



578246

LEGISLATIVE ACTION

Senate

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House

The Committee on Health Policy (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 645 - 889

and insert:

the condition. If there is no resident representative or designee, or he or she cannot be located or is unresponsive, the facility shall arrange, with the appropriate health care provider, the necessary care and services to treat the condition.

(9)~~(8)~~ The Department of Children and Families may require



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11 an examination for supplemental security income and optional
12 state supplementation recipients residing in facilities at any
13 time and shall provide the examination whenever a resident's
14 condition requires it. Any facility administrator; personnel of
15 the agency, the department, or the Department of Children and
16 Families; or a representative of the State Long-Term Care
17 Ombudsman Program who believes a resident needs to be evaluated
18 shall notify the resident's case manager, who shall take
19 appropriate action. A report of the examination findings must
20 ~~shall~~ be provided to the resident's case manager and the
21 facility administrator to help the administrator meet his or her
22 responsibilities under subsection (1).

23 ~~(9) A terminally ill resident who no longer meets the~~
24 ~~criteria for continued residency may remain in the facility if~~
25 ~~the arrangement is mutually agreeable to the resident and the~~
26 ~~facility; additional care is rendered through a licensed~~
27 ~~hospice, and the resident is under the care of a physician who~~
28 ~~agrees that the physical needs of the resident are being met.~~

29 (10) Facilities licensed to provide extended congregate
30 care services shall promote aging in place by determining
31 appropriateness of continued residency based on a comprehensive
32 review of the resident's physical and functional status; the
33 ability of the facility, family members, friends, or any other
34 pertinent individuals or agencies to provide the care and
35 services required; and documentation that a written service plan
36 consistent with facility policy has been developed and
37 implemented to ensure that the resident's needs and preferences
38 are addressed.

39 ~~(11) No resident who requires 24-hour nursing supervision,~~



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40 ~~except for a resident who is an enrolled hospice patient~~
41 ~~pursuant to part IV of chapter 400, shall be retained in a~~
42 ~~facility licensed under this part.~~

43 Section 9. Paragraphs (a) and (k) of subsection (1) and
44 subsection (3) of section 429.28, Florida Statutes, are amended
45 to read:

46 429.28 Resident bill of rights.-

47 (1) No resident of a facility shall be deprived of any
48 civil or legal rights, benefits, or privileges guaranteed by
49 law, the Constitution of the State of Florida, or the
50 Constitution of the United States as a resident of a facility.
51 Every resident of a facility shall have the right to:

52 (a) Live in a safe and decent living environment, free from
53 abuse, ~~and~~ neglect, and exploitation.

54 (k) At least 45 days' notice of relocation or termination
55 of residency from the facility unless, for medical reasons, the
56 resident is certified by a physician to require an emergency
57 relocation to a facility providing a more skilled level of care
58 or the resident engages in a pattern of conduct that is harmful
59 or offensive to other residents. In the case of a resident who
60 has been adjudicated mentally incapacitated, the guardian shall
61 be given at least 45 days' notice of a nonemergency relocation
62 or residency termination. Reasons for relocation must ~~shall~~ be
63 set forth in writing and provided to the resident or the
64 resident's legal representative. In order for a facility to
65 terminate the residency of an individual without notice as
66 provided herein, the facility shall show good cause in a court
67 of competent jurisdiction.

68 (3) (a) The agency shall conduct a survey to determine



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69 whether the facility is complying with this section ~~general~~
70 ~~compliance with facility standards and compliance with~~
71 ~~residents' rights~~ as a prerequisite to initial licensure or
72 licensure renewal. ~~The agency shall adopt rules for uniform~~
73 ~~standards and criteria that will be used to determine compliance~~
74 ~~with facility standards and compliance with residents' rights.~~

75 (b) In order to determine whether the facility is
76 adequately protecting residents' rights, the licensure renewal
77 ~~biennial~~ survey must ~~shall~~ include private informal
78 conversations with a sample of residents and consultation with
79 the ombudsman council in the district in which the facility is
80 located to discuss residents' experiences within the facility.

81 Section 10. Section 429.41, Florida Statutes, is amended to
82 read:

83 429.41 Rules establishing standards.—

84 (1) It is the intent of the Legislature that rules
85 published and enforced pursuant to this section shall include
86 criteria by which a reasonable and consistent quality of
87 resident care and quality of life may be ensured and the results
88 of such resident care may be demonstrated. Such rules shall also
89 promote ~~ensure~~ a safe and sanitary environment that is
90 residential and noninstitutional in design or nature and may
91 allow for technological advances in the provision of care,
92 safety, and security, including the use of devices, equipment,
93 and other security measures related to wander management,
94 emergency response, staff risk management, and the general
95 safety and security of residents, staff, and the facility. It is
96 further intended that reasonable efforts be made to accommodate
97 the needs and preferences of residents to enhance the quality of



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98 ~~life in a facility. Uniform firesafety standards for assisted~~
99 ~~living facilities shall be established by the State Fire Marshal~~
100 ~~pursuant to s. 633.206. The agency may adopt rules to administer~~
101 ~~part II of chapter 408. In order to provide safe and sanitary~~
102 ~~facilities and the highest quality of resident care~~
103 ~~accommodating the needs and preferences of residents,~~ The
104 agency, in consultation with the Department of Children and
105 Families and the Department of Health, shall adopt rules,
106 ~~policies, and procedures~~ to administer this part, which must
107 include reasonable and fair minimum standards in relation to:

108 (a) The requirements for ~~and~~ maintenance and the sanitary
109 condition of facilities, not in conflict with, or duplicative
110 of, rules adopted pursuant to s. 381.006(16) and s. 381.0072 and
111 standards established under chapter 553 and s. 633.206, relating
112 to a safe and decent living environment, including furnishings
113 for resident bedrooms or sleeping areas, locking devices, linens
114 plumbing, heating, cooling, lighting, ventilation, living space,
115 and other housing conditions relating to hazards, which will
116 promote ensure the health, safety, and welfare ~~comfort~~ of
117 residents suitable to the size of the structure. The rules must
118 clearly delineate the respective responsibilities of the
119 agency's licensure and survey staff and the county health
120 departments and ensure that inspections are not duplicative. The
121 agency may collect fees for food service inspections conducted
122 by county health departments and may transfer such fees to the
123 Department of Health.

124 ~~1. Firesafety evacuation capability determination. An~~
125 ~~evacuation capability evaluation for initial licensure shall be~~
126 ~~conducted within 6 months after the date of licensure.~~



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127 ~~2. Firesafety requirements.~~
128 ~~a. The National Fire Protection Association, Life Safety~~
129 ~~Code, NFPA 101 and 101A, current editions, shall be used in~~
130 ~~determining the uniform firesafety code adopted by the State~~
131 ~~Fire Marshal for assisted living facilities, pursuant to s.~~
132 ~~633.206.~~
133 ~~b. A local government or a utility may charge fees only in~~
134 ~~an amount not to exceed the actual expenses incurred by the~~
135 ~~local government or the utility relating to the installation and~~
136 ~~maintenance of an automatic fire sprinkler system in a licensed~~
137 ~~assisted living facility structure.~~
138 ~~c. All licensed facilities must have an annual fire~~
139 ~~inspection conducted by the local fire marshal or authority~~
140 ~~having jurisdiction.~~
141 ~~d. An assisted living facility that is issued a building~~
142 ~~permit or certificate of occupancy before July 1, 2016, may at~~
143 ~~its option and after notifying the authority having~~
144 ~~jurisdiction, remain under the provisions of the 1994 and 1995~~
145 ~~editions of the National Fire Protection Association, Life~~
146 ~~Safety Code, NFPA 101, and NFPA 101A. The facility opting to~~
147 ~~remain under such provisions may make repairs, modernizations,~~
148 ~~renovations, or additions to, or rehabilitate, the facility in~~
149 ~~compliance with NFPA 101, 1994 edition, and may utilize the~~
150 ~~alternative approaches to life safety in compliance with NFPA~~
151 ~~101A, 1995 edition. However, a facility for which a building~~
152 ~~permit or certificate of occupancy is issued before July 1,~~
153 ~~2016, that undergoes Level III building alteration or~~
154 ~~rehabilitation, as defined in the Florida Building Code, or~~
155 ~~seeks to utilize features not authorized under the 1994 or 1995~~



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156 ~~editions of the Life Safety Code must thereafter comply with all~~
157 ~~aspects of the uniform firesafety standards established under s.~~
158 ~~633.206, and the Florida Fire Prevention Code, in effect for~~
159 ~~assisted living facilities as adopted by the State Fire Marshal.~~

160 ~~3. Resident elopement requirements. Facilities are required~~
161 ~~to conduct a minimum of two resident elopement prevention and~~
162 ~~response drills per year. All administrators and direct care~~
163 ~~staff must participate in the drills, which shall include a~~
164 ~~review of procedures to address resident elopement. Facilities~~
165 ~~must document the implementation of the drills and ensure that~~
166 ~~the drills are conducted in a manner consistent with the~~
167 ~~facility's resident elopement policies and procedures.~~

168 (b) The preparation and annual update of a comprehensive
169 emergency management plan. Such standards must be included in
170 the rules adopted by the agency after consultation with the
171 Division of Emergency Management. At a minimum, the rules must
172 provide for plan components that address emergency evacuation
173 transportation; adequate sheltering arrangements; postdisaster
174 activities, including provision of emergency power, food, and
175 water; postdisaster transportation; supplies; staffing;
176 emergency equipment; individual identification of residents and
177 transfer of records; communication with families; and responses
178 to family inquiries. The comprehensive emergency management plan
179 is subject to review and approval by the county ~~local~~ emergency
180 management agency. During its review, the county ~~local~~ emergency
181 management agency shall ensure that the following agencies, at a
182 minimum, are given the opportunity to review the plan: the
183 Department of Health, the Agency for Health Care Administration,
184 and the Division of Emergency Management. ~~Also, appropriate~~



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185 ~~volunteer organizations must be given the opportunity to review~~
186 ~~the plan.~~ The county local emergency management agency shall
187 complete its review within 60 days and either approve the plan
188 or advise the facility of necessary revisions. A facility must
189 submit a comprehensive emergency management plan to the county
190 emergency management agency within 30 days after issuance of a
191 license.

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

197 ~~(d) All sanitary conditions within the facility and its~~
198 ~~surroundings which will ensure the health and comfort of~~
199 ~~residents. The rules must clearly delineate the responsibilities~~
200 ~~of the agency's licensure and survey staff, the county health~~
201 ~~departments, and the local authority having jurisdiction over~~
202 ~~firesafety and ensure that inspections are not duplicative. The~~
203 ~~agency may collect fees for food service inspections conducted~~
204 ~~by the county health departments and transfer such fees to the~~
205 ~~Department of Health.~~

206 (d)(e) License application and license renewal, transfer of
207 ownership, proper management of resident funds and personal
208 property, surety bonds, resident contracts, refund policies,
209 financial ability to operate, and facility and staff records.

210 (e)(f) Inspections, complaint investigations, moratoriums,
211 classification of deficiencies, ~~levying~~ and enforcement of
212 penalties, ~~and use of income from fees and fines.~~

213 (f)(g) The enforcement of the resident bill of rights



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214 specified in s. 429.28.

215 (g)~~(h)~~ The care ~~and maintenance~~ of residents provided by
216 the facility, which must include, ~~but is not limited to:~~

217 1. The supervision of residents;

218 2. The provision of personal services;

219 3. The provision of, or arrangement for, social and leisure
220 activities;

221 4. The assistance in making arrangements ~~arrangement~~ for
222 appointments and transportation to appropriate medical, dental,
223 nursing, or mental health services, as needed by residents;

224 5. The management of medication stored within the facility
225 and as needed by residents;

226 6. The dietary ~~nutritional~~ needs of residents;

227 7. Resident records; and

228 8. Internal risk management and quality assurance.

229 (h)~~(i)~~ Facilities holding a limited nursing, extended
230 congregate care, or limited mental health license.

231 (i)~~(j)~~ The establishment of specific criteria to define
232 appropriateness of resident admission and continued residency in
233 a facility holding a standard, limited nursing, extended
234 congregate care, and limited mental health license.

235 (j)~~(k)~~ The use of physical or chemical restraints. The use
236 of geriatric chairs or Posey restraints is prohibited. Other
237 physical restraints may be used in accordance with agency rules
238 when ordered ~~is limited to half-bed rails as prescribed and~~
239 ~~documented~~ by the resident's physician and consented to by ~~with~~
240 ~~the consent of~~ the resident or, if applicable, the resident's
241 representative or designee or the resident's surrogate,
242 guardian, or attorney in fact. Such rules must specify



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243 requirements for care planning, staff monitoring, and periodic
244 review by a physician. The use of chemical restraints is limited
245 to prescribed dosages of medications authorized by the
246 resident's physician and must be consistent with the resident's
247 diagnosis. Residents who are receiving medications that can
248 serve as chemical restraints must be evaluated by their
249 physician at least annually to assess:

- 250 1. The continued need for the medication.
251 2. The level of the medication in the resident's blood.
252 3. The need for adjustments in the prescription.

253 (k)(1) The establishment of specific resident elopement
254 drill requirements, policies, and procedures ~~on resident~~

255
256 ===== T I T L E A M E N D M E N T =====

257 And the title is amended as follows:

258 Delete line 45

259 and insert:

260 circumstances; requiring the facility to arrange for
261 necessary care and services if no resident
262 representative or designee is available or responsive;
263 removing provisions relating to the