shall include provisions for ensuring
148 continuing care to hospice patients who go to special needs
149 shelters. The plan shall include the means by which the hospice
150 provider will continue to provide staff to provide the same type

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

172 2. For any hospice that operates in more than one county,
173 the Department of Health during its review shall contact state
174 and local health and medical stakeholders when necessary. The
175 Department of Health shall complete its review to ensure that

176 the plan complies with criteria in rules of the agency
177 ~~Department of Elderly Affairs~~ within 90 days after receipt of
178 the plan and shall approve the plan or advise the hospice of
179 necessary revisions. The Department of Health shall make every
180 effort to avoid imposing differing requirements on a hospice
181 that operates in more than one county as a result of differing
182 or conflicting comprehensive plan requirements of the counties
183 in which the hospice operates.

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

186 429.02 Definitions.—When used in this part, the term:

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

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

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

203 429.17 Expiration of license; renewal; conditional
 204 license.—

205 (6) The agency ~~department~~ may by rule establish renewal
 206 procedures, identify forms, and specify documentation necessary
 207 to administer this section and. ~~The agency, in consultation with~~
 208 ~~the department,~~ may adopt rules to administer ~~the requirements~~
 209 ~~of~~ part II of chapter 408.

210 Section 10. Subsection (9) of section 429.19, Florida
 211 Statutes, is amended to read:

212 429.19 Violations; imposition of administrative fines;
 213 grounds.—

214 (9) The agency shall develop and disseminate an annual
 215 list of all facilities sanctioned or fined for violations of
 216 state standards, the number and class of violations involved,
 217 the penalties imposed, and the current status of cases. The list
 218 shall be disseminated, at no charge, to the Department of
 219 Elderly Affairs, the Department of Health, the Department of
 220 Children and Families, the Agency for Persons with Disabilities,
 221 the area agencies on aging, the Florida Statewide Advocacy
 222 Council, the State Long-Term Care Ombudsman Program, and state
 223 and local ombudsman councils. The Department of Children and
 224 Families shall disseminate the list to service providers under
 225 contract with ~~to~~ the department who are responsible for

226 referring persons to a facility for residency. The agency may
 227 charge a fee commensurate with the cost of printing and postage
 228 to other interested parties requesting a copy of this list. This
 229 information may be provided electronically or through the
 230 agency's Internet site.

231 Section 11. Subsection (10) of section 429.23, Florida
 232 Statutes, is amended to read:

233 429.23 Internal risk management and quality assurance
 234 program; adverse incidents and reporting requirements.—

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

237 Section 12. Subsection (8) of section 429.24, Florida
 238 Statutes, is amended to read:

239 429.24 Contracts.—

240 (8) The agency ~~department~~ may by rule clarify terms,
 241 establish procedures, clarify refund policies and contract
 242 provisions, and specify documentation as necessary to administer
 243 this section.

244 Section 13. Subsections (4) and (5) of section 429.255,
 245 Florida Statutes, are amended to read:

246 429.255 Use of personnel; emergency care.—

247 (4) Facility staff may withhold or withdraw
 248 cardiopulmonary resuscitation or the use of an automated
 249 external defibrillator if presented with an order not to
 250 resuscitate executed pursuant to s. 401.45. The agency

251 ~~department~~ shall adopt rules providing for the implementation of
252 such orders. Facility staff and facilities may ~~shall~~ not be
253 subject to criminal prosecution or civil liability, nor be
254 considered to have engaged in negligent or unprofessional
255 conduct, for withholding or withdrawing cardiopulmonary
256 resuscitation or use of an automated external defibrillator
257 pursuant to such an order and rules adopted by the agency
258 ~~department~~. The absence of an order to resuscitate executed
259 pursuant to s. 401.45 does not preclude a physician from
260 withholding or withdrawing cardiopulmonary resuscitation or use
261 of an automated external defibrillator as otherwise permitted by
262 law.

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

266 Section 14. Subsection (6) of section 429.256, Florida
267 Statutes, is amended to read:

268 429.256 Assistance with self-administration of
269 medication.—

270 (6) The agency ~~department~~ may by rule establish facility
271 procedures and interpret terms as necessary to implement this
272 section.

273 Section 15. Subsection (8) of section 429.27, Florida
274 Statutes, is amended to read:

275 429.27 Property and personal affairs of residents.—

276 (8) The agency ~~department~~ may by rule clarify terms and
 277 specify procedures and documentation necessary to administer the
 278 provisions of this section relating to the proper management of
 279 residents' funds and personal property and the execution of
 280 surety bonds.

281 Section 16. Subsection (4) of section 429.275, Florida
 282 Statutes, is amended to read:

283 429.275 Business practice; personnel records; liability
 284 insurance.—The assisted living facility shall be administered on
 285 a sound financial basis that is consistent with good business
 286 practices.

287 (4) The agency ~~department~~ may by rule clarify terms,
 288 establish requirements for financial records, accounting
 289 procedures, personnel procedures, insurance coverage, and
 290 reporting procedures, and specify documentation as necessary to
 291 implement ~~the requirements of~~ this section.

292 Section 17. Subsection (2) of section 429.31, Florida
 293 Statutes, is amended to read:

294 429.31 Closing of facility; notice; penalty.—

295 (2) Immediately upon the notice by the agency of the
 296 voluntary or involuntary termination of such operation, the
 297 agency shall monitor the transfer of residents to other
 298 facilities and ensure that residents' rights are being
 299 protected. The agency ~~department~~, in consultation with the
 300 Department of Children and Families, shall specify procedures

301 for ensuring that all residents who receive services are
302 appropriately relocated.

303 Section 18. Subsection (1) of section 429.34, Florida
304 Statutes, is amended to read:

305 429.34 Right of entry and inspection.—

306 (1) In addition to the requirements of s. 408.811, a duly
307 designated officer or employee of the agency ~~department~~, of the
308 Department of Children and Families, of the Medicaid Fraud
309 Control Unit of the Office of the Attorney General, or of the
310 state or local fire marshal, or a representative of the State
311 Long-Term Care Ombudsman Program or a member of the state or
312 local long-term care ombudsman council has the right to enter
313 unannounced upon and into the premises of any facility licensed
314 under this part in order to determine the state of compliance
315 with this part, part II of chapter 408, and applicable rules.
316 Data collected by the State Long-Term Care Ombudsman Program,
317 local long-term care ombudsman councils, or the state or local
318 advocacy councils may be used by the agency in investigations
319 involving violations of regulatory standards. A person specified
320 in this section who knows or has reasonable cause to suspect
321 that a vulnerable adult has been or is being abused, neglected,
322 or exploited shall immediately report such knowledge or
323 suspicion to the central abuse hotline pursuant to chapter 415.

324 Section 19. Section 429.41, Florida Statutes, is amended
325 to read:

326 429.41 Rules establishing standards.—

327 (1) It is the intent of the Legislature that rules
328 published and enforced pursuant to this section shall include
329 criteria by which a reasonable and consistent quality of
330 resident care and quality of life may be ensured and the results
331 of such resident care may be demonstrated. Such rules shall also
332 ensure a safe and sanitary environment that is residential and
333 noninstitutional in design or nature. It is further intended
334 that reasonable efforts be made to accommodate the needs and
335 preferences of residents to enhance the quality of life in a
336 facility. Uniform firesafety standards for assisted living
337 facilities shall be established by the State Fire Marshal
338 pursuant to s. 633.206. The agency, ~~in consultation with the~~
339 ~~department,~~ may adopt rules to administer ~~the requirements of~~
340 part II of chapter 408. In order to provide safe and sanitary
341 facilities and the highest quality of resident care
342 accommodating the needs and preferences of residents, the agency
343 ~~department,~~ in consultation with the ~~agency,~~ the Department of
344 Children and Families, and the Department of Health, shall adopt
345 rules, policies, and procedures to administer this part, which
346 must include reasonable and fair minimum standards in relation
347 to:

348 (a) The requirements for and maintenance of facilities,
349 not in conflict with chapter 553, relating to plumbing, heating,
350 cooling, lighting, ventilation, living space, and other housing

351 conditions, which will ensure the health, safety, and comfort of
352 residents suitable to the size of the structure.

353 1. Firesafety evacuation capability determination.—An
354 evacuation capability evaluation for initial licensure shall be
355 conducted within 6 months after the date of licensure.

356 2. Firesafety requirements.—

357 a. The National Fire Protection Association, Life Safety
358 Code, NFPA 101 and 101A, current editions, shall be used in
359 determining the uniform firesafety code adopted by the State
360 Fire Marshal for assisted living facilities, pursuant to s.
361 633.206.

362 b. A local government or a utility may charge fees only in
363 an amount not to exceed the actual expenses incurred by the
364 local government or the utility relating to the installation and
365 maintenance of an automatic fire sprinkler system in a licensed
366 assisted living facility structure.

367 c. All licensed facilities must have an annual fire
368 inspection conducted by the local fire marshal or authority
369 having jurisdiction.

370 d. An assisted living facility that is issued a building
371 permit or certificate of occupancy before July 1, 2016, may at
372 its option and after notifying the authority having
373 jurisdiction, remain under the provisions of the 1994 and 1995
374 editions of the National Fire Protection Association, Life
375 Safety Code, NFPA 101, and NFPA 101A. The facility opting to

376 remain under such provisions may make repairs, modernizations,
377 renovations, or additions to, or rehabilitate, the facility in
378 compliance with NFPA 101, 1994 edition, and may utilize the
379 alternative approaches to life safety in compliance with NFPA
380 101A, 1995 edition. However, a facility for which a building
381 permit or certificate of occupancy is issued before July 1,
382 2016, that undergoes Level III building alteration or
383 rehabilitation, as defined in the Florida Building Code, or
384 seeks to utilize features not authorized under the 1994 or 1995
385 editions of the Life Safety Code must thereafter comply with all
386 aspects of the uniform firesafety standards established under s.
387 633.206, and the Florida Fire Prevention Code, in effect for
388 assisted living facilities as adopted by the State Fire Marshal.

389 3. Resident elopement requirements.—Facilities are
390 required to conduct a minimum of two resident elopement
391 prevention and response drills per year. All administrators and
392 direct care staff must participate in the drills, which shall
393 include a review of procedures to address resident elopement.
394 Facilities must document the implementation of the drills and
395 ensure that the drills are conducted in a manner consistent with
396 the facility's resident elopement policies and procedures.

397 (b) The preparation and annual update of a comprehensive
398 emergency management plan. Such standards must be included in
399 the rules adopted by the agency ~~department~~ after consultation
400 with the Division of Emergency Management. At a minimum, the

401 rules must provide for plan components that address emergency
402 evacuation transportation; adequate sheltering arrangements;
403 postdisaster activities, including provision of emergency power,
404 food, and water; postdisaster transportation; supplies;
405 staffing; emergency equipment; individual identification of
406 residents and transfer of records; communication with families;
407 and responses to family inquiries. The comprehensive emergency
408 management plan is subject to review and approval by the local
409 emergency management agency. During its review, the local
410 emergency management agency shall ensure that the following
411 agencies, at a minimum, are given the opportunity to review the
412 plan: ~~the Department of Elderly Affairs,~~ the Department of
413 Health, the Agency for Health Care Administration, and the
414 Division of Emergency Management. Also, appropriate volunteer
415 organizations must be given the opportunity to review the plan.
416 The local emergency management agency shall complete its review
417 within 60 days and either approve the plan or advise the
418 facility of necessary revisions.

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

424 (d) All sanitary conditions within the facility and its
425 surroundings which will ensure the health and comfort of

426 residents. The rules must clearly delineate the responsibilities
427 of the agency's licensure and survey staff, the county health
428 departments, and the local authority having jurisdiction over
429 firesafety and ensure that inspections are not duplicative. The
430 agency may collect fees for food service inspections conducted
431 by the county health departments and transfer such fees to the
432 Department of Health.

433 (e) License application and license renewal, transfer of
434 ownership, proper management of resident funds and personal
435 property, surety bonds, resident contracts, refund policies,
436 financial ability to operate, and facility and staff records.

437 (f) Inspections, complaint investigations, moratoriums,
438 classification of deficiencies, levying and enforcement of
439 penalties, and use of income from fees and fines.

440 (g) The enforcement of the resident bill of rights
441 specified in s. 429.28.

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

- 444 1. The supervision of residents;
- 445 2. The provision of personal services;
- 446 3. The provision of, or arrangement for, social and
447 leisure activities;
- 448 4. The arrangement for appointments and transportation to
449 appropriate medical, dental, nursing, or mental health services,
450 as needed by residents;

- 451 5. The management of medication;
- 452 6. The nutritional needs of residents;
- 453 7. Resident records; and
- 454 8. Internal risk management and quality assurance.
- 455 (i) Facilities holding a limited nursing, extended
- 456 congregate care, or limited mental health license.
- 457 (j) The establishment of specific criteria to define
- 458 appropriateness of resident admission and continued residency in
- 459 a facility holding a standard, limited nursing, extended
- 460 congregate care, and limited mental health license.
- 461 (k) The use of physical or chemical restraints. The use of
- 462 physical restraints is limited to half-bed rails as prescribed
- 463 and documented by the resident's physician with the consent of
- 464 the resident or, if applicable, the resident's representative or
- 465 designee or the resident's surrogate, guardian, or attorney in
- 466 fact. The use of chemical restraints is limited to prescribed
- 467 dosages of medications authorized by the resident's physician
- 468 and must be consistent with the resident's diagnosis. Residents
- 469 who are receiving medications that can serve as chemical
- 470 restraints must be evaluated by their physician at least
- 471 annually to assess:
- 472 1. The continued need for the medication.
- 473 2. The level of the medication in the resident's blood.
- 474 3. The need for adjustments in the prescription.
- 475 (1) The establishment of specific policies and procedures

476 on resident elopement. Facilities shall conduct a minimum of two
477 resident elopement drills each year. All administrators and
478 direct care staff shall participate in the drills. Facilities
479 shall document the drills.

480 (2) In adopting any rules pursuant to this part, the
481 ~~department, in conjunction with the agency,~~ shall make distinct
482 standards for facilities based upon facility size; the types of
483 care provided; the physical and mental capabilities and needs of
484 residents; the type, frequency, and amount of services and care
485 offered; and the staffing characteristics of the facility. Rules
486 developed pursuant to this section may not restrict the use of
487 shared staffing and shared programming in facilities that are
488 part of retirement communities that provide multiple levels of
489 care and otherwise meet the requirements of law and rule. If a
490 continuing care facility licensed under chapter 651 or a
491 retirement community offering multiple levels of care licenses a
492 building or part of a building designated for independent living
493 for assisted living, staffing requirements established in rule
494 apply only to residents who receive personal, limited nursing,
495 or extended congregate care services under this part. Such
496 facilities shall retain a log listing the names and unit number
497 for residents receiving these services. The log must be
498 available to surveyors upon request. Except for uniform
499 firesafety standards, the agency ~~department~~ shall adopt by rule
500 separate and distinct standards for facilities with 16 or fewer

501 beds and for facilities with 17 or more beds. The standards for
502 facilities with 16 or fewer beds must be appropriate for a
503 noninstitutional residential environment; however, the structure
504 may not be more than two stories in height and all persons who
505 cannot exit the facility unassisted in an emergency must reside
506 on the first floor. The ~~department, in conjunction with the~~
507 ~~agency,~~ may make other distinctions among types of facilities as
508 necessary to enforce this part. Where appropriate, the agency
509 shall offer alternate solutions for complying with established
510 standards, based on distinctions made by the ~~department and the~~
511 ~~agency~~ relative to the physical characteristics of facilities
512 and the types of care offered.

513 ~~(3) The department shall submit a copy of proposed rules~~
514 ~~to the Speaker of the House of Representatives, the President of~~
515 ~~the Senate, and appropriate committees of substance for review~~
516 ~~and comment prior to the promulgation thereof. Rules promulgated~~
517 ~~by the department shall encourage the development of homelike~~
518 ~~facilities which promote the dignity, individuality, personal~~
519 ~~strengths, and decisionmaking ability of residents.~~

520 (3)(4) The agency, ~~in consultation with the department,~~
521 may waive rules adopted under promulgated pursuant to this part
522 ~~in order~~ to demonstrate and evaluate innovative or cost-
523 effective congregate care alternatives that ~~which~~ enable
524 individuals to age in place. Such waivers may be granted only in
525 instances where there is reasonable assurance that the health,

526 safety, or welfare of residents will not be endangered. To apply
527 for a waiver, the licensee shall submit to the agency a written
528 description of the concept to be demonstrated, including goals,
529 objectives, and anticipated benefits; the number and types of
530 residents who will be affected, if applicable; a brief
531 description of how the demonstration will be evaluated; and any
532 other information deemed appropriate by the agency. Any facility
533 granted a waiver shall submit a report of findings to the agency
534 ~~and the department~~ within 12 months. At such time, the agency
535 may renew or revoke the waiver or pursue any regulatory or
536 statutory changes necessary to allow other facilities to adopt
537 the same practices. The agency ~~department~~ may by rule clarify
538 terms and establish waiver application procedures, criteria for
539 reviewing waiver proposals, and procedures for reporting
540 findings, as necessary to implement this subsection.

541 (4) ~~(5)~~ The agency may use an abbreviated biennial standard
542 licensure inspection that consists of a review of key quality-
543 of-care standards in lieu of a full inspection in a facility
544 that has a good record of past performance. However, a full
545 inspection must be conducted in a facility that has a history of
546 class I or class II violations, uncorrected class III
547 violations, confirmed ombudsman council complaints, or confirmed
548 licensure complaints, within the previous licensure period
549 immediately preceding the inspection or if a potentially serious
550 problem is identified during the abbreviated inspection. The

551 | agency, ~~in consultation with the department,~~ shall develop the
552 | key quality-of-care standards with input from the State Long-
553 | Term Care Ombudsman Council and representatives of provider
554 | groups for incorporation into its rules.

555 | Section 20. Subsection (4) of section 429.42, Florida
556 | Statutes, is amended to read:

557 | 429.42 Pharmacy and dietary services.—

558 | (4) The agency ~~department~~ may by rule establish procedures
559 | and specify documentation as necessary to implement this
560 | section.

561 | Section 21. Subsections (2), (3), (4), and (6) through
562 | (12) of section 429.52, Florida Statutes, are amended to read:

563 | 429.52 Staff training and educational programs; core
564 | educational requirement.—

565 | (2) Administrators and other assisted living facility
566 | staff must meet minimum training and education requirements
567 | established by the agency ~~Department of Elderly Affairs~~ by rule.
568 | This training and education is intended to assist facilities to
569 | appropriately respond to the needs of residents, to maintain
570 | resident care and facility standards, and to meet licensure
571 | requirements.

572 | (3) The agency, in conjunction with providers, ~~department~~
573 | shall develop ~~establish~~ a competency test and a minimum required
574 | score to indicate successful completion of the training and
575 | educational requirements. ~~The competency test must be developed~~

576 ~~by the department in conjunction with the agency and providers.~~
577 The required training and education must cover at least the
578 following topics:

- 579 (a) State law and rules relating to assisted living
580 facilities.
- 581 (b) Resident rights and identifying and reporting abuse,
582 neglect, and exploitation.
- 583 (c) Special needs of elderly persons, persons with mental
584 illness, and persons with developmental disabilities and how to
585 meet those needs.
- 586 (d) Nutrition and food service, including acceptable
587 sanitation practices for preparing, storing, and serving food.
- 588 (e) Medication management, recordkeeping, and proper
589 techniques for assisting residents with self-administered
590 medication.
- 591 (f) Firesafety requirements, including fire evacuation
592 drill procedures and other emergency procedures.
- 593 (g) Care of persons with Alzheimer's disease and related
594 disorders.

595 (4) A new facility administrator must complete the
596 required training and education, including the competency test,
597 within 90 days after date of employment as an administrator.
598 Failure to do so is a violation of this part and subjects the
599 violator to an administrative fine as prescribed in s. 429.19.
600 Administrators licensed in accordance with part II of chapter

601 468 are exempt from this requirement. Other licensed
602 professionals may be exempted, as determined by the agency
603 ~~department~~ by rule.

604 (6) Staff involved with the management of medications and
605 assisting with the self-administration of medications under s.
606 429.256 must complete a minimum of 6 additional hours of
607 training provided by a registered nurse, a licensed pharmacist,
608 or agency ~~department~~ staff. The agency ~~department~~ shall
609 establish by rule the minimum requirements of this additional
610 training.

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

614 (8) If the ~~department or the~~ agency determines that there
615 are problems in a facility which ~~that~~ could be reduced through
616 specific staff training or education beyond that already
617 required under this section, the ~~department or the~~ agency may
618 require, and provide, or cause to be provided, the training or
619 education of any personal care staff in the facility.

620 (9) The agency ~~department~~ shall adopt rules related to
621 these training requirements, the competency test, necessary
622 procedures, and competency test fees and shall adopt or contract
623 with another entity to develop a curriculum, which shall be used
624 as the minimum core training requirements. The agency ~~department~~
625 shall consult with representatives of stakeholder associations

626 and agencies in the development of the curriculum.

627 (10) The training required by this section other than the
628 preservice orientation must be conducted by persons registered
629 with the agency ~~department~~ as having the requisite experience
630 and credentials to conduct the training. A person seeking to
631 register as a trainer must provide the agency ~~department~~ with
632 proof of completion of the minimum core training education
633 requirements, successful passage of the competency test
634 established under this section, and proof of compliance with the
635 continuing education requirement in subsection (5).

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

637 (a) Provide proof of completion of a 4-year degree from an
638 accredited college or university and must have worked in a
639 management position in an assisted living facility for 3 years
640 after being core certified;

641 (b) Have worked in a management position in an assisted
642 living facility for 5 years after being core certified and have
643 1 year of teaching experience as an educator or staff trainer
644 for persons who work in assisted living facilities or other
645 long-term care settings;

646 (c) Have been previously employed as a core trainer for
647 the agency or ~~department~~; or

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

650 (12) The agency ~~department~~ shall adopt rules to establish

651 trainer registration requirements.

652 Section 22. Section 429.54, Florida Statutes, is amended
653 to read:

654 429.54 Collection of information; local subsidy.—

655 (1) To enable the agency ~~department~~ to collect the
656 information requested by the Legislature regarding the actual
657 cost of providing room, board, and personal care in facilities,
658 the agency ~~department~~ is authorized to conduct field visits and
659 audits of facilities as ~~may be~~ necessary. The owners of randomly
660 sampled facilities shall submit such reports, audits, and
661 accountings of cost as the agency ~~department~~ may require by
662 rule; provided that such reports, audits, and accountings shall
663 be the minimum necessary to implement ~~the provisions of~~ this
664 section. Any facility selected to participate in the study shall
665 cooperate with the agency ~~department~~ by providing cost of
666 operation information to interviewers.

667 (2) Local governments or organizations may contribute to
668 the cost of care of local facility residents by further
669 subsidizing the rate of state-authorized payment to such
670 facilities. Implementation of local subsidy requires agency
671 ~~shall require departmental~~ approval and may ~~shall~~ not result in
672 reductions in the state supplement.

673 Section 23. Subsections (4) and (5) of section 429.63,
674 Florida Statutes, are amended to read:

675 429.63 Legislative intent; purpose.—

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

682 (5) Rules of the agency ~~department~~ relating to adult
683 family-care homes shall be as minimal and flexible as possible
684 to ensure the protection of residents while minimizing the
685 obstacles that could inhibit the establishment of adult family-
686 care homes.

687 Section 24. Subsections (9), (10), and (11) of section
688 429.67, Florida Statutes, are amended to read:

689 429.67 Licensure.—

690 (9) In addition to the license categories available in s.
691 408.808, the agency may issue a conditional license to a
692 provider for the purpose of bringing the adult family-care home
693 into compliance with licensure requirements. A conditional
694 license must be limited to a specific period, not exceeding 6
695 months. The agency ~~department~~ shall, by rule, establish criteria
696 for issuing conditional licenses.

697 (10) The agency ~~department~~ may adopt rules to establish
698 procedures, identify forms, specify documentation, and clarify
699 terms, as necessary, to administer this section.

700 ~~(11) The agency may adopt rules to administer the~~

701 ~~requirements of part II of chapter 408.~~

702 Section 25. Subsection (6) of section 429.71, Florida
703 Statutes, is amended to read:

704 429.71 Classification of deficiencies; administrative
705 fines.—

706 (6) The agency shall establish ~~department shall set forth,~~
707 by rule, notice requirements and procedures for correction of
708 deficiencies.

709 Section 26. Section 429.73, Florida Statutes, is amended
710 to read:

711 429.73 Rules and standards relating to adult family-care
712 homes.—

713 (1) The agency, ~~in consultation with the department,~~ may
714 ~~adopt rules to administer the requirements of part II of chapter~~
715 ~~408. The department,~~ in consultation with the Department of
716 Health and, the Department of Children and Families, ~~and the~~
717 ~~agency shall,~~ by rule, establish by rule minimum standards to
718 ensure the health, safety, and well-being of each resident in
719 the adult family-care home pursuant to this part. The rules must
720 address:

721 (a) Requirements for the physical site of the facility and
722 facility maintenance.

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

- 726 1. Room and board.
- 727 2. Assistance necessary to perform the activities of daily
- 728 living.
- 729 3. Assistance necessary to administer medication.
- 730 4. Supervision of residents.
- 731 5. Health monitoring.
- 732 6. Social and leisure activities.
- 733 (c) Standards and procedures for license application and
- 734 annual license renewal, advertising, proper management of each
- 735 resident's funds and personal property and personal affairs,
- 736 financial ability to operate, medication management,
- 737 inspections, complaint investigations, and facility, staff, and
- 738 resident records.
- 739 (d) Qualifications, training, standards, and
- 740 responsibilities for providers and staff.
- 741 (e) Compliance with chapter 419, relating to community
- 742 residential homes.
- 743 (f) Criteria and procedures for determining the
- 744 appropriateness of a resident's placement and continued
- 745 residency in an adult family-care home. A resident who requires
- 746 24-hour nursing supervision may not be retained in an adult
- 747 family-care home unless such resident is an enrolled hospice
- 748 patient and the resident's continued residency is mutually
- 749 agreeable to the resident and the provider.
- 750 (g) Procedures for providing notice and assuring the least

751 possible disruption of residents' lives when residents are
752 relocated, an adult family-care home is closed, or the ownership
753 of an adult family-care home is transferred.

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

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

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

760 (2) The agency ~~department~~ shall ~~by rule~~ provide by rule
761 minimum standards and procedures for emergencies. Pursuant to s.
762 633.206, the State Fire Marshal, in consultation with the
763 ~~department and the~~ agency, shall adopt uniform firesafety
764 standards for adult family-care homes.

765 (3) The agency ~~department~~ shall adopt rules providing for
766 the implementation of orders not to resuscitate. The provider
767 may withhold or withdraw cardiopulmonary resuscitation if
768 presented with an order not to resuscitate executed pursuant to
769 s. 401.45. The provider shall not be subject to criminal
770 prosecution or civil liability, nor be considered to have
771 engaged in negligent or unprofessional conduct, for withholding
772 or withdrawing cardiopulmonary resuscitation pursuant to such an
773 order and applicable rules.

774 Section 27. Subsections (3), (4), and (5) of section
775 429.75, Florida Statutes, are amended to read:

776 429.75 Training and education programs.—

777 (3) Providers must complete the training and education
 778 program within a reasonable time determined by the agency
 779 ~~department~~. Failure to complete the training and education
 780 program within the time set by the agency ~~department~~ is a
 781 violation of this part and subjects the provider to revocation
 782 of the license.

783 (4) If the Department of Children and Families or, the
 784 ~~agency, or the department~~ determines that there are problems in
 785 an adult family-care home which could be reduced through
 786 specific training or education beyond that required under this
 787 section, the agency may require the provider or staff to
 788 complete such training or education.

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

791 Section 28. Subsection (2) of section 429.81, Florida
 792 Statutes, is amended to read:

793 429.81 Residency agreements.—

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

799 Section 29. Section 429.929, Florida Statutes, is amended
 800 to read:

801 429.929 Rules establishing standards.—

802 (1) The agency, ~~in consultation with the department,~~ may
803 ~~adopt rules to administer the requirements of part II of chapter~~
804 ~~408. The Department of Elderly Affairs, in conjunction with the~~
805 ~~agency,~~ shall adopt rules to implement ~~the provisions of this~~
806 part. The rules must include reasonable and fair standards. Any
807 conflict between these standards and those that may be set forth
808 in local, county, or municipal ordinances shall be resolved in
809 favor of those having statewide effect. Such standards must
810 relate to:

811 (a) The maintenance of adult day care centers with respect
812 to plumbing, heating, lighting, ventilation, and other building
813 conditions, including adequate meeting space, to ensure the
814 health, safety, and comfort of participants and protection from
815 fire hazard. Such standards may not conflict with chapter 553
816 and must be based upon the size of the structure and the number
817 of participants.

818 (b) The number and qualifications of all personnel
819 employed by adult day care centers who have responsibilities for
820 the care of participants.

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

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

826 (e) Supportive and optional services provided by adult day
827 care centers.

828 (f) Data and information relative to participants and
829 programs of adult day care centers, including, but not limited
830 to, the physical and mental capabilities and needs of the
831 participants, the availability, frequency, and intensity of
832 basic services and of supportive and optional services provided,
833 the frequency of participation, the distances traveled by
834 participants, the hours of operation, the number of referrals to
835 other centers or elsewhere, and the incidence of illness.

836 (g) Components of a comprehensive emergency management
837 plan, developed in consultation with the Department of Health,
838 ~~the Agency for Health Care Administration,~~ and the Division of
839 Emergency Management.

840 (2) Pursuant to this part, s. 408.811, and applicable
841 rules, the agency may conduct an abbreviated biennial inspection
842 of key quality-of-care standards, in lieu of a full inspection,
843 of a center that has a record of good performance. However, the
844 agency must conduct a full inspection of a center that has had
845 one or more confirmed complaints within the licensure period
846 immediately preceding the inspection or which has a serious
847 problem identified during the abbreviated inspection. The agency
848 shall develop the key quality-of-care standards, taking into
849 consideration the comments and recommendations of ~~the Department~~
850 ~~of Elderly Affairs and of~~ provider groups. These standards shall

851 be included in rules adopted by the agency ~~Department of Elderly~~
852 ~~Affairs~~.

853 Section 30. Subsection (4) of section 765.110, Florida
854 Statutes, is amended to read:

855 765.110 Health care facilities and providers; discipline.—

856 (4) ~~The Department of Elderly Affairs for hospices and, in~~
857 ~~consultation with the Department of Elderly Affairs, the~~
858 ~~Department of Health, in consultation with the Department of~~
859 Elderly Affairs, for health care providers; the Agency for
860 Health Care Administration for hospitals, hospices, nursing
861 homes, home health agencies, and health maintenance
862 organizations; and the Department of Children and Families for
863 facilities subject to part I of chapter 394 shall adopt rules to
864 implement this ~~the provisions of the~~ section.

865 Section 31. This act shall take effect July 1, 2019.