

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS
Senator Sobel, Chair
Senator Hays, Vice Chair

MEETING DATE: Tuesday, October 8, 2013
TIME: 9:30 —11:30 a.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Sobel, Chair; Senator Hays, Vice Chair; Senators Altman, Braynon, Clemens, Dean, Detert, Diaz de la Portilla, Grimsley, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed committee bill:			
1	SPB 7000	Assisted Living Facilities; Providing that Medicaid prepaid behavioral health plans are responsible for enrolled mental health residents; providing that managing entities under contract with the Department of Children and Families are responsible for mental health residents who are not enrolled with a Medicaid prepaid behavioral health plan; requiring that an extended congregate care license be issued to certain facilities that have been licensed as assisted living facilities under certain circumstances and authorizing the issuance of such license if a specified condition is met, etc.	Submitted as Committee Bill Yeas 10 Nays 0
2	Implementation of CS/SB 1036 - Independent Living		Discussed
3	Unlawful Adoptions		Discussed
4	SB 108 Joyner (Similar H 125, Compare H 123, Link S 120)	Public Records/Claim Settlement on Behalf of a Minor or Ward; Creating an exemption from public records requirements for records relating to the settlement of a claim on behalf of a minor or ward; authorizing a guardian ad litem, a ward, a minor, and a minor's attorney to inspect guardianship reports and court records relating to the settlement of a claim on behalf of a minor or ward, upon a showing of good cause; authorizing the court to direct disclosure and recording of an amendment to a report or court records relating to the settlement of a claim on behalf of a ward or minor, in connection with real property or for other purposes, etc. CF 10/08/2013 Fav/CS JU GO RC	Fav/CS Yeas 10 Nays 0
5	Other Related Meeting Documents		

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SPB 7000

INTRODUCER: For consideration by the Children, Families, and Elder Affairs Committee

SUBJECT: Assisted Living Facilities

DATE: October 8, 2013 **REVISED:** 10/08/13 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Hendon		Submitted as Committee Bill
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7000 strengthens the enforcement of current regulations for Assisted Living Facilities (ALF or facility) by revising fines imposed for licensure violations, clarifying existing enforcement tools, and requiring an additional inspection for facilities with significant violations. Specifically, the bill:

- Specifies who is responsible for assuring that mental health residents in an ALF receive necessary services.
- Clarifies the duties of the state Long-Term Care Ombudsman Program.
- Creates a new ALF license for flexible beds, specifies the services available through that license, and provides requirements for a facility with the license.
- Creates a provisional Extended Congregate Care (ECC) license for new ALFs and specifies when the Agency for Health Care Administration (AHCA or agency) may deny or revoke a facility’s ECC license.
- Reduces the number of monitoring visits AHCA must conduct for ALFs with Limited Nursing Services (LNS) licenses and ECC licenses.
- Specifies when AHCA may waive a monitoring visit in facilities with an ECC or LNS license.
- Requires that facilities having one or more, rather than three or more, state supported mental health residents obtain a limited mental health (LMH) license.
- Allows AHCA to revoke the license of a facility with a controlling interest that has or had a 25 percent or greater financial or ownership interest in a second facility that closed due to financial inability to operate or that was the subject of other specified administrative sanctions.
- Clarifies the criteria under which AHCA must revoke or deny a facility’s license.

- Specifies circumstances under which AHCA must impose an immediate moratorium¹ on a facility.
- Sets fines for all classes of violations² to a fixed amount at the midpoint of the current range and multiplies these new fine amounts by 1.5 for facilities licensed for 100 or more beds.
- Allows AHCA to impose a fine for a class I violation even if it is corrected before AHCA inspects a facility.
- Doubles fines for repeated serious violations.
- Requires that fines be imposed for repeat minor violations³ regardless of correction.
- Doubles the fines for minor violations if a facility is cited for the same minor violation during the previous two licensure inspections.
- Specifies a fine amount of \$500 for ALFs that are not in compliance with background screening requirements.⁴
- Amends the definition of “assistance with self-administration of medicine” to add several actions to the list of services in which unlicensed staff can assist residents.
- Requires AHCA to impose a \$2,500 fine against a facility that does not show good cause for terminating the residency of an individual.
- Adds certain responsible parties and agency personnel to the list of people who must report abuse or neglect to the Department of Children and Families’ (DCF) central abuse hotline.
- Requires an additional inspection at a cost to the facility, within six months, of a facility cited for specified serious violations.
- Clarifies that in a continuing care facility or retirement community, ALF staffing requirements apply only to residents of units designated for independent living as an ALF.
- Requires new facility staff, who have not previously completed core training, to attend a two hour pre-service orientation before interacting with residents.
- Requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study of inter-surveyor reliability in order to determine the consistency with which AHCA applies regulations to facilities, and requires OPPAGA to report its findings and recommendations by November 1, 2014.
- Requires AHCA to implement an ALF rating system by November 1, 2014.
- Requires AHCA to add certain content to its website by January 1, 2015, to help consumers select an ALF.

This bill substantially amends the following sections of the Florida Statutes: 394.4574, 400.0074, 400.0078, 429.02, 429.07, 429.075, 429.14, 429.178, 429.19, 429.256, 429.28, 429.34, 429.41, and 429.52.

This bill creates section 429.55, Florida Statutes.

This bill creates two new unnumbered sections of the Florida Statutes.

¹ “Moratorium” means a prohibition on the acceptance of new clients. Section 408.803(10), F.S.

² The classes of violations can be found in s. 408.813, F.S.

³ Class III and class IV violations.

⁴ Background screening requirements are found in s. 408.809, F.S.

II. Present Situation:

An assisted living facility (ALF or facility) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.⁵ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.⁶ Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.⁷

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility.⁸ The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on a number of criteria.⁹ If a resident no longer meets the criteria for continued residency, or the facility is unable to meet the resident's needs, as determined by the facility administrator or health care provider, the resident must be discharged in accordance with the Resident Bill of Rights.¹⁰

As of October 1, 2013, there were 3,047 licensed ALFs in Florida with a total of 86,356 beds.¹¹ An ALF must have a standard license issued by the Agency for Health Care Administration (AHCA or agency), pursuant to part I of ch. 429, F.S., and part II of ch. 408, F.S. In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include limited nursing services,¹² limited mental health services,¹³ and extended congregate care services.¹⁴ There are 1,024 facilities having limited nursing services specialty licenses (LNS licenses), 276 having extended congregate care (ECC licenses), and 1,039 having limited mental health specialty licenses (LMH licenses).¹⁵

Limited Nursing Services Specialty License

A LNS specialty license enables an ALF to provide, directly or through contract, a select number of nursing services in addition to the personal services that are authorized under the standard license. The nursing services are limited to acts specified in administrative rules, may only be provided as authorized by a health care provider's order, and must be conducted and supervised in accordance with ch. 464, F.S., relating to nursing, and the prevailing standard of practice in the nursing community.

⁵ Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

⁶ Section 429.02(16), F.S.

⁷ Section 429.02(1), F.S.

⁸ For specific minimum standards see Rule 58A-5.0182, F.A.C.

⁹ Section 429.26, F.S., and Rule 58A-5.0181, F.A.C.

¹⁰ Section 429.28, F.S.

¹¹ Fla. Agency for Health Care Admin., *Assisted Living Facility Directory* (Oct. 1, 2013), http://ahca.myflorida.com/MCHO/Health_Facility_Regulation/Assisted_Living/docs/alf/Directory_ALF.pdf (last visited Oct. 2, 2013).

¹² Section 429.07(3)(c), F.S.

¹³ Section 429.075, F.S.

¹⁴ Section 429.07(3)(b), F.S.

¹⁵ See Fla. Agency for Health Care Admin., *Assisted Living Facility*, http://ahca.myflorida.com/MCHO/Health_Facility_Regulation/Assisted_Living/alf.shtml (follow the hyperlinks for the ALF directories found under the "Notices/Updates" heading) (last visited Oct. 2, 2013).

Extended Congregate Care Specialty License

The primary purpose of ECC services is to allow residents to remain in a familiar setting as they become more impaired with physical or mental limitations. An ECC specialty license enables a facility to provide, directly or through contract, services performed by licensed nurses and supportive services¹⁶ to persons who otherwise would be disqualified from continued residence in an ALF.¹⁷ A facility licensed to provide ECC services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the ECC facility. A licensed facility must adopt its own requirements within guidelines for continued residency set forth by rule. However, a facility with an ECC license still may not serve residents who require 24-hour nursing supervision.¹⁸

Limited Mental Health Specialty License

An ALF that serves three or more mental health residents must obtain an LMH specialty license.¹⁹ A mental health resident is an individual who receives social security disability income (SSDI) due to a mental disorder or supplemental security income (SSI) due to a mental disorder, and receives optional state supplementation (OSS).²⁰ The Department of Children and Families (DCF or department) must ensure that a mental health resident is assessed and determined able to live in an ALF with an LMH license.²¹

The administrator of a LMH facility must consult with a mental health resident and the resident's case manager to develop and help execute a community living support plan for the resident detailing the specific needs and services the resident requires.²² The LMH licensee must also execute a cooperative agreement with the mental health care services provider. The cooperative agreement specifies, among other things, directions for the ALF accessing emergency and after-hours care for the mental health resident.

¹⁶ Supportive services include social service needs, counseling, emotional support, networking, assistance with securing social and leisure services, shopping service, escort service, companionship, family support, information and referral, assistance in developing and implementing self-directed activities, and volunteer services. Rule 58A-5.030(8)(a), F.A.C.

¹⁷ An ECC program may provide additional services, such as the following: total help with bathing, dressing, grooming, and toileting; nursing assessments conducted more frequently than monthly; measuring and recording basic vital functions and weight; dietary management; assisting with self-administered medications or administering medications and treatments pursuant to a health care provider's order; supervising residents with dementia and cognitive impairments; health education, counseling, and implementing health-promoting programs; rehabilitative services; and escort services related to health-related appointments. Section 429.07(3)(b), F.S., and Rule 58A-5.030, F.A.C.

¹⁸ Section 429.07(3)(b), F.S.

¹⁹ Section 429.075, F.S.

²⁰ Section 429.02(15), F.S. Optional State Supplementation is a cash assistance program. Its purpose is to supplement a person's income to help pay for costs in an assisted living facility, mental health residential treatment facility, or adult family care home, but it is not a Medicaid program. Dep't of Elder Affairs, *Florida Affordable Assisted Living: Optional State Supplementation (OSS)*, <http://elderaffairs.state.fl.us/faal/operator/statesupp.html> (last visited Oct. 1, 2013).

²¹ Section 394.4574, F.S., requires a mental health resident to be assessed by a psychiatrist, clinical psychologist, clinical social worker, psychiatric nurse, or an individual who is supervised by one of these professionals to determine whether it is appropriate for the person to reside in an ALF.

²² Rule 58A-5.029(2)(c)3., F.A.C.

Department of Elder Affairs Rules

In addition to ch. 429, F.S., ALFs are also subject to regulation under Rule 58A-5 of the Florida Administrative Code (F.A.C.). These rules are adopted by the Department of Elder Affairs (DOEA) in consultation with AHCA, DCF, and the Department of Health (DOH).²³ In June 2012, DOEA initiated a process of negotiated rulemaking to revise many of its rules regarding ALFs. After multiple meetings, a committee that consisted of agency staff, consumer advocates, and industry representatives voted on numerous changes to Rule 58A-5, F.A.C. On November 28, 2012, DOEA issued a proposed rule and held three public hearings on the proposed rule, ending on December 21, 2012.²⁴ In June 2013, DOEA withdrew the proposed rule in order to get a revised Statement of Estimated Regulatory Costs, and it plans to move forward with the rule, including seeking ratification from the Legislature on the portions of the rule that require it.²⁵

ALF Staff Training

Administrators and Managers

Administrators and other ALF staff must meet minimum training and education requirements established by DOEA by rule.²⁶ This training and education is intended to assist facilities to appropriately respond to the needs of residents, maintain resident care and facility standards, and meet licensure requirements.²⁷

The current ALF core training requirements established by DOEA consist of a minimum of 26 hours of training and passing a competency test. Administrators and managers must successfully complete the core training requirements within three months after becoming a facility administrator or manager. The minimum passing score for the competency test is 75 percent.²⁸

Administrators and managers must participate in 12 hours of continuing education in topics related to assisted living every two years. A newly hired administrator or manager, who has successfully completed the ALF core training and continuing education requirements, is not required to retake the core training. An administrator or manager, who has successfully completed the core training but has not maintained the continuing education requirements, must retake the ALF core training and retake the competency test.²⁹

²³ Section 429.41(1), F.S.

²⁴ See Dep't of Elder Affairs, *Assisted Living Facility (ALF) Negotiated Rulemaking*, http://elderaffairs.state.fl.us/doea/alf_rulemaking.php (last visited Oct. 1, 2013).

²⁵ Conversation with Adam Lovejoy, Legislative Affairs Director, Department of Elder Affairs (Sept. 17, 2013).

²⁶ Rule 58A-5.0191, F.A.C. Many of the training requirements in rule may be subject to change due to the DOEA negotiated rulemaking process.

²⁷ Section 429.52(1), F.S.

²⁸ Administrators who have attended core training prior to July 1, 1997, and managers who attended the core training program prior to April 20, 1998, are not required to take the competency test. Administrators licensed as nursing home administrators in accordance with part II of chapter 468, F.S., are exempt from this requirement.

²⁹ Rule 58A-5.0191, F.A.C.

Staff with Direct Care Responsibilities

Facility administrators or managers are required to provide or arrange for six hours of in-service training for facility staff who provide direct care to residents which covers various topics as mandated in rule.³⁰ Staff training requirements must generally be met within 30 days after staff begin employment at the facility. However, staff must have at least one hour of infection control training before providing direct care to residents. Also, nurses, certified nursing assistants, and home health aides who are on staff with an ALF are exempt from many of the training requirements. In addition to the standard six hours of in-service training, staff must complete one hour of elopement training and one hour of training on do not resuscitate orders. The staff may be required to complete training on special topics such as self-administration of medication and Alzheimer's disease, if applicable.

ECC Specific Training

The administrator and ECC supervisor, if different from the administrator, must complete four hours of initial training in extended congregate care prior to the facility receiving its ECC license or within three months after beginning employment in the facility as an administrator or ECC supervisor. The administrator and ECC supervisor must also complete a minimum of four hours of continuing education every two years in topics relating to the physical, psychological, or social needs of frail elderly and disabled persons, or persons with Alzheimer's disease or related disorders.³¹

All direct care staff providing care to residents in an ECC program must complete at least two hours of in-service training, provided by the facility administrator or ECC supervisor, within six months after beginning employment in the facility. The training must address ECC concepts and requirements, including statutory and rule requirements and the delivery of personal care and supportive services in an ECC facility.³²

LMH Specific Training

Administrators, managers, and staff who have direct contact with mental health residents in a licensed LMH facility must receive a minimum of six hours of specialized training in working with individuals having mental health diagnoses and a minimum of three hours of continuing education dealing with mental health diagnoses or mental health treatment every two years.³³

Inspections and Surveys

The agency is required to conduct a survey, investigation, or monitoring visit of an ALF:

- Prior to the issuance of a license.
- Prior to biennial renewal of a license.
- When there is a change of ownership.

³⁰ Rule 58A-5.0191, F.A.C.

³¹ Rule 58A-5.0191(7)(b), F.A.C.

³² Rule 58A-5.0191(7)(c), F.A.C.

³³ Section 429.075, F.S. and Rule 58A-5.0191(8), F.A.C.

- To monitor facilities licensed to provide LNS or ECC services, or facilities cited in the previous year for a class I or class II, or four or more uncorrected class III, violations.³⁴
- Upon receipt of an oral or written complaint of practices that threaten the health, safety, or welfare of residents.
- If AHCA has reason to believe a facility is violating a provision of part III of ch. 429, F.S., relating to adult day care centers, or an administrative rule.
- To determine if cited deficiencies have been corrected.
- To determine if a facility is operating without a license.³⁵

Abbreviated Surveys

An applicant for licensure renewal is eligible for an abbreviated biennial survey by AHCA if the applicant does not have any:

- Class I or class II violations or uncorrected class III violations.
- Confirmed long-term care ombudsman council complaints reported to AHCA by the council.
- Confirmed licensing complaints within the two licensing periods immediately preceding the current renewal date.³⁶

An abbreviated survey allows for a quicker and less intrusive survey by narrowing the range of items the agency must inspect.³⁷ The agency must expand an abbreviated survey or conduct a full survey if violations that threaten or potentially threaten the health, safety, or security of residents are identified during an abbreviated survey.³⁸

Monitoring Visits

Facilities with LNS or ECC licenses are subject to monitoring visits by AHCA in which the agency inspects the facility for compliance with the requirements of the specialty license. A LNS licensee is subject to monitoring inspections at least twice a year. At least one registered nurse must be included in the inspection team to monitor residents receiving services and to determine if the facility is complying with applicable regulatory requirements.³⁹ An ECC licensee is subject to quarterly monitoring inspections. At least one registered nurse must be included in the inspection team. The agency may waive one of the required yearly monitoring visits for an ECC facility that has been licensed for at least 24 months, if the registered nurse who participated in the monitoring inspections determines that the ECC services are being provided appropriately and there are no serious violations or substantiated complaints about the quality of service or care.⁴⁰

³⁴ See “Violations and Penalties” subheading below for a description of the violations.

³⁵ See s. 429.34, F.S., and Rule 58A-5.033, F.A.C.

³⁶ Rule 58A-5.033(2), F.A.C.

³⁷ Rule 58A-5.033(2)(b).

³⁸ *Id.*

³⁹ Section 429.07(3)(c), F.S.

⁴⁰ Section 429.07(3)(b), F.S.

Violations and Penalties

Part II of ch. 408, F.S., provides general licensure standards for all facilities regulated by AHCA. Under s. 408.813, F.S., ALFs may be subject to administrative fines imposed by AHCA for certain types of violations. Violations are categorized into four classes according to the nature of the violation and the gravity of its probable effect on residents:

- Class I violations are those conditions that AHCA determines present an imminent danger to residents or a substantial probability of death or serious physical or emotional harm. Examples include resident death due to medical neglect, risk of resident death due to inability to exit in an emergency, and the suicide of a mental health resident in an ALF licensed for limited mental health. The agency must fine a facility between \$5,000 and \$10,000 for each violation.
- Class II violations are those conditions that AHCA determines directly threaten the physical or emotional health, safety, or security of the clients. Examples include no qualified staff in the facility, the failure to call 911 in a timely manner for resident in a semi-comatose state, and rodents in a food storage area. The agency must fine a facility between \$1,000 and \$5,000 for each violation.
- Class III violations are those conditions that AHCA determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients. Examples include missing or incomplete resident assessments, erroneous documentation of medication administration, and failure to correct unsatisfactory DOH Food Service inspection findings in a timely manner. The agency must fine a facility between \$500 and \$1,000 for each violation, but no fine may be imposed if the facility corrects the violation.
- Class IV violations are those conditions that do not have the potential of negatively affecting clients. Examples include failure to file an adverse incident report, incorrect phone numbers posted for advocacy resources, and failure to post current menus. The agency can only fine a facility (between \$100 and \$200 for each violation) if the problem is not corrected.^{41,42}

In addition to financial penalties, AHCA can take other actions against a facility. The agency may deny, revoke, and suspend any license for any of the actions listed in s. 429.14(1)(a)-(k), F.S. The agency is required to deny or revoke the license of an ALF that has two or more class I violations that are similar to violations identified during a survey, inspection, monitoring visit, or complaint investigation occurring within the previous two years.⁴³ The agency may also impose an immediate moratorium or emergency suspension on any provider if it determines that any condition that presents a threat to the health, safety, or welfare of a client.⁴⁴ The agency is required to publicly post notification of a license suspension, revocation, or denial of a license

⁴¹ When fixing the amount of the fine, AHCA must consider the following factors: the gravity of the violation and the extent to which any laws or rules were violated, actions taken to correct the violations, any previous violations, the financial benefit of committing or continuing the violation, and the licensed capacity of the facility. Section 429.19(3), F.S.

⁴² Section 429.19(2), F.S.

⁴³ Section 429.14(4), F.S.

⁴⁴ Section 408.814, F.S.

renewal, at the facility.⁴⁵ Finally, ch. 825, F.S., Florida's Criminal Code, provides criminal penalties for the abuse, neglect, and exploitation of elderly persons⁴⁶ and disabled adults.⁴⁷

Central Abuse Hotline

The department is required under s. 415.103, F.S., to establish and maintain a central abuse hotline to receive reports, in writing or through a single statewide toll-free telephone number, of known or suspected abuse, neglect, or exploitation of a vulnerable adult⁴⁸ at any hour of the day or night, any day of the week.⁴⁹ Persons listed in s. 415.1034, F.S., who know, or have reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited are required to immediately report such knowledge or suspicion to the central abuse hotline.⁵⁰

Florida's Long-Term Care Ombudsman Program

The Federal Older Americans Act (OAA) requires each state to create a Long-Term Care Ombudsman Program to be eligible to receive funding associated with programs under the OAA.⁵¹ In Florida, the program is a statewide, volunteer-based system of district councils that protect, defend, and advocate on behalf of long-term care facility residents, including residents of nursing homes, ALFs, and adult family-care homes. The ombudsman program is administratively housed in DOEA and is headed by the State Long-Term Care Ombudsman, who is appointed by the DOEA Secretary.⁵² The ombudsman program is required to establish a statewide toll-free telephone number for receiving complaints concerning matters adversely affecting the health, safety, welfare, or rights of residents of ALFs, nursing homes, and adult family care homes. Every resident or representative of a resident must receive, upon admission to a long-term care facility, information regarding the program and the statewide toll-free telephone number for receiving complaints.⁵³ The names or identities of the complainants or residents involved in a complaint, including any problem identified by an ombudsman council as a result of an investigation, are confidential and exempt from Florida's public records laws, unless the

⁴⁵ Section 429.14(7), F.S.

⁴⁶ "Elderly person" means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction, to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired. Section 825.101(5), F.S. It does not constitute a defense to a prosecution for any violation of this chapter that the accused did not know the age of the victim. Section 825.104, F.S.

⁴⁷ "Disabled adult" means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living. Section 825.101(4), F.S.

⁴⁸ "Vulnerable adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. Section 415.102(27), F.S.

⁴⁹ The central abuse hotline is operated by DCF to accept reports for investigation when there is a reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited; determine whether the allegations require an immediate, 24-hour, or next-working-day response priority; when appropriate, refer calls that do not allege the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might better resolve the reporter's concerns; immediately identify and locate prior reports of abuse, neglect, or exploitation through the central abuse hotline. Section 415.103(1), F.S.

⁵⁰ Section 415.1034, F.S.

⁵¹ 42 U.S.C. 3058. *See also* s. 400.0061(1), F.S.

⁵² Section 400.0063, F.S.

⁵³ Section 400.0078, F.S.

complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure, or the disclosure is required by court order.⁵⁴ In addition to investigating and resolving complaints, ombudsmen conduct unannounced visits to assess the quality of care in facilities, referred to as administrative assessments.

Consumer Information

Section 400.191, F.S., requires AHCA to provide information to the public about all licensed nursing homes in the state. The information must be provided in a consumer-friendly electronic format to assist consumers and their families in comparing and evaluating nursing homes. Under s. 400.191(2), F.S., the agency must provide an Internet site that includes information such as a list by name and address of all nursing homes in the state, the total number of beds in each facility, and survey and deficiency information. Additional information that the agency may provide on the site includes the licensure status history of each facility, the rating history of each facility, and the regulatory history of each facility.

There is no similar requirement in law to provide certain consumer information to the public on the licensed ALFs in the state.

The Miami Herald Articles and the Governor's Assisted Living Workgroup

Beginning on April 30, 2011, the Miami Herald published a four-part series, titled "Neglected to Death," which detailed abuses occurring in ALFs and the state regulatory responses to such cases. The paper spent a year examining thousands of state inspections, police reports, court cases, autopsy files, e-mails, and death certificates and conducting dozens of interviews with operators and residents throughout Florida. The series detailed examples of abuses, neglect, and even death that took place in facilities.⁵⁵ The series also criticized the state's regulatory and law enforcement agencies' responses to the problems. The paper concluded that the state's agencies, and in particular AHCA, failed to enforce existing laws designed to protect Florida's citizens who reside in ALFs.⁵⁶

Soon after the Miami Herald series, Governor Rick Scott vetoed HB 4045,⁵⁷ which reduced requirements relating to ALFs. The Governor then directed AHCA to form a task force for the purpose of examining current assisted living regulations and oversight.⁵⁸ The task force referred to as the Assisted Living Workgroup, held meetings and produced two reports, one in August of

⁵⁴ Section 400.0077(1)(b), F.S.

⁵⁵ Rob Barry, Michael Sallah and Carol Marbin Miller, *Neglected to Death, Parts 1-3*, THE MIAMI HERALD, April 30, 2011 available at <http://www.miamiherald.com/2011/04/30/2194842/once-pride-of-florida-now-scenes.html> and <http://www.miamiherald.com/2011/05/03/2199747/key-medical-logs-doctored-missing.html> (see left side of article to access weblinks to the three-part series).

⁵⁶ *Id.*

⁵⁷ House Bill 4045 (2011) repealed a requirement for the annual dissemination of a list of ALFs that had been sanctioned or fined, a requirement for an ALF to report monthly any liability claims filed against it, a requirement to disseminate the results of the inspection of each ALF, provisions concerning rule promulgation for ALFs by DOEA, provisions concerning the collection of information regarding the cost of care in ALFs, and the authority for local governments or organizations to contribute to the cost of care of local facility residents.

⁵⁸ Membership details of the task force are available at Fla. Agency for Health Care Admin., *Assisted Living Workgroup Members*, <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/wgmembers.shtml> (last visited Oct. 1, 2013).

2011 and one in October of 2012. In addition to public testimony and presentations, the Assisted Living Workgroup focused on assisted living regulation, consumer information and choice, and long term care services and access.⁵⁹ The workgroup made numerous recommendations in its two reports.⁶⁰

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 394.4574, F.S., to clarify that Medicaid prepaid behavioral health plans are responsible for enrolled state supported mental health residents and that managing entities under contract with the Department of Children and Families (DCF or department) are responsible for residents who are not enrolled with a Medicaid prepaid behavioral health plan. This section requires a mental health resident's community living support plan to be updated when there is a significant change to the resident's behavioral health status. The resident's case manager must keep a 2-year record of any face-to-face interaction with the resident. Finally, this section charges the entity responsible for a mental health resident to ensure that there is adequate and consistent monitoring of the community living support plan and to report any concerns about a regulated provider failing to provide services or otherwise acting in a manner with the potential to cause harm to the resident.

Section 2 of the bill amends s. 400.0074, F.S., to require the Long-Term Care Ombudsman Program's administrative assessments of assisted living facilities (ALF or facility) be comprehensive in nature. This section also requires ombudsmen to conduct an exit interview with the facility to discuss issues and concerns from the visit.

Section 3 of the bill amends s. 400.0078, F.S., which requires ALFs to provide information to new residents upon admission to the facility about the purpose of the Long-Term Care Ombudsman Program, to state that retaliatory action cannot be taken against a resident for presenting grievances.

Section 4 of the bill amends s. 429.02, F.S., adding the definition "flexible bed," which means a licensed bed designated to allow a continuing care facility or a retirement community to provide assisted living services for up to 15 percent of the residents living in residential units designated for independent living. A flexible bed is only available for individuals who have been a contract holder of the facility for at least six months.

Section 5 of the bill amends s. 429.07, F.S., to make changes to improve the regulation of facilities with Extended Congregate Care (ECC) and Limited Nursing Services (LNS) specialty licenses. These changes include:

⁵⁹ See Fla. Agency for Health Care Admin., *Assisted Living Workgroup, Phase I*, <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/archived/ALWG2011.shtml> (last visited Oct. 1, 2013); Fla. Agency for Health Care Admin., *Assisted Living Workgroup, Phase II*, <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/index.shtml> (last visited Oct. 1, 2013).

⁶⁰ See Fla. Agency for Health Care Admin., *Florida Assisted Living Workgroup, Phase II Recommendations* (Nov. 26, 2012), <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/docs/ALF-FinalReportandRecommendationsPhaseII.pdf> (last visited Oct. 1, 2013); Fla. Agency for Health Care Admin., *Florida Assisted Living Workshop, Final Report and Recommendations*, <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/archived/docs/2011/ALWorkgroupFinalReport.pdf> (last visited Oct. 1, 2013).

- Requiring that an ALF be licensed for two or more years before being issued a full ECC license.
- Clarifying under what circumstances AHCA may deny or revoke a facility's ECC license.
- Creating a provisional ECC license for ALFs that have been licensed for less than two years. The provisional license lasts for a period of six months. The facility must inform the Agency for Health Care Administration (AHCA or agency) when it has admitted one or more residents requiring ECC services, after which AHCA must inspect the facility for compliance with the requirements of the ECC license. If the licensee demonstrates compliance with the requirements of an ECC license, AHCA must grant the facility a full ECC license. If the licensee fails to demonstrate compliance with the requirements of an ECC license, the provisional ECC license expires.
- Reducing monitoring visits for facilities with ECC licenses from quarterly to twice a year, and for facilities with LNS licenses from twice a year to once a year.
- Clarifying under what circumstances AHCA may waive one of the required monitoring visits for facilities with ECC licenses and also allowing AHCA to waive the required monitoring visit for facilities with an LNS license under the same conditions.

Section 6 of the bill amends s. 429.075, F.S., to require facilities with one or more state supported mentally ill residents to obtain a LMH license. This will expand the protections and services to all state supported mentally ill residents in ALFs.

Section 7 of the bill amends s. 429.14, F.S., to clarify the use of administrative penalties, to:

- Allow AHCA to revoke, rather than just deny, a license for a facility with a controlling interest that has, or had, a 25 percent or greater financial or ownership interest in a second facility that closed due to financial inability to operate or was the subject of other specified administrative sanctions.
- Add additional criteria under which AHCA must deny or revoke a facility's license.
- Require that AHCA impose an immediate moratorium on a facility that fails to provide AHCA with access to the facility, prohibits a regulatory inspection, denies access to records, or prohibits the confidential interview of facility staff or residents.

The bill also clarifies that if a facility is required to relocate its residents due to agency action, the facility does not have to give residents 45 days' notice as required under s. 429.28(1)(k), F.S.

Section 8 of the bill amends s. 429.178, F.S., to make technical changes and to conform with changes this section to other parts of the bill.

Section 9 of the bill amends s. 429.19, F.S., relating to the impositions of fines in order to reduce the discretion of AHCA and to make such penalties more predictable. Specifically, the bill would:

- Set the dollar amount of fines for facilities with fewer than 100 beds at \$7,500 for class I violations, \$3,000 for class II violations, \$750 for class III violations, and \$150 for class IV violations. This is the midpoint of the current ranges for fines in current law.
- Multiply fine amounts by 1.5 for facilities licensed for 100 or more beds.

- Require AHCA to impose a fine on a facility for a class I violation, even if the facility corrects the violation before AHCA conducts an investigation. Facilities can still challenge such fines through an administrative hearing pursuant to ch. 120, F.S.
- Double the fines for facilities with repeat class I and class II violations.
- Impose a fine on facilities with repeat class III and class IV violations, regardless of correction. Current law, that prohibits AHCA from assessing fines for corrected class III and IV violations, continues for the first survey finding such violations.
- Double the fines for class III or class IV violations if a facility is cited for one or more such violations, stemming from the same regulation, over the course of two licensure inspections.
- Create a fine of \$500 for failure to comply with background screening requirements. This fine will take the place of fines assessed based on the class of the violation.

Section 10 of the bill amends s. 429.256, F.S., to add several actions to the list of services in which unlicensed staff can assist. Specifically, the bill includes the following actions under assistance with self-administration of medication:

- Taking an insulin syringe that is prefilled by a pharmacist or an insulin pen that is prefilled by the manufacturer to a resident.
- Assisting with the use of a nebulizer, including removing the cap of a nebulizer, opening the unit dose of nebulizer solution, and pouring the prescribed premeasured dose into the dispensing cup.
- Using a glucometer to perform blood-glucose level checks.
- Assisting with putting on and taking off antiembolism stockings.
- Assisting with applying and removing an oxygen cannula.
- Assisting with the use of a continuous positive airway pressure device.
- Assisting with measuring vital signs.
- Assisting with colostomy bags.

Section 11 of the bill amends s. 429.28, F.S., to require the posted notice of a resident's rights, obligations, prohibitions, to specify that complaints made to the ombudsman program, as well as the names and identities of the complainant and any residents involved, are confidential. This section also creates a fine of \$2,500 which is imposed if a facility cannot show good cause in state court for terminating the residency of an individual.

Section 12 amends s. 429.34, F.S., to require certain state officials, such as Medicaid Fraud investigators and state or local fire marshals, to report to the DCF central abuse hotline any knowledge or reasonable suspicion that a vulnerable adult has been or is being abused, neglected, or exploited. The bill provides that a facility with one or more class I violations, two or more class II violations arising from separate surveys within a 60 day period, or two or more unrelated class II violations cited during one survey be subject to an additional inspection within six months. The licensee must pay a fee to AHCA to cover the cost of the additional inspection.

Section 13 of the bill amends s. 429.41, F.S., to provide that if a continuing care facility or a retirement community uses flexible beds, the staffing requirements established in rule only apply to the residents receiving assisted living services.

Section 14 of the bill amends s. 429.52, F.S., to require that facilities provide a two hour preservice orientation for all new facility employees who have not previously completed core training. The preservice orientation must cover topics that help the employee provide responsible care and respond to the needs of the residents. The facility's administrator must attest, under penalty of perjury, that all new ALF staff have completed the preservice orientation at the time of license renewal. The bill clarifies that the preservice orientation can be provided by the ALF instead of requiring that it be provided by a trainer registered with DOEA.

The bill also increases the training requirements for staff who assist residents with medication from four to six hours.

Section 15 of the bill creates s. 429.55, F.S., creating a new ALF license for flexible beds and providing requirements for a facility with the license. Specifically, a facility with a flexible bed license must:

- Retain a log listing the name of each resident receiving assisted living services in a flexible bed unit, the unit number in which the resident resides, the date that services commenced and ended, and documentation demonstrating that minimum staffing standards are met.
- Specify in the flexible bed contract the process used to determine when a resident is no longer eligible for services provided through the flexible bed license and whether the delivery of services will be covered under an existing residency agreement or will require a fee for service payment.
- Retain each flexible bed contract for five years after the assisted living services end.

A facility with a flexible bed license must provide state surveyors with access to the log, as well as access to the independent living units occupied by residents receiving services through the flexible bed license upon request. A resident living in a building with a flexible bed license may still receive home health services.

Section 16 of the bill creates a new, unnumbered section of the Florida Statutes which requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study of inter-surveyor reliability to determine if different surveyors consistently apply licensure standards. The OPPAGA must report its findings and make recommendations to the Governor, the President of the Senate, and the Speaker of the House by November 1, 2014.

Section 17 of the bill creates a new, unnumbered section of the Florida Statutes which finds that consumers need additional information in order to select an ALF. To facilitate this, the bill requires AHCA to implement a rating system for ALFs by November 1, 2014. This section also requires AHCA to create a consumer guide website with information on ALFs by January 1, 2015. At a minimum, the website must include:

- Information on each licensed ALF such as the number and type of licensed beds, the types of licenses held by the facility, and the expiration date of the facility's license.
- A list of the facility's violations including a summary of the violation, any sanctions imposed, and a summary of any corrective action taken by the facility.
- Links to inspection reports.
- A monitored comment page to help inform consumers of the quality and care of services in ALFs. The comment page must allow members of the public to post comments on their

experiences with, or observations of, an ALF. A controlling interest in an ALF or an employee or owner of an ALF may not post comments on the page; however, a controlling interest, employee, or owner may respond to comments on the page, and AHCA shall ensure that the responses are identified as being from a representative of the facility.

Section 18 of the bill provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This bill requires the Agency for Health Care Administration (AHCA) to conduct a new survey of assisted living facilities (ALF) within six months after finding a class I violation or two or more class II violations. Facilities that require the additional survey will be charged a fee to cover the cost of the additional survey. According to AHCA, current fees and fines from ALFs do not cover the cost of regulating such facilities statewide.

B. Private Sector Impact:

The bill revises the fine amounts used to sanction facilities with violations in order to provide more consistent regulation and more predictable penalties. Specifically, the bill sets the dollar amount of fines for facilities with fewer than 100 beds at \$7,500 for class I violations, \$3,000 for class II violations, \$750 for class III violations, and \$150 for class IV violations. This is the midpoint of the current ranges for fines in current law. For facilities with 100 or more beds, the fine amounts are multiplied by 1.5. This will help resolve an inequity in penalties whereby small facilities can pay the same fine amount as larger facilities. Additionally, the bill provides for the following:

- A \$2,500 fine if a facility removes a resident without cause, as determined by a state court.
- A \$500 fine if a facility violates the background screening requirements. Currently, facilities are cited for a class II or III violation for not screening the background of facility staff so the fine amount can vary.

- A doubling of fines for class 1 or II violations if the facility was previously cited for one or more class I or II violations during the last licensure inspection.
- An imposition of a fine for class I violations regardless of whether they were corrected.

All fines are subject to challenge through an administrative hearing under ch. 120, F.S. This due process is retained under the bill.

Facilities with significant uncorrected violations would be more likely to see their licenses suspended or revoked under the bill. Closing facilities with significant problems would improve the public's assessment of ALFs and could improve the financial success of those facilities that meet licensure standards.

Facilities with any state supported mentally ill residents would have to meet limited mental health licensure requirements with one or more mental health residents. Facilities that currently have less than three state supported mentally ill residents and do not meet these requirements may see increased costs to comply.

Facilities with specialty licenses that meet licensure standards will have fewer monitoring visits from AHCA. This will positively impact the facilities as they will have less interruption of staff time due to such visits.

The bill requires facilities to provide all new employees who have not already gone through the ALF core training program with a two hour pre-service training session before they work with residents. In many cases, facilities are already providing similar training. Additionally, the bill increases the training requirements for staff who assist residents with medication from four to six hours. The cost of both of these training requirements is not expected to be significant.

C. Government Sector Impact:

The exact fiscal impact on AHCA is unknown at this time. The bill rearranges the regulatory efforts of the agency. For example, the additional six month survey for problem facilities will increase the work of the AHCA surveyors, while the reduction in monitoring visits for facilities with specialty licenses will reduce the workload.

The bill requires that a fine be imposed for class III and IV violations if a facility was previously cited for one or more of the same class III and IV violations during the agency's last inspection. The agency anticipates that the number of legal cases will increase due to the increase in administrative fines. However, any increased workload could be paid through additional fine collections.

The bill also requires the agency to redesign its existing website for health care facilities. The redesigned website must provide regulatory information in an understandable way and allow for the posting of comments from the public on assisted living facilities. The agency will have to monitor comments for profanity prior to posting to the redesigned website. The cost of these requirements appear to be insignificant.

Finally, the bill requires AHCA to implement a rating system and adopt rules to administer the system by November 1, 2014. The cost of these requirements are not expected to be significant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
10/08/2013	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete lines 989 - 1008

and insert:

Section 14. Present subsections (1) through (11) of section 429.52, Florida Statutes, are renumbered as subsections (2) through (12), respectively, a new subsection (1) is added to that section, and present subsections (5) and (9) of that section are amended, to read:

429.52 Staff training and educational programs; core



968766

11 educational requirement.-

12 (1) Effective October 1, 2014, each new assisted living
13 facility employee who has not previously completed core training
14 must attend a preservice orientation provided by the facility
15 before interacting with residents. The preservice orientation
16 must be at least 2 hours in duration and cover topics that help
17 the employee provide responsible care and respond to the needs
18 of facility residents. At the time of license renewal and as
19 part of the license renewal application, each administrator of a
20 facility licensed by the agency must attest, under penalty of
21 perjury, to compliance with the provisions of this paragraph.

22 (6) ~~(5)~~ Staff involved with the management of medications
23 and assisting with the self-administration of medications under
24 s. 429.256 must complete a minimum of 6 4 additional hours of
25 training provided by a registered nurse, licensed pharmacist, or
26 department staff. The department shall establish by rule the
27 minimum requirements of this additional training.

28 (10) ~~(9)~~ The training required by this section other than
29 the preservice orientation must ~~shall~~ be conducted by persons
30 registered with the department as having

32 ===== T I T L E A M E N D M E N T =====

33 And the title is amended as follows:

34 Delete lines 132 - 136

35 and insert:

36 requiring the administrator to attest to the
37 completion of the preservice orientation; requiring
38 two additional hours of training for assistance with
39 medication; conforming a cross-reference; creating s.

FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

586-00373A-14

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1 A bill to be entitled
 2 An act relating to assisted living facilities;
 3 amending s. 394.4574, F.S.; providing that Medicaid
 4 prepaid behavioral health plans are responsible for
 5 enrolled mental health residents; providing that
 6 managing entities under contract with the Department
 7 of Children and Families are responsible for mental
 8 health residents who are not enrolled with a Medicaid
 9 prepaid behavioral health plan; deleting a provision
 10 to conform to changes made by the act; requiring that
 11 the community living support plan be completed and
 12 provided to the administrator of a facility upon the
 13 mental health resident's admission; requiring the
 14 community living support plan to be updated when there
 15 is a significant change to the mental health
 16 resident's behavioral health; requiring the case
 17 manager assigned to a mental health resident of an
 18 assisted living facility that holds a limited mental
 19 health license to keep a record of the date and time
 20 of face-to-face interactions with the resident and to
 21 make the record available to the responsible entity
 22 for inspection; requiring that the record be
 23 maintained for a specified time; requiring the
 24 responsible entity to ensure that there is adequate
 25 and consistent monitoring and enforcement of community
 26 living support plans and cooperative agreements and
 27 that concerns are reported to the appropriate
 28 regulatory oversight organization under certain
 29 circumstances; amending s. 400.0074, F.S.; requiring

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30 that an administrative assessment conducted by a local
 31 council be comprehensive in nature and focus on
 32 factors affecting the rights, health, safety, and
 33 welfare of nursing home residents; requiring a local
 34 council to conduct an exit consultation with the
 35 facility administrator or administrator designee to
 36 discuss issues and concerns in areas affecting the
 37 rights, health, safety, and welfare of residents and
 38 make recommendations for improvement; amending s.
 39 400.0078, F.S.; requiring that a resident or a
 40 representative of a resident of a long-term care
 41 facility be informed that retaliatory action cannot be
 42 taken against a resident for presenting grievances or
 43 for exercising any other resident right; amending s.
 44 429.02, F.S.; conforming a cross-reference; providing
 45 a definition; amending s. 429.07, F.S.; requiring that
 46 an extended congregate care license be issued to
 47 certain facilities that have been licensed as assisted
 48 living facilities under certain circumstances and
 49 authorizing the issuance of such license if a
 50 specified condition is met; providing the purpose of
 51 an extended congregate care license; providing that
 52 the initial extended congregate care license of an
 53 assisted living facility is provisional under certain
 54 circumstances; requiring a licensee to notify the
 55 Agency for Health Care Administration if it accepts a
 56 resident who qualifies for extended congregate care
 57 services; requiring the agency to inspect the facility
 58 for compliance with the requirements of an extended

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59 congregare care license; requiring the issuance of an
 60 extended congregare care license under certain
 61 circumstances; requiring the licensee to immediately
 62 suspend extended congregare care services under
 63 certain circumstances; requiring a registered nurse
 64 representing the agency to visit the facility at least
 65 twice a year, rather than quarterly, to monitor
 66 residents who are receiving extended congregare care
 67 services; authorizing the agency to waive one of the
 68 required yearly monitoring visits under certain
 69 circumstances; authorizing the agency to deny or
 70 revoke a facility's extended congregare care license;
 71 requiring a registered nurse representing the agency
 72 to visit the facility at least annually, rather than
 73 twice a year, to monitor residents who are receiving
 74 limited nursing services; providing that such
 75 monitoring visits may be conducted in conjunction with
 76 other agency inspections; authorizing the agency to
 77 waive the required yearly monitoring visit for a
 78 facility that is licensed to provide limited nursing
 79 services under certain circumstances; amending s.
 80 429.075, F.S.; requiring an assisted living facility
 81 that serves one or more mental health residents to
 82 obtain a limited mental health license; amending s.
 83 429.14, F.S.; revising the circumstances under which
 84 the agency may deny, revoke, or suspend the license of
 85 an assisted living facility and impose an
 86 administrative fine; requiring the agency to deny or
 87 revoke the license of an assisted living facility

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88 under certain circumstances; requiring the agency to
 89 impose an immediate moratorium on the license of an
 90 assisted living facility under certain circumstances;
 91 deleting a provision requiring the agency to provide a
 92 list of facilities with denied, suspended, or revoked
 93 licenses to the Department of Business and
 94 Professional Regulation; exempting a facility from the
 95 45-day notice requirement if it is required to
 96 relocate some or all of its residents; amending s.
 97 429.178, F.S.; conforming cross-references; amending
 98 s. 429.19, F.S.; revising the amounts and uses of
 99 administrative fines; requiring the agency to levy a
 100 fine for violations that are corrected before an
 101 inspection if noncompliance occurred within a
 102 specified period of time; deleting factors that the
 103 agency is required to consider in determining
 104 penalties and fines; amending s. 429.256, F.S.;
 105 revising the term "assistance with self-administration
 106 of medication" as it relates to the Assisted Living
 107 Facilities Act; amending s. 429.28, F.S.; providing
 108 notice requirements to inform facility residents that
 109 the identity of the resident and complainant in any
 110 complaint made to the State Long-Term Care Ombudsman
 111 Program or a local long-term care ombudsman council is
 112 confidential and that retaliatory action cannot be
 113 taken against a resident for presenting grievances or
 114 for exercising any other resident right; requiring
 115 that a facility that terminates an individual's
 116 residency after the filing of a complaint be fined if

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117 good cause is not shown for the termination; amending
 118 s. 429.34, F.S.; requiring certain persons to report
 119 elder abuse in assisted living facilities; requiring
 120 the agency to regularly inspect every licensed
 121 assisted living facility; requiring the agency to
 122 conduct more frequent inspections under certain
 123 circumstances; requiring the licensee to pay a fee for
 124 the cost of additional inspections; requiring the
 125 agency to annually adjust the fee; amending s. 429.41,
 126 F.S.; providing that certain staffing requirements
 127 apply only to residents in continuing care facilities
 128 who are receiving the relevant service; amending s.
 129 429.52, F.S.; requiring each newly hired employee of
 130 an assisted living facility to attend a preservice
 131 orientation provided by the assisted living facility;
 132 requiring the employee and administrator to sign an
 133 affidavit upon completion of the preservice
 134 orientation; requiring the assisted living facility to
 135 maintain the signed affidavit in the employee's work
 136 file; conforming a cross-reference; creating s.
 137 429.55, F.S.; providing that a facility may apply for
 138 a flexible bed license; requiring a facility that has
 139 a flexible bed license to keep a log, specify certain
 140 information in a flexible bed contract, and retain
 141 certain records; requiring a licensed flexible bed
 142 facility to provide state surveyors with access to the
 143 log and certain independent living units; authorizing
 144 state surveyors to interview certain residents;
 145 providing that a flexible bed license does not

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146 preclude a resident from obtaining certain services;
 147 requiring the Office of Program Policy Analysis and
 148 Government Accountability to study the reliability of
 149 facility surveys and submit to the Governor and the
 150 Legislature its findings and recommendations;
 151 requiring the agency to implement a rating system of
 152 assisted living facilities by a specified date, adopt
 153 rules, and create content for the agency's website
 154 that makes available to consumers information
 155 regarding assisted living facilities; providing
 156 criteria for the content; providing an effective date.

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

159
 160 Section 1. Section 394.4574, Florida Statutes, is amended
 161 to read:

162 394.4574 ~~Department~~ Responsibilities for coordination of
 163 services for a mental health resident who resides in an assisted
 164 living facility that holds a limited mental health license.-

165 (1) As used in this section, the term "mental health
 166 resident" ~~"mental health resident," for purposes of this~~
 167 ~~section,~~ means an individual who receives social security
 168 disability income due to a mental disorder as determined by the
 169 Social Security Administration or receives supplemental security
 170 income due to a mental disorder as determined by the Social
 171 Security Administration and receives optional state
 172 supplementation.

173 (2) Medicaid prepaid behavioral health plans are
 174 responsible for enrolled mental health residents, and managing

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175 ~~entities under contract with the department are responsible for~~
 176 ~~mental health residents who are not enrolled with a Medicaid~~
 177 ~~prepaid behavioral health plan. A Medicaid prepaid behavioral~~
 178 ~~health plan or a managing entity, as appropriate, shall~~ The
 179 ~~department must~~ ensure that:

180 (a) A mental health resident has been assessed by a
 181 psychiatrist, clinical psychologist, clinical social worker, or
 182 psychiatric nurse, or an individual who is supervised by one of
 183 these professionals, and determined to be appropriate to reside
 184 in an assisted living facility. The documentation must be
 185 provided to the administrator of the facility within 30 days
 186 after the mental health resident has been admitted to the
 187 facility. An evaluation completed upon discharge from a state
 188 mental hospital meets the requirements of this subsection
 189 related to appropriateness for placement as a mental health
 190 resident if it was completed within 90 days before ~~prior to~~
 191 admission to the facility.

192 (b) A cooperative agreement, as required in s. 429.075, is
 193 developed by ~~between~~ the mental health care services provider
 194 that serves a mental health resident and the administrator of
 195 the assisted living facility with a limited mental health
 196 license in which the mental health resident is living. Any
 197 ~~entity that provides Medicaid prepaid health plan services shall~~
 198 ~~ensure the appropriate coordination of health care services with~~
 199 ~~an assisted living facility in cases where a Medicaid recipient~~
 200 ~~is both a member of the entity's prepaid health plan and a~~
 201 ~~resident of the assisted living facility. If the entity is at~~
 202 ~~risk for Medicaid targeted case management and behavioral health~~
 203 ~~services, the entity shall inform the assisted living facility~~

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204 ~~of the procedures to follow should an emergent condition arise.~~

205 (c) The community living support plan, as defined in s.
 206 429.02, has been prepared by a mental health resident and his or
 207 her a mental health case manager ~~of that resident in~~
 208 consultation with the administrator of the facility or the
 209 administrator's designee. The plan must be completed and
 210 provided to the administrator of the assisted living facility
 211 with a limited mental health license in which the mental health
 212 resident lives upon the resident's admission. The support plan
 213 and the agreement may be in one document.

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

217 (e) The mental health services provider assigns a case
 218 manager to each mental health resident for whom the entity is
 219 responsible who lives in an assisted living facility with a
 220 limited mental health license. The case manager shall coordinate
 221 ~~is responsible for coordinating~~ the development ~~of~~ and
 222 implementation of the community living support plan defined in
 223 s. 429.02. The plan must be updated at least annually, or when
 224 there is a significant change in the resident's behavioral
 225 health status, such as an inpatient admission or a change in
 226 medication, level of service, or residence. Each case manager
 227 shall keep a record of the date and time of any face-to-face
 228 interaction with the resident and make the record available to
 229 the responsible entity for inspection. The record must be
 230 retained for at least 2 years after the date of the most recent
 231 interaction.

232 (f) Adequate and consistent monitoring and enforcement of

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233 community living support plans and cooperative agreements are
 234 conducted by the resident's case manager.

235 (g) Concerns are reported to the appropriate regulatory
 236 oversight organization if a regulated provider fails to deliver
 237 appropriate services or otherwise acts in a manner that has the
 238 potential to result in harm to the resident.

239 (3) The Secretary of Children and ~~Families~~ Family Services,
 240 in consultation with the Agency for Health Care Administration,
 241 shall ~~annually~~ require each district administrator to develop,
 242 with community input, a detailed annual plan that demonstrates
 243 ~~detailed plans that demonstrate~~ how the district will ensure the
 244 provision of state-funded mental health and substance abuse
 245 treatment services to residents of assisted living facilities
 246 that hold a limited mental health license. This plan ~~These plans~~
 247 must be consistent with the substance abuse and mental health
 248 district plan developed pursuant to s. 394.75 and must address
 249 case management services; access to consumer-operated drop-in
 250 centers; access to services during evenings, weekends, and
 251 holidays; supervision of the clinical needs of the residents;
 252 and access to emergency psychiatric care.

253 Section 2. Subsection (1) of section 400.0074, Florida
 254 Statutes, is amended, and paragraph (h) is added to subsection
 255 (2) of that section, to read:

256 400.0074 Local ombudsman council onsite administrative
 257 assessments.—

258 (1) In addition to any specific investigation conducted
 259 pursuant to a complaint, the local council shall conduct, at
 260 least annually, an onsite administrative assessment of each
 261 nursing home, assisted living facility, and adult family-care

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262 home within its jurisdiction. This administrative assessment
 263 must be comprehensive in nature and must ~~shall~~ focus on factors
 264 affecting residents' ~~the~~ rights, health, safety, and welfare of ~~of~~
 265 ~~the residents~~. Each local council is encouraged to conduct a
 266 similar onsite administrative assessment of each additional
 267 long-term care facility within its jurisdiction.

268 (2) An onsite administrative assessment conducted by a
 269 local council shall be subject to the following conditions:

270 (h) The local council shall conduct an exit consultation
 271 with the facility administrator or administrator designee to
 272 discuss issues and concerns in areas affecting residents'
 273 rights, health, safety, and welfare and, if needed, make
 274 recommendations for improvement.

275 Section 3. Subsection (2) of section 400.0078, Florida
 276 Statutes, is amended to read:

277 400.0078 Citizen access to State Long-Term Care Ombudsman
 278 Program services.—

279 (2) ~~Every resident or representative of a resident shall~~
 280 ~~receive~~, Upon admission to a long-term care facility, each
 281 resident or representative of a resident must receive
 282 information regarding the purpose of the State Long-Term Care
 283 Ombudsman Program, the statewide toll-free telephone number for
 284 receiving complaints, information that retaliatory action cannot
 285 be taken against a resident for presenting grievances or for
 286 exercising any other resident right, and other relevant
 287 information regarding how to contact the program. Each resident
 288 or his or her representative ~~Residents or their representatives~~
 289 must be furnished additional copies of this information upon
 290 request.

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291 Section 4. Subsection (11) of section 429.02, Florida
 292 Statutes, is amended, present subsections (12) through (26) of
 293 that section are redesignated as subsections (13) through (27),
 294 respectively, and a new subsection (12) is added to that
 295 section, to read:

296 429.02 Definitions.—When used in this part, the term:

297 (11) “Extended congregate care” means acts beyond those
 298 authorized in subsection (17) which ~~(16) that~~ may be performed
 299 by persons licensed under pursuant to part I of chapter 464 ~~by~~
 300 ~~persons licensed thereunder~~ while carrying out their
 301 professional duties, and other supportive services which may be
 302 specified by rule. The purpose of such services is to enable
 303 residents to age in place in a residential environment despite
 304 mental or physical limitations that might otherwise disqualify
 305 them from residency in a facility licensed under this part.

306 (12) “Flexible bed” means a licensed bed designated to
 307 allow a continuing care facility licensed under chapter 651 or a
 308 retirement community that offers other services pursuant to this
 309 part in addition to nursing home, home health, or adult day care
 310 services licensed under this chapter or chapter 400 on a single
 311 campus to provide assisted living services for up to 15 percent
 312 of independent living residents residing in residential units
 313 designated for independent living on the campus. A flexible bed
 314 allows a resident who needs personal care services, but who does
 315 not require a secure care setting, to age in place. A flexible
 316 bed is reserved for individuals who have been a contract holder
 317 of a facility licensed under chapter 651 or a resident of a
 318 retirement community for at least 6 months.

319 Section 5. Paragraphs (b) and (c) of subsection (3) of

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320 section 429.07, Florida Statutes, are amended to read:

321 429.07 License required; fee.—

322 (3) In addition to the requirements of s. 408.806, each
 323 license granted by the agency must state the type of care for
 324 which the license is granted. Licenses shall be issued for one
 325 or more of the following categories of care: standard, extended
 326 congregate care, limited nursing services, or limited mental
 327 health.

328 (b) An extended congregate care license shall be issued to
 329 each facility that has been licensed as an assisted living
 330 facility for 2 or more years and that provides services
 331 ~~facilities providing~~, directly or through contract, ~~services~~
 332 beyond those authorized in paragraph (a), including services
 333 performed by persons licensed under part I of chapter 464 and
 334 supportive services, as defined by rule, to persons who would
 335 otherwise be disqualified from continued residence in a facility
 336 licensed under this part. An extended congregate care license
 337 may be issued to a facility that has a provisional extended
 338 congregate care license and meets the requirements for licensure
 339 under subparagraph 2. The primary purpose of extended congregate
 340 care services is to allow residents the option of remaining in a
 341 familiar setting from which they would otherwise be disqualified
 342 for continued residency as they become more impaired. A facility
 343 licensed to provide extended congregate care services may also
 344 admit an individual who exceeds the admission criteria for a
 345 facility with a standard license, if he or she is determined
 346 appropriate for admission to the extended congregate care
 347 facility.

348 1. In order for extended congregate care services to be

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349 provided, the agency must first determine that all requirements
 350 established in law and rule are met and must specifically
 351 designate, on the facility's license, that such services may be
 352 provided and whether the designation applies to all or part of
 353 the facility. ~~This~~ ~~Such~~ designation may be made at the time of
 354 initial licensure or relicensure, or upon request in writing by
 355 a licensee under this part and part II of chapter 408. The
 356 notification of approval or the denial of the request shall be
 357 made in accordance with part II of chapter 408. Each existing
 358 facility that qualifies ~~facilities qualifying~~ to provide
 359 extended congregate care services must have maintained a
 360 standard license and may not have been subject to administrative
 361 sanctions during the previous 2 years, or since initial
 362 licensure if the facility has been licensed for less than 2
 363 years, for any of the following reasons:

- 364 a. A class I or class II violation;
- 365 b. Three or more repeat or recurring class III violations
 366 of identical or similar resident care standards from which a
 367 pattern of noncompliance is found by the agency;
- 368 c. Three or more class III violations that were not
 369 corrected in accordance with the corrective action plan approved
 370 by the agency;
- 371 d. Violation of resident care standards which results in
 372 requiring the facility to employ the services of a consultant
 373 pharmacist or consultant dietitian;
- 374 e. Denial, suspension, or revocation of a license for
 375 another facility licensed under this part in which the applicant
 376 for an extended congregate care license has at least 25 percent
 377 ownership interest; or

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378 f. Imposition of a moratorium pursuant to this part or part
 379 II of chapter 408 or initiation of injunctive proceedings.

380
 381 The agency may deny or revoke a facility's extended congregate
 382 care license for not meeting the criteria for an extended
 383 congregate care license as provided in this subparagraph.

384 2. If an assisted living facility has been licensed for
 385 less than 2 years but meets all other licensure requirements for
 386 an extended congregate care license, it shall be issued a
 387 provisional extended congregate care license for a period of 6
 388 months. Within the first 3 months after the provisional license
 389 is issued, the licensee shall notify the agency when it has
 390 unannounced inspection shall be made to determine compliance
 391 with requirements of an extended congregate care license. If the
 392 licensee demonstrates compliance with all of the requirements of
 393 an extended congregate care license during the inspection, the
 394 licensee shall be issued an extended congregate care license. In
 395 addition to sanctions authorized under this part, if violations
 396 are found during the inspection and the licensee fails to
 397 demonstrate compliance with all assisted living requirements
 398 during a followup inspection, the licensee shall immediately
 399 suspend extended congregate care services, and the provisional
 400 extended congregate care license expires.

402 ~~3.2-~~ A facility that is licensed to provide extended
 403 congregate care services shall maintain a written progress
 404 report on each person who receives services which describes the
 405 type, amount, duration, scope, and outcome of services that are
 406 rendered and the general status of the resident's health. A

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407 registered nurse, or appropriate designee, representing the
 408 agency shall visit the facility at least ~~twice a year~~ quarterly
 409 to monitor residents who are receiving extended congregate care
 410 services and to determine if the facility is in compliance with
 411 this part, part II of chapter 408, and relevant rules. One of
 412 the visits may be in conjunction with the regular survey. The
 413 monitoring visits may be provided through contractual
 414 arrangements with appropriate community agencies. A registered
 415 nurse shall serve as part of the team that inspects the
 416 facility. The agency may waive one of the required yearly
 417 monitoring visits for a facility that has:

418 a. Held an extended congregate care license for at least 24
 419 months; been licensed for at least 24 months to provide extended
 420 congregate care services, if, during the inspection, the
 421 registered nurse determines that extended congregate care
 422 services are being provided appropriately, and if the facility
 423 has

424 b. No class I or class II violations and no uncorrected
 425 class III violations; and-

426 c. No confirmed ombudsman council complaints that resulted
 427 in a citation for licensure ~~The agency must first consult with~~
 428 ~~the long-term care ombudsman council for the area in which the~~
 429 ~~facility is located to determine if any complaints have been~~
 430 ~~made and substantiated about the quality of services or care.~~
 431 ~~The agency may not waive one of the required yearly monitoring~~
 432 ~~visits if complaints have been made and substantiated.~~

433 ~~4.3-~~ A facility that is licensed to provide extended
 434 congregate care services must:

435 a. Demonstrate the capability to meet unanticipated

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436 resident service needs.

437 b. Offer a physical environment that promotes a homelike
 438 setting, provides for resident privacy, promotes resident
 439 independence, and allows sufficient congregate space as defined
 440 by rule.

441 c. Have sufficient staff available, taking into account the
 442 physical plant and firesafety features of the building, to
 443 assist with the evacuation of residents in an emergency.

444 d. Adopt and follow policies and procedures that maximize
 445 resident independence, dignity, choice, and decisionmaking to
 446 permit residents to age in place, so that moves due to changes
 447 in functional status are minimized or avoided.

448 e. Allow residents or, if applicable, a resident's
 449 representative, designee, surrogate, guardian, or attorney in
 450 fact to make a variety of personal choices, participate in
 451 developing service plans, and share responsibility in
 452 decisionmaking.

453 f. Implement the concept of managed risk.

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

456 h. In addition to the training mandated in s. 429.52,
 457 provide specialized training as defined by rule for facility
 458 staff.

459 ~~5.4-~~ A facility that is licensed to provide extended
 460 congregate care services is exempt from the criteria for
 461 continued residency set forth in rules adopted under s. 429.41.
 462 A licensed facility must adopt its own requirements within
 463 guidelines for continued residency set forth by rule. However,
 464 the facility may not serve residents who require 24-hour nursing

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465 supervision. A licensed facility that provides extended
466 congregate care services must also provide each resident with a
467 written copy of facility policies governing admission and
468 retention.

469 ~~5. The primary purpose of extended congregate care services~~
470 ~~is to allow residents, as they become more impaired, the option~~
471 ~~of remaining in a familiar setting from which they would~~
472 ~~otherwise be disqualified for continued residency. A facility~~
473 ~~licensed to provide extended congregate care services may also~~
474 ~~admit an individual who exceeds the admission criteria for a~~
475 ~~facility with a standard license, if the individual is~~
476 ~~determined appropriate for admission to the extended congregate~~
477 ~~care facility.~~

478 6. Before the admission of an individual to a facility
479 licensed to provide extended congregate care services, the
480 individual must undergo a medical examination as provided in s.
481 429.26(4) and the facility must develop a preliminary service
482 plan for the individual.

483 7. ~~If~~ When a facility can no longer provide or arrange for
484 services in accordance with the resident's service plan and
485 needs and the facility's policy, the facility must ~~shall~~ make
486 arrangements for relocating the person in accordance with s.
487 429.28(1)(k).

488 ~~8. Failure to provide extended congregate care services may~~
489 ~~result in denial of extended congregate care license renewal.~~

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

493 1. In order for limited nursing services to be provided in

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494 a facility licensed under this part, the agency must first
495 determine that all requirements established in law and rule are
496 met and must specifically designate, on the facility's license,
497 that such services may be provided. ~~This~~ Such designation may be
498 made at the time of initial licensure or licensure renewal
499 ~~relicensure~~, or upon request in writing by a licensee under this
500 part and part II of chapter 408. Notification of approval or
501 denial of such request shall be made in accordance with part II
502 of chapter 408. An existing facility that qualifies facilities
503 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have
504 maintained a standard license and may not have been subject to
505 administrative sanctions that affect the health, safety, and
506 welfare of residents for the previous 2 years or since initial
507 licensure if the facility has been licensed for less than 2
508 years.

509 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide
510 limited nursing services shall maintain a written progress
511 report on each person who receives such nursing services. The
512 ~~which~~ report must describe ~~describes~~ the type, amount, duration,
513 scope, and outcome of services that are rendered and the general
514 status of the resident's health. A registered nurse representing
515 the agency shall visit the facility ~~such facilities~~ at least
516 annually ~~twice a year~~ to monitor residents who are receiving
517 limited nursing services and to determine if the facility is in
518 compliance with applicable provisions of this part, part II of
519 chapter 408, and related rules. The monitoring visits may be
520 provided through contractual arrangements with appropriate
521 community agencies. A registered nurse shall also serve as part
522 of the team that inspects such facility. Visits may be in

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523 conjunction with other agency inspections. The agency may waive
 524 the required yearly monitoring visit for a facility that has:

525 a. Had a limited nursing services license for at least 24
 526 months;

527 b. No class I or class II violations and no uncorrected
 528 class III violations; and

529 c. No confirmed ombudsman council complaints that resulted
 530 in a citation for licensure.

531 3. A person who receives limited nursing services under
 532 this part must meet the admission criteria established by the
 533 agency for assisted living facilities. When a resident no longer
 534 meets the admission criteria for a facility licensed under this
 535 part, arrangements for relocating the person shall be made in
 536 accordance with s. 429.28(1)(k), unless the facility is licensed
 537 to provide extended congregate care services.

538 Section 6. Section 429.075, Florida Statutes, is amended to
 539 read:

540 429.075 Limited mental health license.—An assisted living
 541 facility that serves one ~~three~~ or more mental health residents
 542 must obtain a limited mental health license.

543 (1) To obtain a limited mental health license, a facility
 544 must hold a standard license as an assisted living facility,
 545 must not have any current uncorrected ~~deficiencies or~~
 546 violations, and must ensure that, within 6 months after
 547 receiving a limited mental health license, the facility
 548 administrator and the staff of the facility who are in direct
 549 contact with mental health residents must complete training of
 550 no less than 6 hours related to their duties. This ~~Such~~
 551 designation may be made at the time of initial licensure or

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552 relicensure or upon request in writing by a licensee under this
 553 part and part II of chapter 408. Notification of approval or
 554 denial of such request shall be made in accordance with this
 555 part, part II of chapter 408, and applicable rules. This
 556 training ~~must will~~ be provided by or approved by the Department
 557 of Children and ~~Families~~ Family Services.

558 (2) A facility that is ~~Facilities~~ licensed to provide
 559 services to mental health residents ~~must shall~~ provide
 560 appropriate supervision and staffing to provide for the health,
 561 safety, and welfare of such residents.

562 (3) A facility that has a limited mental health license
 563 must:

564 (a) Have a copy of each mental health resident's community
 565 living support plan and the cooperative agreement with the
 566 mental health care services provider. The support plan and the
 567 agreement may be combined.

568 (b) Have documentation ~~that is~~ provided by the Department
 569 of Children and ~~Families~~ Family Services that each mental health
 570 resident has been assessed and determined to be able to live in
 571 the community in an assisted living facility that has ~~with~~ a
 572 limited mental health license.

573 (c) Make the community living support plan available for
 574 inspection by the resident, the resident's legal guardian ~~or,~~
 575 ~~the resident's~~ health care surrogate, and other individuals who
 576 have a lawful basis for reviewing this document.

577 (d) Assist the mental health resident in carrying out the
 578 activities identified in the individual's community living
 579 support plan.

580 (4) A facility that has ~~with~~ a limited mental health

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581 license may enter into a cooperative agreement with a private
582 mental health provider. For purposes of the limited mental
583 health license, the private mental health provider may act as
584 the case manager.

585 Section 7. Section 429.14, Florida Statutes, is amended to
586 read:

587 429.14 Administrative penalties.—

588 (1) In addition to the requirements of part II of chapter
589 408, the agency may deny, revoke, and suspend any license issued
590 under this part and impose an administrative fine in the manner
591 provided in chapter 120 against a licensee for a violation of
592 any provision of this part, part II of chapter 408, or
593 applicable rules, or for any of the following actions by a
594 licensee, ~~for the actions of~~ any person subject to level 2
595 background screening under s. 408.809, or ~~for the actions of~~ any
596 facility staff employee:

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

599 (b) A ~~The~~ determination by the agency that the owner lacks
600 the financial ability to provide continuing adequate care to
601 residents.

602 (c) Misappropriation or conversion of the property of a
603 resident of the facility.

604 (d) Failure to follow the criteria and procedures provided
605 under part I of chapter 394 relating to the transportation,
606 voluntary admission, and involuntary examination of a facility
607 resident.

608 (e) A citation for ~~of~~ any of the following violations
609 ~~deficiencies~~ as specified in s. 429.19:

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610 1. One or more cited class I violations ~~deficiencies~~.
611 2. Three or more cited class II violations ~~deficiencies~~.
612 3. Five or more cited class III violations ~~deficiencies~~
613 that have been cited on a single survey and have not been
614 corrected within the times specified.

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

617 (g) Violation of a moratorium.

618 (h) Failure of the license applicant, the licensee during
619 relicensure, or a licensee that holds a provisional license to
620 meet the minimum license requirements of this part, or related
621 rules, at the time of license application or renewal.

622 (i) An intentional or negligent life-threatening act in
623 violation of the uniform firesafety standards for assisted
624 living facilities or other firesafety standards which that
625 threatens the health, safety, or welfare of a resident of a
626 facility, as communicated to the agency by the local authority
627 having jurisdiction or the State Fire Marshal.

628 (j) Knowingly operating any unlicensed facility or
629 providing without a license any service that must be licensed
630 under this chapter or chapter 400.

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

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

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

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639 applicant or controlling interest as defined in part II of
 640 chapter 408 which has or had a 25 percent ~~25 percent~~ or greater
 641 financial or ownership interest in any other facility that is
 642 licensed under this part, or in any entity licensed by this
 643 state or another state to provide health or residential care, if
 644 ~~that which~~ facility or entity during the 5 years prior to the
 645 application for a license closed due to financial inability to
 646 operate; had a receiver appointed or a license denied,
 647 suspended, or revoked; was subject to a moratorium; or had an
 648 injunctive proceeding initiated against it.

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

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

654 (b) The facility is cited for two or more class I
 655 violations arising from unrelated circumstances during the same
 656 survey or investigation; or

657 (c) The facility is cited for two or more class I
 658 violations arising from separate surveys or investigations
 659 within a 2-year period that has two or more class I violations
 660 that are similar or identical to violations identified by the
 661 agency during a survey, inspection, monitoring visit, or
 662 complaint investigation occurring within the previous 2 years.

663 (5) An action taken by the agency to suspend, deny, or
 664 revoke a facility's license under this part or part II of
 665 chapter 408, in which the agency claims that the facility owner
 666 or an employee of the facility has threatened the health,
 667 safety, or welfare of a resident of the facility, must be heard

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668 by the Division of Administrative Hearings of the Department of
 669 Management Services within 120 days after receipt of the
 670 facility's request for a hearing, unless that time limitation is
 671 waived by both parties. The administrative law judge ~~shall must~~
 672 render a decision within 30 days after receipt of a proposed
 673 recommended order.

674 (6) As provided under s. 408.814, the agency shall impose
 675 an immediate moratorium on an assisted living facility that
 676 fails to provide the agency access to the facility or prohibits
 677 the agency from conducting a regulatory inspection. The licensee
 678 may not restrict agency staff in accessing and copying records
 679 or in conducting confidential interviews with facility staff or
 680 any individual who receives services from the facility provide
 681 to the Division of Hotels and Restaurants of the Department of
 682 Business and Professional Regulation, on a monthly basis, a list
 683 of these assisted living facilities that have had their licenses
 684 denied, suspended, or revoked or that are involved in an
 685 appellate proceeding pursuant to s. 120.60 related to the
 686 denial, suspension, or revocation of a license.

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

690 (8) If a facility is required to relocate some or all of
 691 its residents due to agency action, that facility is exempt from
 692 the 45-days' notice requirement imposed under s. 429.28(1)(k).
 693 This subsection does not exempt the facility from any deadlines
 694 for corrective action set by the agency.

695 Section 8. Paragraphs (a) and (b) of subsection (2) of
 696 section 429.178, Florida Statutes, are amended to read:

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697 429.178 Special care for persons with Alzheimer's disease
698 or other related disorders.-

699 (2) (a) An individual who is employed by a facility that
700 provides special care for residents who have with Alzheimer's
701 disease or other related disorders, and who has regular contact
702 with such residents, must complete up to 4 hours of initial
703 dementia-specific training developed or approved by the
704 department. The training must ~~shall~~ be completed within 3 months
705 after beginning employment and satisfy ~~shall satisfy~~ the core
706 training requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

707 (b) A direct caregiver who is employed by a facility that
708 provides special care for residents with Alzheimer's disease or
709 other related disorders, ~~and who~~ provides direct care to such
710 residents, must complete the required initial training and 4
711 additional hours of training developed or approved by the
712 department. The training must ~~shall~~ be completed within 9 months
713 after beginning employment and satisfy ~~shall satisfy~~ the core
714 training requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

715 Section 9. Section 429.19, Florida Statutes, is amended to
716 read:

717 429.19 Violations; imposition of administrative fines;
718 grounds.-

719 (1) In addition to the requirements of part II of chapter
720 408, the agency shall impose an administrative fine in the
721 manner provided in chapter 120 for the violation of any
722 provision of this part, part II of chapter 408, and applicable
723 rules by an assisted living facility, for the actions of any
724 person subject to level 2 background screening under s. 408.809,
725 for the actions of any facility employee, or for an intentional

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726 or negligent act seriously affecting the health, safety, or
727 welfare of a resident of the facility.

728 (2) Each violation of this part and adopted rules must
729 ~~shall~~ be classified according to the nature of the violation and
730 the gravity of its probable effect on facility residents. The
731 agency shall indicate the classification on the written notice
732 of the violation as follows:

733 (a) Class "I" violations are defined in s. 408.813. The
734 agency shall impose an administrative fine of \$7,500 for each a
735 cited class I violation in a facility that is licensed for fewer
736 than 100 beds at the time of the violation in an amount not less
737 than \$5,000 and not exceeding \$10,000 for each violation. The
738 agency shall impose an administrative fine of \$11,250 for each
739 cited class I violation in a facility that is licensed for 100
740 or more beds at the time of the violation. If the noncompliance
741 occurred within the prior 12 months, the fine must be levied for
742 violations that are corrected before an inspection.

743 (b) Class "II" violations are defined in s. 408.813. The
744 agency shall impose an administrative fine of \$3,000 for each a
745 cited class II violation in a facility that is licensed for
746 fewer than 100 beds at the time of the violation in an amount
747 not less than \$1,000 and not exceeding \$5,000 for each
748 violation. The agency shall impose an administrative fine of
749 \$4,500 for each cited class II violation in a facility that is
750 licensed for 100 or more beds at the time of the violation.

751 (c) Class "III" violations are defined in s. 408.813. The
752 agency shall impose an administrative fine of \$750 for each a
753 cited class III violation in a facility that is licensed for
754 fewer than 100 beds at the time of the violation in an amount

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755 ~~not less than \$500 and not exceeding \$1,000 for each violation.~~
 756 The agency shall impose an administrative fine of \$1,125 for
 757 each cited class III violation in a facility that is licensed
 758 for 100 or more beds at the time of the violation.

759 (d) Class "IV" violations are defined in s. 408.813. The
 760 agency shall impose an administrative fine of \$150 for each a
 761 cited class IV violation in a facility that is licensed for
 762 fewer than 100 beds at the time of the violation in an amount
 763 not less than \$100 and not exceeding \$200 for each violation.
 764 The agency shall impose an administrative fine of \$225 for each
 765 cited class IV violation in a facility that is licensed for 100
 766 or more beds at the time of the violation.

767 (e) Any fine imposed for a class I violation or a class II
 768 violation must be doubled if a facility was previously cited for
 769 one or more class I or class II violations during the agency's
 770 last licensure inspection or any inspection or complaint
 771 investigation since the last licensure inspection.

772 (f) Notwithstanding s. 408.813(2)(c) and (d) and s.
 773 408.832, a fine must be imposed for each class III or class IV
 774 violation, regardless of correction, if a facility was
 775 previously cited for one or more class III or class IV
 776 violations during the agency's last licensure inspection or any
 777 inspection or complaint investigation since the last licensure
 778 inspection for the same regulatory violation. A fine imposed for
 779 class III or class IV violations must be doubled if a facility
 780 was previously cited for one or more class III or class IV
 781 violations during the agency's last two licensure inspections
 782 for the same regulatory violation.

783 (g) Regardless of the class of violation cited, instead of

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784 the fine amounts listed in paragraphs (a)-(d), the agency shall
 785 impose an administrative fine of \$500 if a facility is found not
 786 to be in compliance with the background screening requirements
 787 as provided in s. 408.809.

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

791 ~~(a) The gravity of the violation, including the probability~~
 792 ~~that death or serious physical or emotional harm to a resident~~
 793 ~~will result or has resulted, the severity of the action or~~
 794 ~~potential harm, and the extent to which the provisions of the~~
 795 ~~applicable laws or rules were violated.~~

796 ~~(b) Actions taken by the owner or administrator to correct~~
 797 ~~violations.~~

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

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

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

802 (3)(4) Each day of continuing violation after the date
 803 established by the agency ~~fixed for correction termination of~~
 804 the violation, as ordered by the agency, constitutes an
 805 additional, separate, and distinct violation.

806 ~~(4)(5) An Any~~ action taken to correct a violation shall be
 807 documented in writing by the owner or administrator of the
 808 facility and verified through followup visits by agency
 809 personnel. The agency may impose a fine and, in the case of an
 810 owner-operated facility, revoke or deny a facility's license
 811 when a facility administrator fraudulently misrepresents action
 812 taken to correct a violation.

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813 ~~(5)(6)~~ A ~~Any~~ facility whose owner fails to apply for a
 814 change-of-ownership license in accordance with part II of
 815 chapter 408 and operates the facility under the new ownership is
 816 subject to a fine of \$5,000.

817 ~~(6)(7)~~ In addition to any administrative fines imposed, the
 818 agency may assess a survey fee, equal to the lesser of one half
 819 of the facility's biennial license and bed fee or \$500, to cover
 820 the cost of conducting initial complaint investigations that
 821 result in the finding of a violation that was the subject of the
 822 complaint or monitoring visits conducted under s. 429.28(3)(c)
 823 to verify the correction of the violations.

824 ~~(7)(8)~~ During an inspection, the agency shall make a
 825 reasonable attempt to discuss each violation with the owner or
 826 administrator of the facility, prior to written notification.

827 ~~(8)(9)~~ The agency shall develop and disseminate an annual
 828 list of all facilities sanctioned or fined for violations of
 829 state standards, the number and class of violations involved,
 830 the penalties imposed, and the current status of cases. The list
 831 shall be disseminated, at no charge, to the Department of
 832 Elderly Affairs, the Department of Health, the Department of
 833 Children and Families ~~Family Services~~, the Agency for Persons
 834 with Disabilities, the area agencies on aging, the Florida
 835 Statewide Advocacy Council, and the state and local ombudsman
 836 councils. The Department of Children and Families ~~Family~~
 837 ~~Services~~ shall disseminate the list to service providers under
 838 contract to the department who are responsible for referring
 839 persons to a facility for residency. The agency may charge a fee
 840 commensurate with the cost of printing and postage to other
 841 interested parties requesting a copy of this list. This

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842 information may be provided electronically or through the
 843 agency's website ~~Internet site~~.

844 Section 10. Subsection (3) and paragraph (c) of subsection
 845 (4) of section 429.256, Florida Statutes, are amended to read:

846 429.256 Assistance with self-administration of medication.-
 847 (3) Assistance with self-administration of medication
 848 includes:

849 (a) Taking the medication, in its previously dispensed,
 850 properly labeled container, including an insulin syringe that is
 851 prefilled with the proper dosage by a pharmacist and an insulin
 852 pen that is prefilled by the manufacturer, from where it is
 853 stored, and bringing it to the resident.

854 (b) In the presence of the resident, reading the label,
 855 opening the container, removing a prescribed amount of
 856 medication from the container, and closing the container,
 857 including removing the cap of a nebulizer, opening the unit dose
 858 of nebulizer solution, and pouring the prescribed premeasured
 859 dose of medication into the dispensing cup of the nebulizer.

860 (c) Placing an oral dosage in the resident's hand or
 861 placing the dosage in another container and helping the resident
 862 by lifting the container to his or her mouth.

863 (d) Applying topical medications.

864 (e) Returning the medication container to proper storage.

865 (f) Keeping a record of when a resident receives assistance
 866 with self-administration under this section.

867 (g) Assisting with the use of a nebulizer.

868 (h) Using a glucometer to perform blood-glucose level
 869 checks.

870 (i) Assisting with putting on and taking off antiembolism

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871 stockings.872 (j) Assisting with applying and removing an oxygen cannula.873 (k) Assisting with the use of a continuous positive airway
874 pressure (CPAP) device.875 (l) Assisting with measuring vital signs.876 (m) Assisting with colostomy bags.

877 (4) Assistance with self-administration does not include:

878 ~~(c) Administration of medications through intermittent~~
879 ~~positive pressure breathing machines or a nebulizer.~~880 Section 11. Subsections (2), (5), and (6) of section
881 429.28, Florida Statutes, are amended to read:

882 429.28 Resident bill of rights.-

883 (2) The administrator of a facility shall ensure that a
884 written notice of the rights, obligations, and prohibitions set
885 forth in this part is posted in a prominent place in each
886 facility and read or explained to residents who cannot read. The
887 This notice must shall include the name, address, and telephone
888 numbers of the local ombudsman council, the and central abuse
889 hotline, and, if when applicable, Disability Rights Florida the
890 Advocacy Center for Persons with Disabilities, Inc., and the
891 Florida local advocacy council, where complaints may be lodged.
892 The notice must state that a complaint made to the Office of
893 State Long-Term Care Ombudsman or a local long-term care
894 ombudsman council, the names and identities of the residents
895 involved in the complaint, and the identity of complainants are
896 kept confidential pursuant to s. 400.0077 and that retaliatory
897 action cannot be taken against a resident for presenting
898 grievances or for exercising any other resident right. The
899 facility must ensure a resident's access to a telephone to call

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900 the local ombudsman council, central abuse hotline, and
901 Disability Rights Florida Advocacy Center for Persons with
902 Disabilities, Inc., and the Florida local advocacy council.903 (5) A ~~No~~ facility or employee of a facility may not serve
904 notice upon a resident to leave the premises or take any other
905 retaliatory action against any person who:

906 (a) Exercises any right set forth in this section.

907 (b) Appears as a witness in any hearing, inside or outside
908 the facility.909 (c) Files a civil action alleging a violation of the
910 provisions of this part or notifies a state attorney or the
911 Attorney General of a possible violation of such provisions.912 (6) A ~~Any~~ facility that which terminates the residency of
913 an individual who participated in activities specified in
914 subsection (5) must shall show good cause in a court of
915 competent jurisdiction. If good cause is not shown, the agency
916 shall impose a fine of \$2,500 in addition to any other penalty
917 assessed against the facility.918 Section 12. Section 429.34, Florida Statutes, is amended to
919 read:

920 429.34 Right of entry and inspection.-

921 (1) In addition to the requirements of s. 408.811, any duly
922 designated officer or employee of the department, the Department
923 of Children and Families ~~Family Services~~, the Medicaid Fraud
924 Control Unit of the Office of the Attorney General, the state or
925 local fire marshal, or a member of the state or local long-term
926 care ombudsman council has shall have the right to enter
927 unannounced upon and into the premises of any facility licensed
928 pursuant to this part in order to determine the state of

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929 compliance with ~~the provisions of~~ this part, part II of chapter
 930 408, and applicable rules. Data collected by the state or local
 931 long-term care ombudsman councils or the state or local advocacy
 932 councils may be used by the agency in investigations involving
 933 violations of regulatory standards. A person specified in this
 934 section who knows or has reasonable cause to suspect that a
 935 vulnerable adult has been or is being abused, neglected, or
 936 exploited shall immediately report such knowledge or suspicion
 937 to the central abuse hotline pursuant to chapter 415.

938 (2) The agency shall inspect each licensed assisted living
 939 facility at least once every 24 months to determine compliance
 940 with this chapter and related rules. If an assisted living
 941 facility is cited for one or more class I violations or two or
 942 more class II violations arising from separate surveys within a
 943 60-day period or due to unrelated circumstances during the same
 944 survey, the agency must conduct an additional licensure
 945 inspection within 6 months. In addition to any fines imposed on
 946 the facility under s. 429.19, the licensee shall pay a fee for
 947 the cost of the additional inspection equivalent to the standard
 948 assisted living facility license and per-bed fees, without
 949 exception for beds designated for recipients of optional state
 950 supplementation. The agency shall adjust the fee in accordance
 951 with s. 408.805.

952 Section 13. Subsection (2) of section 429.41, Florida
 953 Statutes, is amended to read:

954 429.41 Rules establishing standards.—

955 (2) In adopting any rules pursuant to this part, the
 956 department, in conjunction with the agency, shall make distinct
 957 standards for facilities based upon facility size; the types of

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958 care provided; the physical and mental capabilities and needs of
 959 residents; the type, frequency, and amount of services and care
 960 offered; and the staffing characteristics of the facility. Rules
 961 developed pursuant to this section ~~may shall~~ not restrict the
 962 use of shared staffing and shared programming in facilities that
 963 are part of retirement communities that provide multiple levels
 964 of care and otherwise meet the requirements of law and rule. If
 965 a continuing care facility licensed under chapter 651 or a
 966 retirement community offering multiple levels of care authorizes
 967 assisted living services in a building or part of a building
 968 designated for independent living, staffing requirements
 969 established in rule apply only to residents who have contracted
 970 for, and are receiving, assisted living services. If a facility
 971 uses flexible beds, staffing requirements established in rule
 972 apply only to residents receiving services through the flexible
 973 bed license provided for by department rule. Except for uniform
 974 firesafety standards, the department shall adopt by rule
 975 separate and distinct standards for facilities with 16 or fewer
 976 beds and for facilities with 17 or more beds. The standards for
 977 facilities with 16 or fewer beds ~~must shall~~ be appropriate for a
 978 noninstitutional residential environment; however, provided
 979 that the structure ~~may not be is no~~ more than two stories in
 980 height and all persons who cannot exit the facility unassisted
 981 in an emergency ~~must~~ reside on the first floor. The department,
 982 in conjunction with the agency, may make other distinctions
 983 among types of facilities as necessary to enforce the provisions
 984 of this part. Where appropriate, the agency shall offer
 985 alternate solutions for complying with established standards,
 986 based on distinctions made by the department and the agency

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987 relative to the physical characteristics of facilities and the
 988 types of care offered ~~therein~~.

989 Section 14. Present subsections (1) through (11) of section
 990 429.52, Florida Statutes, are renumbered as subsections (2)
 991 through (12), respectively, a new subsection (1) is added to
 992 that section, and present subsection (9) of that section is
 993 amended, to read:

994 429.52 Staff training and educational programs; core
 995 educational requirement.—

996 (1) Effective October 1, 2014, each new assisted living
 997 facility employee who has not previously completed core training
 998 must attend a preservice orientation provided by the facility
 999 before interacting with residents. The preservice orientation
 1000 must be at least 2 hours in duration and cover topics that help
 1001 the employee provide responsible care and respond to the needs
 1002 of facility residents. Upon completion, the employee and the
 1003 administrator of the facility must sign an affidavit stating
 1004 that the employee completed the required preservice orientation.
 1005 The facility must keep the affidavit in the employee's work
 1006 file.

1007 ~~(10)-(9)~~ The training required by this section must ~~shall~~ be
 1008 conducted by persons registered with the department as having
 1009 the requisite experience and credentials to conduct the
 1010 training. A person seeking to register as a trainer must provide
 1011 the department with proof of completion of the minimum core
 1012 training education requirements, successful passage of the
 1013 competency test established under this section, and proof of
 1014 compliance with the continuing education requirement in
 1015 subsection (5) ~~(4)~~.

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1016 Section 15. Section 429.55, Florida Statutes, is created to
 1017 read:

1018 429.55 Facilities licensed for flexible beds.—
 1019 (1) Beginning January 1, 2015, a facility may apply for a
 1020 flexible bed license.

1021 (2) A facility that has a flexible bed license shall:

1022 (a) Retain a log that lists the name of each resident who
 1023 has contracted for and is receiving assisted living services in
 1024 flexible bed living units, the unit number in which the resident
 1025 resides, the date the contract for the services commenced, the
 1026 date that services ended in the flexible bed living unit if
 1027 applicable, and documentation to demonstrate that minimum
 1028 staffing standards are met;

1029 (b) Specify in the flexible bed contract the process that
 1030 will be used to determine when a resident is no longer eligible
 1031 for services provided through the flexible bed license. This
 1032 contract for services must also outline if the delivery of
 1033 services in a flexible bed living unit will be covered under the
 1034 existing residency agreement or will require a fee for service
 1035 payment; and

1036 (c) Retain each flexible bed contract for 5 years after the
 1037 assisted living services end. All other records must be retained
 1038 for at least 2 years from the date of termination of the
 1039 services.

1040 (3) Upon request, a facility that has a flexible bed
 1041 license must provide state surveyors with access to the log
 1042 described in paragraph (2)(a). State surveyors shall also have
 1043 access to independent living units occupied by residents who are
 1044 receiving services through the flexible bed license at the time

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1045 of any survey. State surveyors may interview any resident who
 1046 has received services through the flexible bed license since the
 1047 last biennial survey, but who is no longer receiving such
 1048 services.

1049 (4) A flexible bed license does not preclude a resident who
 1050 lives in a building that has such a license from obtaining home
 1051 health services in accordance with the policies of the facility.

1052 Section 16. The Legislature finds that consistent
 1053 regulation of assisted living facilities benefits residents and
 1054 operators of such facilities. To determine whether surveys are
 1055 consistent between surveys and surveyors, the Office of Program
 1056 Policy Analysis and Government Accountability (OPPAGA) shall
 1057 conduct a study of intersurveyor reliability for assisted living
 1058 facilities. By November 1, 2014, OPPAGA shall report its
 1059 findings to the Governor, the President of the Senate, and the
 1060 Speaker of the House of Representatives and make any
 1061 recommendations for improving intersurveyor reliability.

1062 Section 17. The Legislature finds that consumers need
 1063 additional information on the quality of care and service in
 1064 assisted living facilities in order to select the best facility
 1065 for themselves or their loved ones. Therefore, the Agency for
 1066 Health Care Administration shall:

1067 (1) Implement a rating system for assisted living
 1068 facilities by November 1, 2014. The agency shall adopt rules to
 1069 administer this subsection.

1070 (2) By January 1, 2015, create content that is easily
 1071 accessible through the front page of the agency's website. At a
 1072 minimum, the content must include:

1073 (a) Information on each licensed assisted living facility,

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1074 including, but not limited to:

- 1075 1. The name and address of the facility.
- 1076 2. The number and type of licensed beds in the facility.
- 1077 3. The types of licenses held by the facility.
- 1078 4. The facility's license expiration date and status.
- 1079 5. Other relevant information that the agency currently

1080 collects.

1081 (b) A list of the facility's violations, including, for
 1082 each violation:

- 1083 1. A summary of the violation which is presented in a
 1084 manner understandable by the general public;
- 1085 2. Any sanctions imposed by final order; and
- 1086 3. A summary of any corrective action taken by the
 1087 facility.

1088 (c) Links to inspection reports that the agency has on
 1089 file.

1090 (d) A monitored comment page, maintained by the agency,
 1091 which allows members of the public to anonymously comment on
 1092 assisted living facilities that are licensed to operate in this
 1093 state. This comment page must, at a minimum, allow members of
 1094 the public to post comments on their experiences with, or
 1095 observations of, an assisted living facility and to review other
 1096 people's comments. Comments posted to the agency's comment page
 1097 may not contain profanity and are intended to provide meaningful
 1098 feedback about the assisted living facility. The agency shall
 1099 review comments for profane content before the comments are
 1100 posted to the page. A controlling interest, as defined in s.
 1101 408.803, Florida Statutes, in an assisted living facility, or an
 1102 employee or owner of an assisted living facility, is prohibited

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1103 from posting comments on the page, except that a controlling
1104 interest, employee, or owner may respond to comments on the
1105 page, and the agency shall ensure that the responses are
1106 identified as being from a representative of the facility.

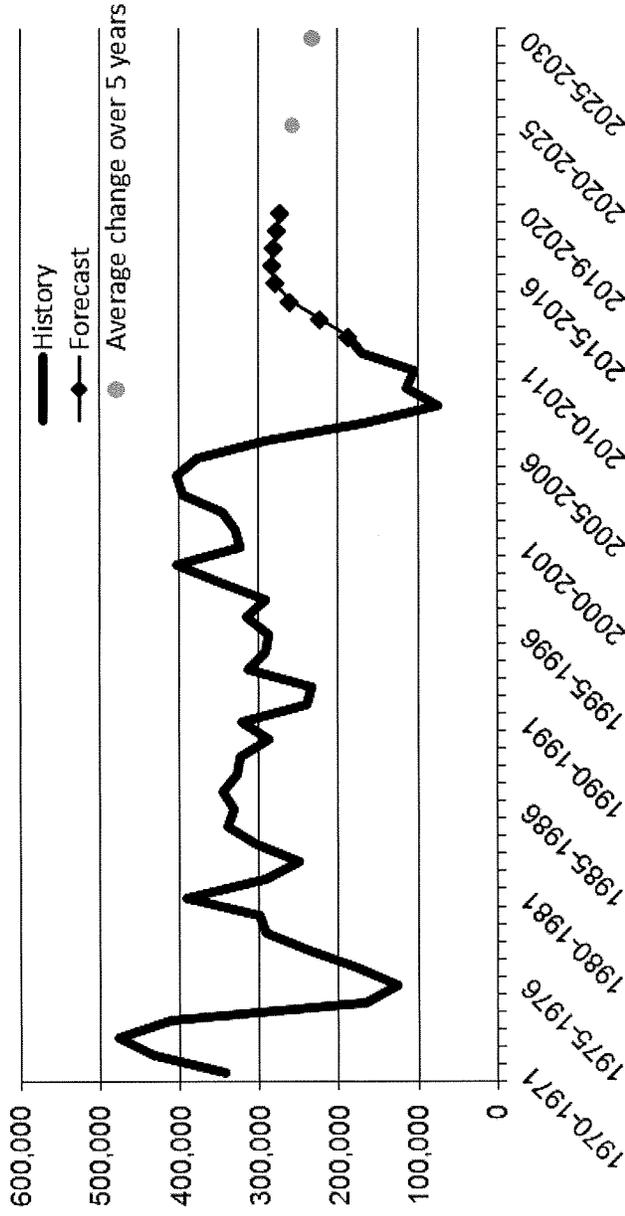
1107 Section 18. This act shall take effect July 1, 2014.

**Information obtained from
the September 26, 2013
Senate Committee on
Appropriations Meeting
Packet**

Population Growth Recovering

- Population growth is the state's primary engine of economic growth, fueling both employment and income growth.
- Population growth is forecast to continue strengthening, showing increasing rates of growth over the next few years. In the near-term, growth is expected to average 1.2% between 2012 and 2015 – and then continue its recovery in the future, averaging 1.4% between 2015 and 2020. Most of Florida's population growth through 2030 will be from net migration (89.6%). Nationally, average annual growth will be about 0.74% between 2012 and 2030.
- The future will be different than the past; Florida's long-term growth rate between 1970 and 1995 was over 3%.
- Florida is on track to break the 20 million mark during 2016, becoming the third most populous state sometime before then – surpassing New York.

Florida's Population Growth



Population:

- Average annual increase between 2000 and 2006 was: 361,942
- Average annual increase between 2007 and 2012 was: 125,533

Population is forecast to increase on average by:

- 223,647 between 2012 and 2015—a gain of 613 per day
- 278,360 between 2015 and 2020—a gain of 763 per day
- 258,837 between 2020 and 2025—a gain of 709 per day
- 233,380 between 2025 and 2030—a gain of 639 per day

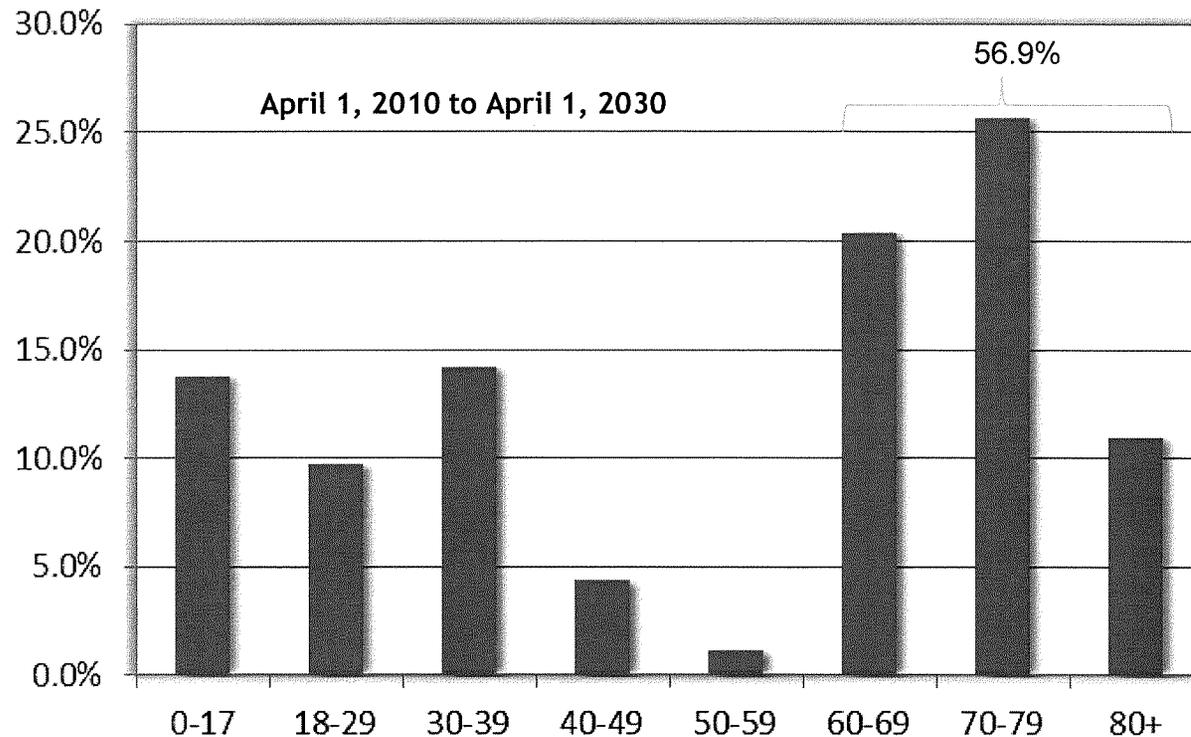
2012:

Hialeah...227,395

Orlando...245,402

St. Petersburg...247,673

Population Growth by Age Group



- Between 2010 and 2030, Florida's population is forecast to grow by almost 4.8 million.
- Florida's older population (age 60 and older) will account for most of Florida's population growth, representing 56.9 percent of the gains.
- Florida's younger population (age 0-17) will account for 13.8 percent of the gains.

Florida Demographic Projections and the Census

Understanding the underlying components of Florida's population growth and demographic composition helps shed light on the state's primary economic driver by providing insight into the needs and pressures that face the state. The Florida Demographic Estimating Conference is expecting moderate population growth over the next few years, as the state gradually recovers from the recession.

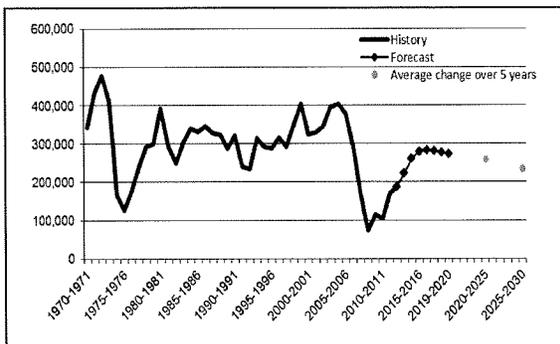
Overall Population Growth

During the 1990's, the number of people in the state rose by three million – only California and Texas grew by more during the decade. This represented a 23.5 percent increase in Florida's population. Even with slower growth during the first decade of the 21st century, Florida continued to rank third in the number of net new residents with a 17.6 percent increase over 2000. Today, Florida remains the fourth largest state behind California with 38.0 million residents, Texas with 26.1 million residents, and New York with 19.6 million residents. However, Florida is on track to become the third most populous state, surpassing New York's population sometime in 2016.

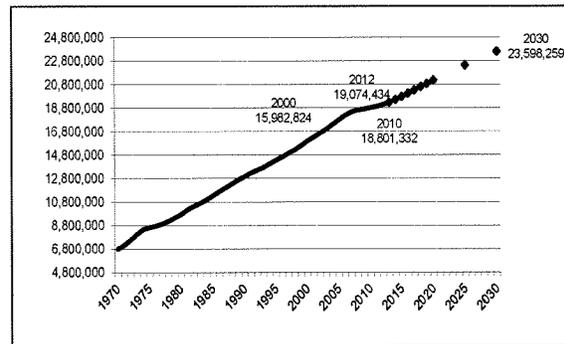
Florida's April 1, 2010, Census count of 18,801,332 represented an increase of 2,818,508 persons over the Census 2000 count of 15,982,824. As suspected, Florida's population grew faster in the early 2000's than in the latter part of the decade. Annually between April 1, 2007, and April 1, 2010, Florida's population growth slowed to less than 1.0 percent per year. Nationally, the United States also had slower growth over the past decade, growing by 13.2 percent between 1990 and 2000 and 9.7 percent between 2000 and 2010.

Florida's population growth was estimated to be 0.55 percent between April 1, 2010, and April 1, 2011 (103,738 net new residents), and 0.90 percent between April 1, 2011, and April 1, 2012 (169,364 net new residents). The preliminary population estimate for April 1, 2013, indicates annual population growth of slightly less than one percent as the state's economy continues its recovery (0.98 percent). Annual population change is expected to exceed 200,000 net new residents in 2014 and remain above that threshold through 2030.

Florida's Incremental Population Growth



Florida's April 1 Population

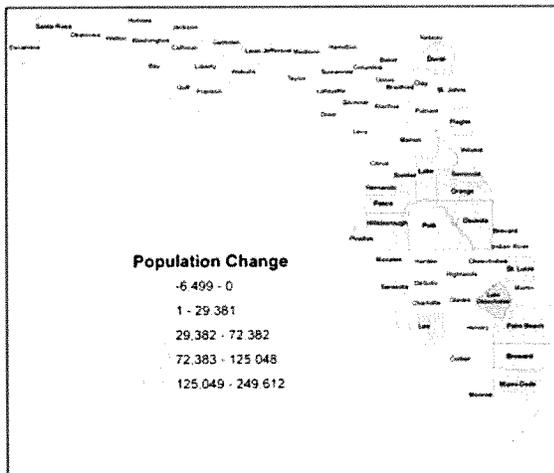


Between 2000 and 2010, three Florida counties expanded by adding population equivalent to a city about the size of Orlando: Orange, Miami-Dade, and Hillsborough. During this time, only two counties lost population: Monroe and Pinellas. In contrast, four counties (Flagler, Sumter, Osceola, and St. Johns) experienced population growth rates above 50 percent. They were closely followed by St. Lucie, Lake, and Lee, each of which posted growth rates between 40.3 percent and 44.2 percent. Flagler and Sumter counties were among the fastest-growing counties in the United States, ranking third and eighth, respectively (based on counties with a population of at least 10,000 in 2000).

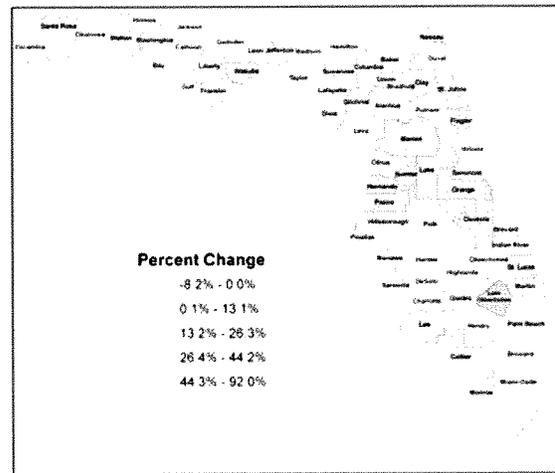
Today, Miami-Dade County is one of the most populous counties in the country, ranking eighth nationally after the 2010 Census was completed. In 2012, 50.3 percent of Florida's residents lived in one of its 411 municipalities, while in 2000, 49.5 percent lived in an incorporated place. Florida's most dense county is Pinellas, while its least dense county is Liberty. In terms of population, Liberty is also the smallest county in the state – Miami-Dade holds about 300 times Liberty's population.

April 1, 2000 to April 1, 2010

**Population Change
(level)**



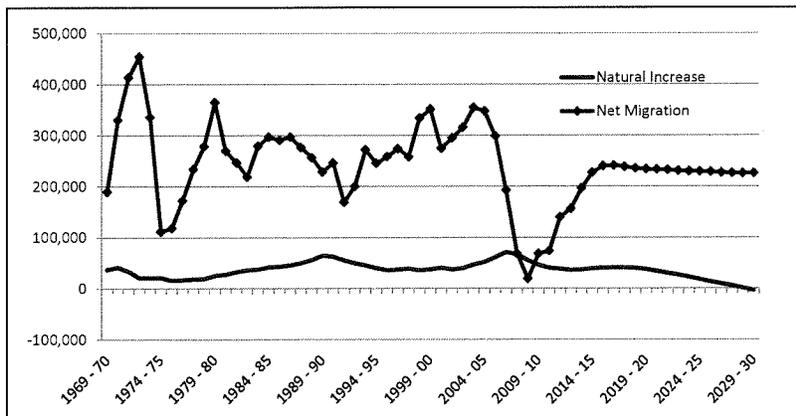
**Population Growth
(percent)**



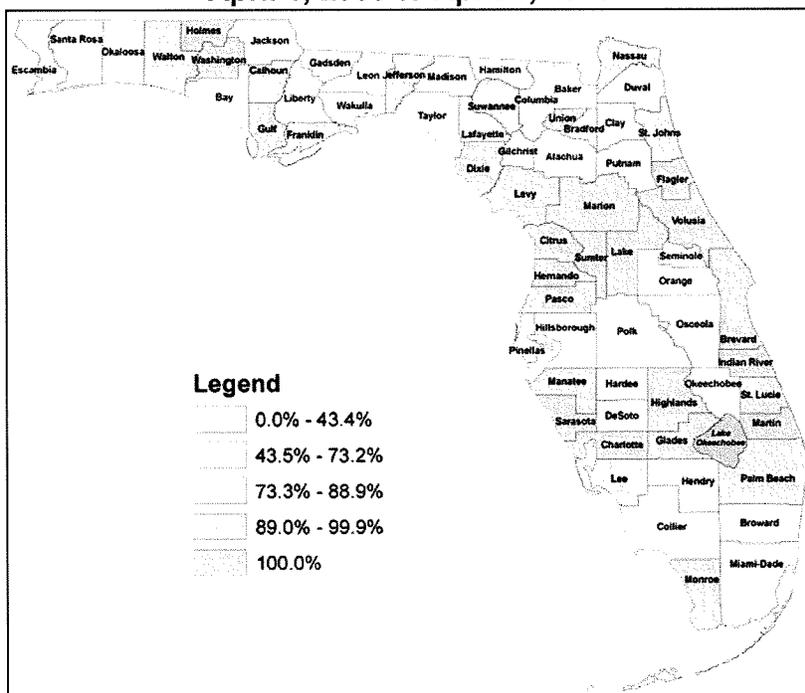
With the slow growth between April 1, 2010, and April 1, 2012, 17 of Florida's counties exhibited a net loss in population. On the other edge of the extreme, Miami-Dade County gained the most population between those years, followed by Orange and Hillsborough counties. In percentage terms, Sumter County grew the fastest followed by Suwannee and Osceola counties.

Population growth depends on two components: natural increase, which is the difference between births and deaths, and migration, both domestic and international. During the 1990's, natural increase accounted for 14.7 percent of the growth and net migration accounted for 85.3 percent. From April 1, 2000, to April 1, 2010, natural increase accounted for 18.4 percent of Florida's growth while net migration accounted for 81.6 percent. With population expanding by only 273,102 between April 1, 2010, and April 1, 2012, natural increase accounted for 30.3 percent, while net migration accounted for 69.7 percent of the growth.

Components of Population Change



Net Migration by County April 1, 2000 to April 1, 2010



Florida’s population growth depends upon in-migration, as just over one-third (35.5 percent) of Floridians were born in the state. Between April 1, 2000, and April 1, 2010, there were 22 counties in the state where all of the population growth was due to net migration. Between April 1, 2010, and April 1, 2012, this number rose to 30 counties.

During the recent recession, net migration to the state slowed significantly, but is forecast to rebound over the forecast horizon with net migration representing all of Florida's population growth in 2030.

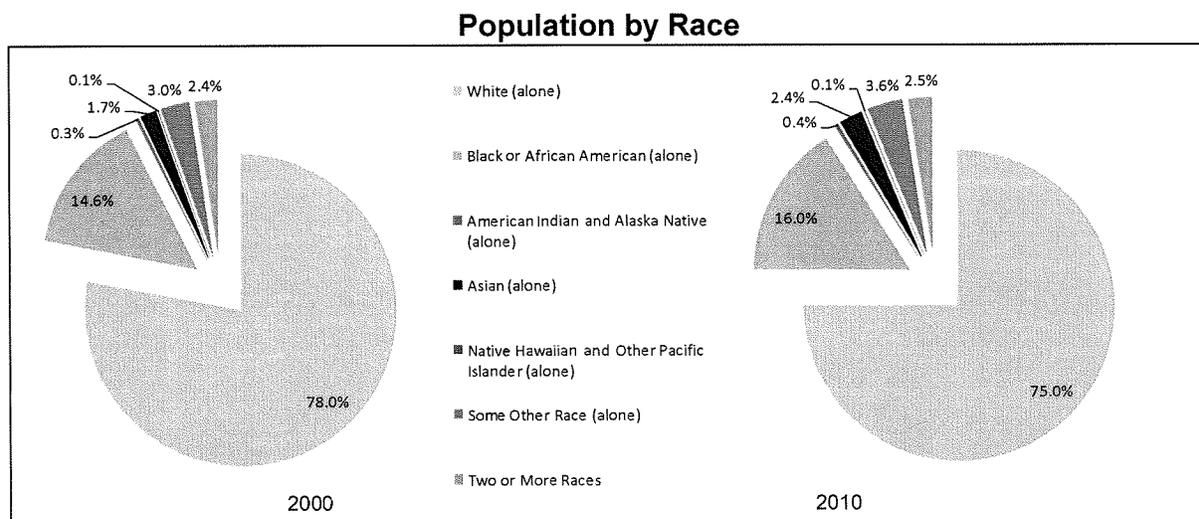
Florida continues to be one of the top three states where most U.S. adults would choose to live if they did not live in their own states. According to the *Harris Poll*, September 2013, Florida ranked third behind California and Hawaii. From 1997 through 2001, Florida had actually topped the list of states to which people would like to move. Baby Boomers (ages 49-67), Generation X (ages 37-48), and Echo Boomers (ages 18-36) all ranked Florida second, while Matures (ages 68+) had Florida tied with California at fifth. It is clear from these results that Florida remains an attractive migration state, which will likely fuel population growth in the future.

Demographic Composition and Long-Term Trends

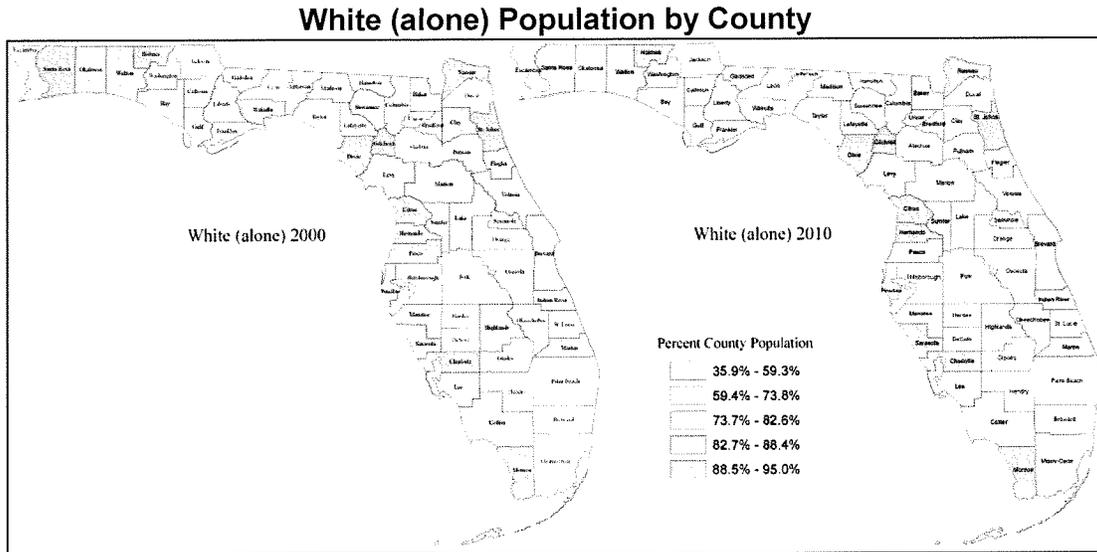
Florida's unique demographics will present challenging issues for the state's policy makers over the next three decades. The state is already seeing an increasingly diverse population relative to race, ethnicity, and age.

In terms of race, Florida's population has become increasingly nonwhite. In the 1980 Census, 14.7 percent of the population was nonwhite; in 1990, 15.2 percent was nonwhite; and in 2000, 17.8 percent was nonwhite.

Beginning with Census 2000, respondents were given the option of selecting more than one racial category. The percentage of white (alone) fell slightly from 78.0 percent to 75.0 percent between 2000 and 2010. During this time period, the percentages of black or African American (alone) increased from 14.6 percent to 16.0 percent, while the percentage of Asian (alone) increased from 1.7 percent to 2.4 percent.



The following maps show changes in the percentage of white (alone) by county from 2000 to 2010. In 53 of Florida's 67 counties, the percentage of white (alone) declined over the decade. The county with the greatest percentage of white (alone) was Citrus, while the county with the smallest percentage was Gadsden.



In contrast, only five of Florida's counties reported a decline in the percentage of Asian (alone) between 2000 and 2010. The largest increases in the percentage of Asian (alone) occurred in Alachua, Orange, Duval, Hillsborough, and Seminole counties.

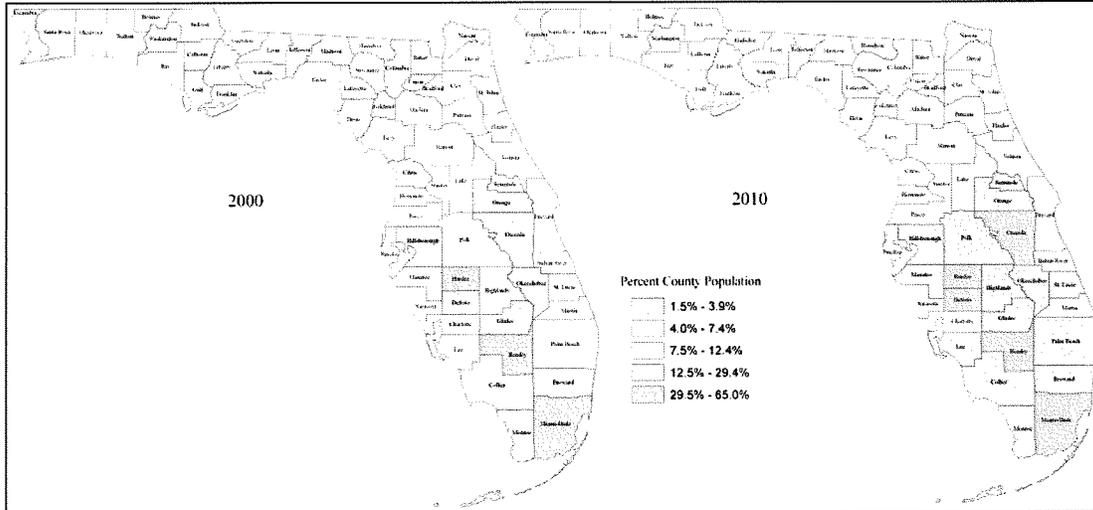
According to federal standards from the Office of Management and Budget and the Census Bureau, Hispanic origin refers to an ethnicity, not a race such as white or black. In this regard, someone of Hispanic origin can be of any race. Nationally, Hispanic or Latinos represented 16.3 percent of the population in 2010, up from 12.5 percent in 2000. Relative to the top three most populous states, Hispanic or Latinos represented a larger percentage of the total population (37.6 percent) in both California and Texas than in Florida (22.5 percent) while in New York they represented only 17.6 percent.

In Florida, the Hispanic or Latino population continues to grow, increasing from 16.8 percent in 2000 to 22.5 percent in 2010. By 2030, 27.9 percent of Florida's population will be Hispanic. Between 2000 and 2010, the percentage of Hispanic or Latinos grew by 57.4 percent in Florida, faster than the United States (43.0 percent), Texas (41.8 percent), California (27.8 percent), and New York (19.2 percent). According to the 2010 Census, 28.7 percent of Florida's Hispanic population indicated that they were of Cuban origin, with 70.5 percent of this population group residing in Miami-Dade County.

The distribution of Florida's Hispanic or Latino population is shown in the map on the following page. In 2010, the county with the greatest percentage of Hispanic or Latino population was Miami-Dade (65.0 percent) while Baker had the smallest percentage (1.9 percent). The percent of Hispanic or Latino population increased in all but one (Sumter) of Florida's 67 counties

between 2000 and 2010. Osceola County posted the largest gain in percentage, moving from 29.4 percent to 45.5 percent.

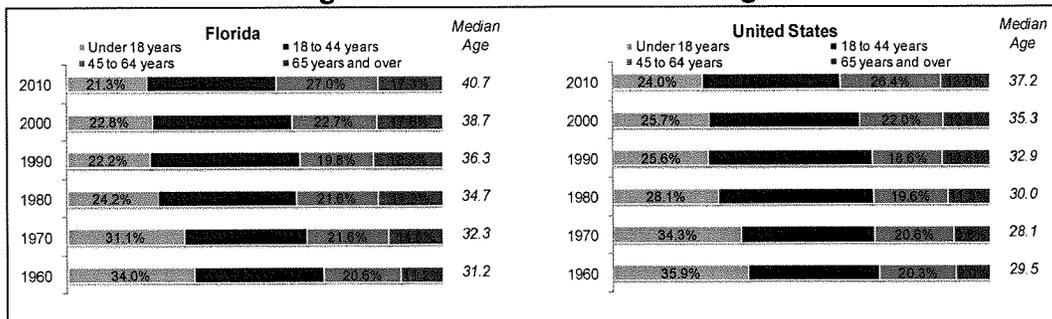
Hispanic or Latino Population by County



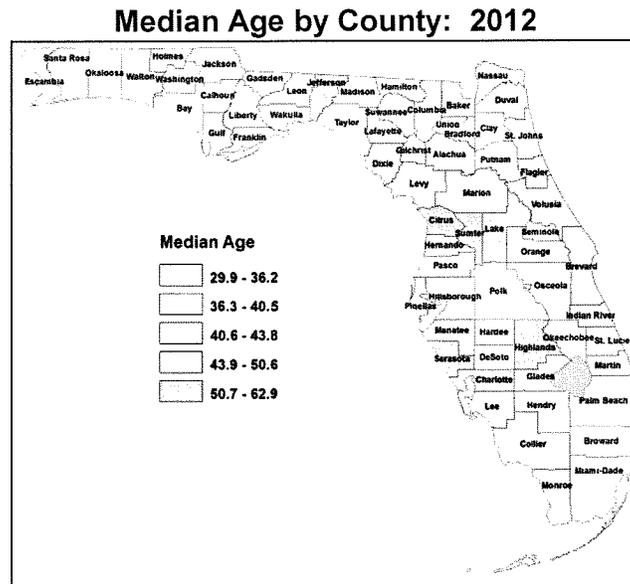
Florida’s diverse racial and ethnic population is also evident by the number of Floridians (age 5 or older) that speak a language other than English at home (almost 5 million). Of these Floridians, about 2.1 million spoke English less than “very well.” In addition, in 2011, it was estimated that 19.4 percent of Florida’s population was foreign born.

Florida’s population has continued to age; among other statistics, the median age of the state increased steadily from 31.2 in 1960 and 38.7 in 2000, to 40.7 in 2010. Nationally, in 2010, the median age increased to a new high of 37.2, up from 35.3 in 2000. As the Baby Boom population continues to age, the median age in both the United States and Florida will increase. However, aging of the population has been more intense here than elsewhere. The percentage of population aged 65 and older in Florida (17.3 percent) was greater than in any other state, handily surpassing the overall percentage in the nation (13.0 percent). West Virginia and Maine rank second and third in the percentage of population aged 65 and older (16.0 percent and 15.9 percent, respectively). In 2010, there were four states where the median age was higher than Florida: Maine (42.7), Vermont (41.5), West Virginia (41.3), and New Hampshire (41.1).

Age Distribution and Median Age



Median ages varied across the state from a low of 29.6 in Leon County to a high of 62.7 in Sumter County. In 2012, it was estimated that there were six Florida counties with a median age of 50 or older and that Leon and Sumter counties still had the lowest and highest median ages at 29.9 and 62.9, respectively. Florida’s median age is estimated to have risen slightly in 2012 to 41.0.



In 2010, five of Florida’s cities were among the locations with the highest median ages in the country – Clearwater (43.8), Cape Coral (42.4), Fort Lauderdale (42.2), Hialeah (42.2), and St. Petersburg (41.6). These cities were ranked as having the second through sixth highest median ages. At the other edge of the spectrum, two of Florida’s cities [Gainesville (24.9) and Tallahassee (26.1)] were ranked as places with the lowest median ages in the country (second and fourth lowest, respectively). These rankings reflected the university population that is included in the 2010 Census count.

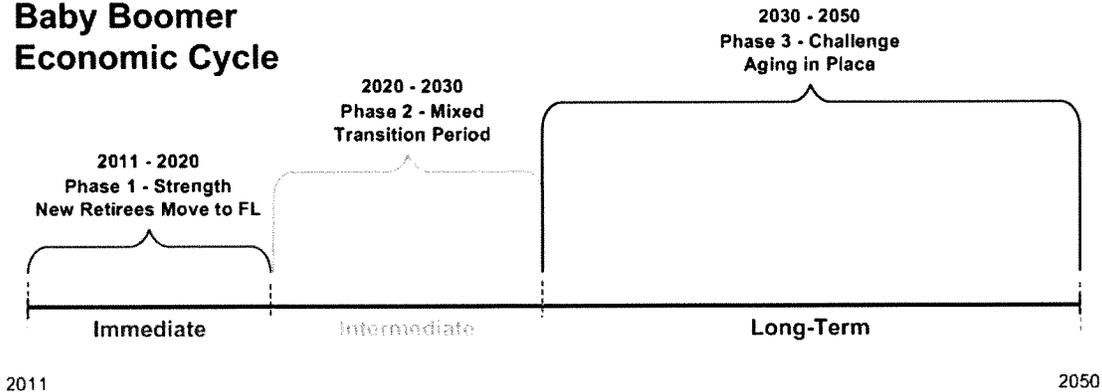
In 2000, Florida’s working age population (ages 25-54) represented 41.5 percent of the total population. With the aging Baby Boom generation, this population is now estimated to represent 39.1 percent of Florida’s total population and is expected to represent 36.1 percent by 2030. Population aged 65 and over is forecast to represent 24.1 percent in 2030, compared to 17.8 percent in 2012. Most of the growth in the state will come from Florida’s older population. As the ratio of workers to retirees tilts to fewer workers per retiree, labor force issues will become increasingly challenging.

Summary

Florida’s population growth slowed substantially as a result of the economic recession, mostly related to the recession’s impact on job creation and the ability of people to migrate into the state. Over the forecast horizon, population growth is anticipated to rebound, but with more moderate levels of growth. Several demographic factors will present future challenges for the

state's policy makers as the Baby Boom population enters retirement age. Most importantly, Florida will need to prepare for a more diverse and aging population with its corresponding demands on services. These changes will have vastly different effects over time.

Baby Boomer Economic Cycle



OVER THE SHORTER-TERM ... (between now and 2020)

The Baby Boomers retiring to Florida will generally be financially better off than the average retiree; most will come with assets (at least from the sale of their homes).

Many will buy new homes in Florida and then outfit them --- generating additional tax revenues, largely as a result new money coming in to Florida from outside the state (earned elsewhere). New infusion of dollars has the greatest multiplier effect.

They will also tend to be younger retirees, and therefore healthier and more active --- meaning their demand for consumer services will be higher, strengthening the economy, while their demand for government services will be at its minimum.

OVER THE LONGER-TERM ... (between now and 2030)

As the Baby Boomers retire, they will be leaving vacant more jobs than there are workers to fill them.

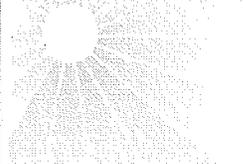
The ability to create new jobs will be constrained by the numbers of qualified workers available to fill those jobs.

Both of these factors will lead to increased demand for workers and upward pressure on wages as the skilled supply of workers fails to keep pace with the demand.

Inflated wages will hurt economic growth, as well as make government services more costly to provide—just as the Boomers increase their need for government-supported services.

The increased cost of government services (due to higher prices and larger caseloads) and suppressed economic growth will make budget gaps worsen (diminished revenues and higher costs for the same services and more services being demanded). This situation will be exacerbated by the fact that retirees tend to spend more on services and less on taxable goods.

DEPARTMENT OF



**ELDER
AFFAIRS**
STATE OF FLORIDA

RICK SCOTT
GOVERNOR

CHARLES T. CORLEY
SECRETARY

STATE PLAN ON AGING

2013-2016

elderaffairs.state.fl.us

*Bureau of Planning and Evaluation, June 2012
Revised November 2012*

Current Conditions and Department Endeavors

Demographics

Florida has the highest proportion of residents age 60 and older compared to other states, comprising 23.6 percent of the state's population.¹ In several counties the proportion of elders is over 30 percent. Three of the top five counties in the U.S. with the greatest percentage of the population age 65 and older are in Florida: Sumter County (43.4 percent), Charlotte County (34.1 percent), and Highlands County (32.2 percent). The percentage of those 85 and older grew from 2.1 percent to 2.3 percent of state residents over the last decade, a 31 percent change from 2000 to 2010. This is particularly significant considering the oldest old are most likely to need long-term care services. In line with these rates, Florida is also the state with the highest median age (40.7) and the highest old-age dependency ratio.² Growth among elder Floridians is expected to continue, with those age 60 and older comprising 41 percent of the state by 2030.³

¹ The national average is 18 percent.

² Sumter county has the highest median age in the country (62.7), while the nationwide average is 37.2 (2010 Census).

³ Werner, C. (2011). *The Older Population: 2010*. U.S. Census Bureau. Retrieved from <http://www.census.gov/prod/cen2010/briefs/c2010br-09.pdf>.

2011 Florida State Profile

Florida

Population by Age Category		
All Ages	18,850,848	100.0%
Under 60	14,343,632	76.1%
60+	4,507,216	23.9%
65+	3,381,463	17.9%
70+	2,452,937	13.0%
75+	1,704,926	9.0%
80+	1,074,562	5.7%
85+	554,792	2.9%

Population by Race (60+)		
White	4,041,767	89.7%
Non-White	465,449	10.3%
Black	395,501	8.8%
Other Minorities	69,948	1.6%

Population by Ethnicity (60+)		
Total Hispanic	608,919	13.5%
White	577,256	12.8%
Non-White	31,663	0.7%
Total Non-Hispanic	3,898,297	86.5%
Total Minorities*	1,042,705	23.1%

Population by Gender (60+)		
Male	2,023,415	44.9%
Female	2,483,801	55.1%

Financial Status (60+, % 60+)		
Below Poverty Guideline	446,652	9.9%
Below 125% of Poverty Guideline	661,734	14.7%
Minorities Below Poverty Guideline	208,088	4.6%
Minorities Below 125% of Poverty Guideline	282,323	6.3%

Medically Underserved (65+)		
Total Medically Underserved	800,348	
Medically Underserved Populations - Living in Areas Defined as Having Medically Underserved Populations	639,259	
Medically Underserved Areas - Living in Medically Underserved Areas	161,089	

Living Situation (65+)		
Living Alone	854,205	

Grandparents (60+)	
Total 60+ Living With Own Grandchildren (Under Age 18)	N/A
Grandparent Responsible for Own Grandchildren (Under Age 18)	60,526
Grandparent Not Responsible for Own Grandchildren (Under Age 18)	N/A
60+ Not Living With Own Grandchildren (Under Age 18)	N/A

Skilled Nursing Facility Utilization	
Total Beds	82,482
Community Beds	79,321
Sheltered Beds	2,496
Veterans Administration Beds	600
Other Beds	65
Nursing Home Facilities With	
Community Beds	651
Sheltered Beds	50
Veterans Administration Beds	5
Other Beds	2
Facilities With Community Beds	
Community Bed Days	28,910,814
Community Patient Days	25,195,571
Medicaid Patient Days	15,369,719
Occupancy Rate	87.1%
Percent Medicaid	61.0%

Adult Day Care	
Facilities	194
Capacity	9,674

Adult Family Care Homes	
Homes	376
Beds	1,679

Ambulatory Surgical Centers	
Facilities	419
Operating Rooms	1,098
Recovery Beds	3,122

Home Health Agencies	
Agencies	2,341
Medicaid Certified Agencies	566
Medicare Certified Agencies	1,528

Homemaker & Companion Service Companies	
Companies	2,194

*Total Minorities = (60+ Population) – (White Non-Hispanic 60+)

The Department maintains current statewide and PSA-level elder-specific demographic data on its website for use by the AAAs, Department staff, and the general public. Key statewide

demographic data are shown on the previous page. More statewide and PSA-specific data, including information about the sources used, can be found on the Department's website at http://elderaffairs.state.fl.us/doea/pubs/stats/County_2011Projections/Florida_Map.html.

Status/Condition of Elders

People age 60 and older are a significant component of the state's economy. Almost half (47 percent) of Florida's elders do not have a disability.⁴ Residents age 60 and older are responsible for 40.2 percent of the owner-occupied housing in Florida, even though they constitute just 23.6 percent of the population. Florida seniors (60+) are almost one-fourth more likely to own the home in which they live than are seniors nationwide. Elders remain vibrant contributors to the Florida community; of those 60 and older, 86.5 percent have a Florida driver's license and 80.1 percent are registered voters. Florida voters age 50 and older made up almost half the state's electorate (49 percent) in the 2008 presidential election, six points higher than the national percentage. Florida seniors remain committed to their families, increasingly stepping in to raise their grandchildren when the parents cannot. The percent of seniors raising grandchildren has increased 8.6 percent since 2006.

Despite the significant contributions of elders, approximately one in ten (9.9 percent) of those 60 and older in the state live below the poverty line, and over 800,000 are medically underserved.⁵ Older adults with lower incomes are more likely to experience disabilities and physical limitations. Moreover, individuals who don't have an adequate diet are more prone to chronic conditions.

Information and Access

DOEA surveys find that information assistance is one of the services elders most frequently need. The service is especially important for underserved populations, including elders who are low-income, minority, or live in rural areas, or individuals with limited English proficiency. Knowing how elders receive information about services allows the Department and the network of aging service providers to more effectively target their use of media outlets. When asked whom they would contact if they needed information about services for elders, nearly one-fifth of respondents in the Department's needs assessment survey stated they were more likely to turn to a medical professional or institution (19 percent) or family members and friends (18 percent). Nine percent stated they would use the internet. Though some may assume that elders do not have access to the internet and other technology, 72 percent of respondents

⁴ DOEA calculations based on Florida Population data (provided by Florida Legislature, Office of Economic and Demographic Research including projections through 2011) and 2009 American Community Survey Data.

⁵ The source of the data is the Florida Department of Health, Office of Workforce Recruitment and Retention, which extrapolated data on people 65 and older from the Health Resources and Services Administration Data Warehouse. The data in the 2011 Florida State Profile is the 65 and older population that are medically underserved. Medically Underserved includes two factors, medically underserved populations (MUPs) and medically underserved areas (MUAs). MUPs may include groups of persons who face economic, cultural, or linguistic barriers to health care. MUAs are areas in which residents have a shortage of personal health services.

reported having internet access, with 37 percent expressing an interest in receiving training on computer and internet use. When asked how they receive information about their communities, 40 percent reported receiving information from either the newspaper or television.

The Department and partner agencies and organizations include information of particular relevance to people over the age of 60 on their websites and in their resource guides, such as information about elder housing, Medicare, and retirement options. The 11 Aging and Disability Resource Centers each have internet sites and Elder Helplines, newsletters, and public outreach activities that offer a wealth of information. Additional efforts, such as coordination with libraries, local newspapers, and senior centers ensure that additional resources are available to the public.

Health and Long-Term Care Information

Ready access to relevant and accurate information is key for people to understand health and long-term care services. Obtaining health care, from preventive to acute care to mental health services, can involve a complex array of service options and payment sources. When long-term care services are factored in, consumers can quickly become overwhelmed. Misinformation or lack of information about health and long-term care can have serious implications for retirement years. To address the issue, the Department-sponsored Elder Helplines assist in providing elders and their families access to the information needed to make decisions about care options. Every effort is made to provide objective materials that help the elder to make informed decisions.

Medical Care

Elders use more health care than any other group, and though the vast majority of elders are covered by Medicare, elders across Florida annually spend \$9 billion in out-of-pocket expenses for medical care. Of the Department's needs assessment survey respondents, six percent reported not having access to medical care "all" or "most of the time." Of these, 21 percent cited that medical insurance does not cover all their needs and 19 percent cited a lack of money. The Department's home and community-based services support clients and help meet their daily needs so that they can preserve resources to meet their medical care needs. The Long-Term Care Community Diversion Pilot Project and the Program of All-Inclusive Care for the Elderly (PACE) use a managed care delivery system to provide coordinated acute and long-term care services to clients who are dually eligible for Medicare and Medicaid.

Care Transitions

Understanding health care service options and payments is particularly confusing when one is moving from one type of care to another, such as from hospital care to a nursing home or from acute to long-term care. It is during these care transitions between settings and type of care providers that an elder is particularly vulnerable. Often, a re-hospitalization occurs soon after discharge because supportive services have not been initiated quickly or sufficiently enough to keep the person's condition stable.

Coordinated care efforts are expected to improve care transitions and assist elders in being able to remain in their homes and reduce recidivism.⁶ Accountable Care Organizations, groups of doctors, hospitals, and other health care providers who collaborate in providing care to their Medicare patients, are designed to provide better coordinated services, avoid duplication of services, and prevent medical error.⁷

The Department's CARES (Comprehensive Assessment and Review for Long-Term Care Services) staff continues to actively identify and refer nursing home residents for the Nursing Home Transition initiative. This initiative identifies clients as candidates to transition from the nursing home to community-based settings. From March 2009, through March 28, 2012, CARES staff identified and successfully transitioned 3,605 individuals from nursing homes to community-based settings.

To address the care transition issue, a grant project is being implemented in Orange, Osceola, and Seminole counties. The goal is to reduce the incidence of re-hospitalizations by providing home and community-based services during a 30-day recovery period without the need to meet financial eligibility requirements or service availability/waiting-list issues. In PSA 3, Elder Options has implemented a pilot project in partnership with Shands Hospital offering assistance to seniors during care transitions for patients on Medicare who have been diagnosed with congestive heart failure. Staff members were trained at the University of Denver to act as care transition coaches. As further support for care transition efforts, the Department is coordinating with Florida's quality improvement organization, FMQAI, under contract with the Centers for Medicare & Medicaid Services (CMS), to reduce the rate of hospital readmissions within 30 days of discharge by 20 percent among Medicare beneficiaries. A number of ADRCs have applied for CMS funding related to care transition efforts.

⁶ Bragg, E. & Chin Hansen, J. A Revelation of Numbers: Will America's Eldercare Workforce be Ready to Care for an Aging America. *Generations*, Winter 2010-2011.

⁷ Centers for Medicare & Medicaid Services. (2011, October 20). *Overview: What's an ACO?*. Retrieved from <https://www.cms.gov/ACO/>.

Long-Term Care Services

Long-term care is defined by CMS as “a variety of services that includes medical and non-medical care to people who have a chronic illness or disability. Long-term care helps meet health or personal needs. Most long-term care is to assist people with ... activities of daily living like dressing, bathing, and using the bathroom. Long-term care can be provided at home, in the community, in assisted living, or in nursing homes.” The Department offers numerous long-term care services through its network of service providers throughout the state as detailed in Appendix 2.

To ensure that long-term care services are provided to those who need them most, and to meet requirements of the Older Americans Act, the Department targets outreach activities to minority, rural, low-income and linguistically isolated (limited English proficiency) elders. Another group, emerging as needing services and basically invisible until recently, is elders who identify with the lesbian, gay, bisexual, and transgender (LGBT) community. People in the LGBT community may face poverty in their elder years because they may not have spousal benefits when one of the partners dies and may lack health insurance because they do not qualify for spousal benefits. Social isolation is another major reason to target LGBT elders. The AAA in PSA 4, Elder Source, has an initiative that looks at the specific needs of LGBT elders. Staff there have conducted a survey to identify common concerns.

In addition to traditional service models, DOEA seeks novel solutions to address consumer need. One example is a grant pilot project to offer an assisted telephone-application process for the Supplemental Nutrition Assistance Program (SNAP), formerly known as Food Stamps, in an effort to increase the number of elders applying for this help. This process provides the assistance of an operator/specialist and a legally valid “voice signature” to the clients who want to submit an application via telephone.

Overuse of Prescription Drugs

People age 65 and older account for less than 15 percent of the U.S. population, yet they consume nearly one-third of the prescription drugs.⁸ Polypharmacy, the use of many medications or more medications than are “clinically warranted,” is commonly seen with elderly patients. Adverse drug reactions and interactions can result from a person taking several medications and physicians overprescribing drugs. An education campaign for clients and caregivers on the dangers of polypharmacy and how the physician, pharmacist, patient, and caregiver need to work as a team to ensure medications are working well, is being considered for this planning cycle.

⁸ Duke Health. (2004, November 3). *Many Drugs Prescribed for Elderly Americans are Risky*. Retrieved from http://www.dukehealth.org/health_library/news/7994.

Health and Wellness

Nutrition and physical activity play significant roles in the health of elders. Regular physical activity can reduce the risk of certain chronic diseases, relieve depressive symptoms, maintain independent living, and boost an elder's overall quality of life. Mobility and functioning can be improved even in frail and very old adults through physical activity.⁹ Despite these advantages, nearly one-quarter of elders surveyed for the Department's needs assessment were not regularly participating in physical activity three or more times a week.¹⁰

DOEA offers health and wellness (HW) services intended to help elders maintain and improve their health. The Department has in recent years encouraged the AAAs to expand their evidenced-based HW program offerings. Evidenced-based HW programs are based on research that indicates they are effective at changing participants' behavior and result in positive consumer health outcomes. A primary funding source for the evidenced-based HW programs is Older Americans Act grants and Title IIID funding. The evidenced-based HW programs administered by the Department are detailed in Appendix 2 to this document. AoA issued requirements with the 2012 Title IIID funding further emphasizing evidenced-based services, demonstrating the value AoA places on evidenced-based programming. While the change may mean fewer people are served with the IIID funding than in prior years, evidence-based initiatives produce the greatest impact on behavioral changes given available funding. To ensure continuation of existing HW programs that provide valuable services but are not considered evidenced-based and to increase the numbers of evidenced-based classes, additional resources and partnerships need to be developed.

Dental

Maintaining oral health is important for individuals of all ages as a part of their overall health. Tooth and mouth problems, such as gum disease and tooth decay, can not only be painful, but can also contribute to other health problems. Challenges to maintaining oral health can result from limiting conditions such as arthritis. Other factors that contribute to oral health challenges include physical changes, such as reduction in saliva production and receding gums, use of tobacco products, poor-fitting bridges and dentures, inadequate diets, and certain diseases. Oral health can also be affected by medications and overall health. Some diseases common to older persons can be associated with oral health problems such as diabetes, cardiovascular disease, and osteoporosis.

Case managers refer clients with tooth and mouth problems for reduced-cost dental services when there are known available options. Shortage in low-cost dental programs has been an on-going problem for many areas in the state. The Department proposes to raise awareness of the

⁹ Ibid. 26

¹⁰ Ibid. 32

need for more affordable dental services and the need to educate older people about the importance of implementing regular oral health care as a part of one's daily routine.

Mental Health

Elders report higher rates of depression than their younger counterparts, and by 2030 the number of adults age 65 and older with mental illness is expected to reach 15 million.¹¹ People with depressive symptoms often experience higher rates of physical illness, functional disability, and healthcare usage.¹² Many elders go untreated for mental health disorders, as primary care physicians do not have the time or ability to sufficiently diagnose and treat such disorders. There is a considerable shortage of mental health professionals with the expertise to accurately diagnose elders' symptoms and provide evidence-based treatment approaches.¹³

Collaborative care models involve interdisciplinary teams that provide coordinated care management for older adults with common mental disorders. These models have been rigorously evaluated in primary care, home health, and social service settings and have been proven more effective at treating elders with mental disorders than usual care. These models can also result in long-term cost savings.¹⁴ The collaborative care approaches may be one way to extend the influence of health workers trained in geriatric care and increase options for care.

End of Life

Patients who discuss their end of life options with their physicians are more likely to accept their prognosis and be able to make informed decisions about their care. The most successful implementation of end-of-life wishes happens when families are informed and included in the decisions, such as through family conferences. In this planning cycle, the Department and its partners will increase efforts to educate the public about end-of-life issues, services, and planning.

¹¹ Hooyman, N. & Unitzer, J. (2011) A Perilous Arc of Supply and Demand: How Can America Meet the Multiplying Mental Health Care Needs of an Aging Populace?. *Generations, Volume 34 (4) Winter 2010-2011.*

¹² Federal Interagency Forum on Aging Related Statistics. (2010). Older Americans 2010: Key Indicators of Well-Being.

¹³ Bartels, S.J. (2003) Improving the System of Care for Older Adults with Mental Illness in the United States: Findings and Recommendations for the President's New Freedom Commission on Mental Health. *American Journal of Geriatric Psychiatry. 11:486-497.*

¹⁴ Unutzer, J, Katon W.J., Fan M.Y., et al. (2008) Long-term cost effects of collaborataive care for late-life depression. *Americial Journal of Managed Care. 14(2): 95-100.*

Education and Training of Geriatric Care Professionals

The shortage of geriatric care workers, the largest of which is geriatric mental health professionals, has been growing over the past few decades, and by 2030 there will be one physician with training in geriatric medicine for every 4,254 older Americans.¹⁵ The disciplines serving people over the age of 60 that might need specialized geriatric training include physicians, case managers, pharmacists, nurses, social workers, and physical and occupational therapists.

The Caring for an Aging America Act, which was reintroduced to Congress in May 2011, addresses the shortage of skilled geriatric health workers. If passed, the law will provide health care professionals who specialize in gerontology and geriatrics with access to loan repayment programs in exchange for agreeing to work in underserved areas.¹⁶ Collaborative care, utilizing an interdisciplinary team to provide services, has also been found to be successful in extending the limited supply of geriatric social and health care workers to serve a larger number of elders.¹⁷

In this rapidly-changing environment, having accurate and up-to-date information on the special care needs of elders available to professionals who help elders and educating these professionals should enhance the value of the assistance provided. The Department and its partners will initiate educational efforts to ensure that professionals are made aware of the special care needs of elders.

Alzheimer's Disease and Related Dementia (ADRD)

There are approximately 450,000 cases of Alzheimer's disease in Florida (a 25 percent increase from 2000),¹⁸ and it is estimated that half of the people currently living with Alzheimer's disease are undiagnosed. The Alzheimer's Association estimates that Alzheimer's disease and dementia triple health care costs for those afflicted. Deaths from Alzheimer's disease are on the rise, while the numbers of deaths from many other major diseases (i.e., heart attack, stroke, breast and prostate cancer) are declining.¹⁹

Early detection of memory loss or cognitive impairment associated with these diseases can have substantial benefits for those afflicted and their families. When detected in the early stages, patients will be better able to report symptoms, plan for their futures and long-term care, have

¹⁵ Hooyman, N. & Unitzer, J. (2011) A Perilous Arc of Supply and Demand: How Can America Meet the Multiplying Mental Health Care Needs of an Aging Populace?. *Generations, Volume 34 (4) Winter 2010-2011*.

¹⁶ Caring for an Aging America Act Reintroduced (July 2011), *Public Policy & Aging E-Newsletter, Volume 5(4)*.

¹⁷ Ibid.

¹⁸ Alzheimer's Association. 2012 Alzheimer's disease facts and figures. *Alzheimer's and Dementia: The Journal of the Alzheimer's Association*. March 2012; 8:131-168.

¹⁹ Ibid.

better opportunities to benefit from available treatments, and be able to participate in clinical trials.²⁰ Through the Alzheimer's Disease Initiative (ADI), the Department offers services to assist with the care of Alzheimer's patients, as well as to further research efforts. There are a number of sources that provide ADRD screening, including the Memory Disorder Clinics, geropsychiatrists, and neuropsychologists. DOEA will continue to promote training for professionals and caregivers on how to manage the symptoms of dementia to improve ADRD identification and treatment.

Caregivers

Caregivers play a vital role in the quality of life experienced by elders as well as in the state's ability to provide services for these elders. Just in the area of Alzheimer's disease, there are an estimated 960,037 volunteer care workers in Florida. Nationwide, in 2011, the Alzheimer's Association estimated that these care workers provided over one billion hours of unpaid care, worth over \$17.4 billion. Because many caregivers are family members, caregiver stress is an important issue for the health and future of both the elder and the caregiver. The degree of caregiver stress is also a strong indicator of nursing home entry for elders and of elder abuse. Services to assist caregivers and alleviate caregiver stress are critical components of the programs provided by DOEA.

Statewide, between 20 and 25 percent of elders are themselves caregivers according to the DOEA needs assessment survey. The Department served an estimated 33,400 caregivers during 2009, a fraction of the estimated one million probable caregivers age 60 and older in Florida.

To improve supportive services for caregivers in Florida, DOEA has three active Alzheimer's Disease Supportive Services Innovation Grants. The three grant projects are as follows: the MindSet Project, the Sarasota Caregiver and Counseling Support Project, and the Community REACH II project. The training of caregivers, staff, and volunteers, along with the specialized services for people with ADRD that are occurring as a result of the grants, contributes to improved care, improved caregiver physical and mental health, and improved quality of life for people with ADRD and their caregivers. DOEA is working on statewide implementation of many of the grant activities by seeking other federal and state funding sources. DOEA will continue to increase the number and types of supportive services for caregivers as resources are identified.

²⁰ Alzheimer's Association. (n.d.). *Early Detection of Alzheimer's Disease: Important Information for Physicians*. Retrieved from http://www.alz.org/mnnd/documents/10signs_PhysicanFactSheet_final.pdf.

Grandparent Caregivers

Many elders find themselves in the role of caregiving for their grandchildren when the child's parents are unable to provide suitable care. There are an estimated 60,500 grandparents in Florida raising their grandchildren. These grandparent caregivers face numerous challenges, often thrown into the parenting role with little preparation or notice. Grandparents who reside in retirement communities are not immune to the problem. Retirement communities generally have rules or covenants that restrict the amount of time a child may visit a resident. Grandparents who are now parenting their grandchildren then face a dilemma – move out of the retirement community and take a large financial loss, or keep their grandchild there and hope allowances will be made. The Department will continue to provide services to assist grandparents and study potential solutions to retirement community issues.

Disabled Elders

Over 520,000 Florida residents age 65 and older have at least one type of disability. The Department's most recent needs assessment survey found that 17 percent of respondents needed help with one or more activity of daily living (ADL) and 51 percent needed help with one or more instrumental activity of daily living (IADL). ADLs are basic self-care tasks such as bathing, dressing, and eating. IADLs are the complex skills needed to live independently such as doing heavy chores, using the phone, and preparing meals. Together, ADLs and IADLs represent the skills that people usually need to live as independent adults. The Department's wide array of services and programs are designed to keep elders with disabilities in their homes as long as safely possible.

Elders who become disabled

Rates of old-age disability have declined in recent decades, and it is expected that Americans will live longer before becoming disabled in the future.²¹ While there has been a rise in many diseases in elderly Americans (including diabetes and heart disease), these diseases are not as disabling as they once were and elders are living longer with these diseases. Despite declines in the rates of disabled elderly, research by the National Institute on Aging suggests that these declines are unlikely to produce significant decreases in Medicare costs.²²

Aging of individuals with developmental disabilities

Longer life expectancies are being predicted for those with developmental disabilities. For example, the average life span of an individual with Down syndrome increased from nine years in the 1920s to 65 years or longer by the end of the 1990s. For the first time, people with developmental disabilities are outliving their parents, who have traditionally served as their

²¹ Cohn, D., Mather, M., & Lee, M. (August 2007). Disability and Aging. *Population Reference Bureau*. Retrieved from <http://www.prb.org/Articles/2007/DisabilityandAging.aspx>.

²² Ibid.

primary caregivers. This has led to an increased role for the state in the provision of such care, as well as an increase in costs for caring for this aging population.²³ A number of the ADRCs include the developmentally disabled population as a targeted population for whom they will provide information and assistance.

Cost of Care

Health care costs have risen dramatically for elders in recent decades. After adjusting for inflation, the average cost of health care for elders nationally has risen from \$9,224 in 1992 to \$15,081 in 2006.²⁴ In relation to total expenditures, the proportion of health costs increases with age.

By providing home and community-based services, DOEA helps frail elders be able to remain living in their homes, where they much prefer to be, and saves the state resources as well. Department-funded home and community-based services resulted in a cost avoidance of more than \$1 billion for nursing home care. Department programs save the state an average of \$1.69 in nursing home care for every dollar spent on home and community-based services. The annual cost per client in a nursing home in state fiscal year 2010-2011 was \$61,360. The average annual cost in the same year for the Department to serve a client in home and community-based services ranged from \$3,984 in the Home Care for the Elderly program to \$23,214 in the Program for All-Inclusive Care for the Elderly (PACE). Collaborative care is also associated with long-term savings in the cost of elder care, with fewer medical errors and less duplication of services.

Elder Rights/Legal Services Development

For elders in social and economic need, the Older Americans Act (OAA) is a major funding source for senior legal assistance, which is essential to protect the rights and financial security of older persons and enhance their ability to exercise choice. Legal services also help to address critical threats to independence, such as loss of one's home through predatory lending and consumer scams, and protect and enhance essential public assistance benefits such as Food Stamps and Supplemental Security Income.

Economic conditions have resulted in an increased demand by at-risk seniors for legal services that currently outstrips the supply. These service delivery conditions call for a comprehensive systemic response, which is being led in Florida by the DOEA's Legal Services Developer. This leadership has enhanced overall statewide capacity to provide high-quality, high-impact legal service to senior populations most in need of assistance on critical legal issues.

²³ Minde, J. & Friedman, A. (n.d.) *The Greying of Disabled America*. Retrieved January 12, 2012, from http://www.nsn.com/graying_of_disabled_america.htm.

²⁴ Federal Interagency Forum on Aging Related Statistics. (2010). *Older Americans 2010: Key Indicators of Well-Being*.

During the planning cycle, the Legal Services Developer will finalize work on the statewide reporting system for legal services to capture data needed to improve efficiency and maximize resources and develop a best practices guide that will advise AAAs on how to develop strong and integrated legal programs at the local level.

Abuse, Neglect, and Exploitation

The Department is committed to ensuring the safety and well-being of Florida's elders. DOEA works in conjunction with the Department of Children and Families (DCF) and the aging network to protect elderly persons from further occurrences of abuse, neglect, or exploitation. Services provided may include protective supervision, placement, and home and community-based services. DCF operates the Florida Abuse Hotline to which calls reporting abuse, neglect, and exploitation can be made 24 hours a day. If the call regards a person age 60 or older who is in need of home and community-based services, a referral is sent to the aging network. During the 2010-2011 fiscal year, 2,792 referrals were made, 1,462 of which were determined to be "high risk." High risk referrals are assessed and served within 72 hours. The total number of all referrals was up 11 percent from the previous fiscal year.

Transportation

Limited mobility is an important concern for elders and affects their ability to receive adequate food and medicine, as well as their capability to remain socially connected. For those 75 and older, the share of total expenditures spent on transportation is equal to that of health care expenditures (14 percent).²⁵ The number of Florida residents age 65 and older will increase to 5.8 million by 2025, a 92 percent increase over 2004 levels.²⁶ Such growth creates a remarkable increase in the need for specialized mobility options.²⁷ While 96 percent of elders responding to the Department's needs assessment survey reported they are usually able to get where they need to go, only 88 percent of the minority respondents said they were able. About 15 percent of elders in Florida use public transportation. Reasons public transportation is not used are that public transportation is not available (10 percent), it is inconvenient (18 percent of those who are less than satisfied with public transportation), or that it does not go where needed (13 percent who are less than satisfied with public transportation).²⁸

The Florida Department of Transportation developed the 2060 Florida Transportation Plan, the first statewide transportation plan for Florida to cover a 50-year period, which was finalized in December 2010. One of the goals of the 2060 Florida Transportation Plan is to provide reliable

²⁵ Ibid. 26

²⁶ Florida Department of Transportation. (n.d.). 2025 Florida Transportation Plan. Retrieved from <http://www.dot.state.fl.us/planning/FTP/2025FTP-LowRes.pdf>.

²⁷ Ibid.

²⁸ Assessing the Needs of Elder Floridians. (2012). Florida Department of Elder Affairs.

transportation options to meet the “unique mobility needs” of elders and those with disabilities, including specialized mobility options.²⁹ When thinking about transportation, pedestrian issues may not come to mind, but walking is a frequently used mode of transportation, especially in metropolitan areas. Several communities in Florida are focusing efforts on improving pedestrian safety. Miami-Dade County is implementing “Safe Steps-Pasos Seguros” to address elder-pedestrian issues. Tampa has a designated Senior Zone, patterned after school zones, to slow traffic in an area with high pedestrian traffic, and the City of Jacksonville, in partnership with the ADRC, trains elders on how to use the public transportation system.

Transportation in Rural Areas

Mobility is often even more of a challenge for rural elders as their public transportation options are limited. One-third of rural elders reported not using public transportation because none was available in their community, compared to 10 percent of elders statewide.³⁰ With approximately 456,000 residents over the age of 60 living in rural areas of Florida, greater provision of public transportation in these areas is crucial. In addition to the on-going provision of transportation services, the Department will be exploring creative alternatives for expanding transportation access during this planning cycle.

Affordable Housing

Finding and maintaining affordable housing is of particular concern to many elders, especially those who live on fixed incomes. According to a recent report published by the Center for Housing Policy, “Housing An Aging Population: Are We Prepared?,”³¹ even older homeowners without mortgages can face serious housing challenges. While homeowners age 65 and older are more likely than younger households to have paid off their mortgages, many of these homeowners nevertheless have high housing cost burdens. Property taxes, maintenance, and utility costs all tend to rise over time for both older homeowners and renters (as reflected in higher rents). Although savings can help, these too diminish with age.³²

In the Department’s needs assessment survey, 23 percent of elder respondents reported having problems with their homes, in terms of upkeep and minor repairs, while 21 percent reported having difficulties making rent or mortgage payments. The Florida Legislature passed

²⁹ Florida Department of Transportation. (2011). 2060 Florida Transportation Plan. Retrieved from <http://2060ftp.org/images/uploads/home/2060FTPlanbook7%2004152011.pdf>.

³⁰ Assessing the Needs of Elder Floridians. (2012). Florida Department of Elder Affairs.

³¹ The Center for Housing Policy, the National Housing Conference’s research affiliate, specializes in developing solutions through research. In partnership with NHC and its members, the Center works to broaden understanding of the nation’s housing challenges and to examine the impact of policies and programs developed to address these needs. Combining research and practical, real-world expertise, the Center helps to develop effective policy solutions at the national, state, and local levels that increase the availability of affordable homes.

³² Ibid.

CS/HB357 in 2012, which enables additional homestead exemption for persons age 65 and older who meet certain criteria, as one way to address affordable housing for seniors.

DOEA will collaborate with housing and related organizations and local government officials to address availability of elder housing that is affordable, accessible, and incorporates universal design. This collaboration can be coupled with efforts to ensure that there are available supportive services enabling elders to stay in their homes. DOEA convened a Housing Summit in May 2012 with participation by national and state housing experts to discuss aging in place. More than 200 people attended. The purpose of the summit was to explore new ideas for addressing affordable housing. The Department plans to host a clearinghouse for aging in place solutions. In addition, the Department is partnering with a local builder, Turner Heritage Homes, to build a model home incorporating extensive universal design elements. The universal design elements benefit all people, but make independent living possible for people with disabilities.

Aging in Place

Nearly 90 percent of Americans over age 65 would like to remain in their current homes for as long as possible, a preference that increases with age.³³ Naturally Occurring Retirement Communities (NORCs) develop when neighborhoods, over time, transform into communities of primarily older residents who are aging in place. According to nationwide surveys, as many as one-third to one-half of those 55 and older are living in NORCs.³⁴ NORCs can be an effective way to increase socialization and reduce social isolation among older adults, which has been shown to improve health and overall well-being. Florida has two designated NORC regions in Sarasota-Manatee and southeast Florida.

Effective and Responsive Management

The Department seeks opportunities to increase resources and create greater efficiencies to effectively manage its available funding. Additional funding for elder services and supports is pursued through approaches such as writing grants and increasing public/private partnerships. In-kind contributions of staff time, space, equipment, etc., are other benefits of the public/private partnerships and result in additional resources even if no funds are provided. The Department also implements program innovations and continues to identify ways to create efficiencies that will help maximize existing resources. Two examples include utilizing technology for staff and promoting client use of assistive technology (AT). AT includes any item, piece of equipment, or system used to increase, maintain, or improve functional capabilities of individuals with disabilities. While AT can be a benefit to anyone, it can make all the difference between independence and dependence for an individual living with a disability.

³³ Keenan, Teresa A. (2010). Home and Community Preferences of the 45+ Population, AARP.

³⁴ NORCs: An Aging in Place Initiative. (n.d.). *Promoting Healthy Aging: Aging in Place, NORC Supportive Service Programs, and the "Community Innovations for Aging in Place" Program*. Retrieved from <http://www.norcs.org/page.aspx?id=160634>.

In an effort to measure the activities that indicate how well services are provided to elders in Florida, the Department has begun developing performance measures at the PSA level. These measures will address effectiveness, accountability, cost efficiency, and targeting. The measures are described in more detail in Table 6 in the Outcomes and Performance Measures section. DOEA also has a monitoring unit to ensure that the AAAs are implementing programs as intended, are abiding by applicable laws and regulations, and maintaining quality of care.

Volunteerism

Many elders remain active and derive a sense of worth by contributing to their communities through volunteer work. Evidence suggests that older adults who have more education, income, health, social integration, and religious involvement tend to volunteer, and in turn to feel good as a result of volunteering.³⁵ Elders also volunteer at higher rates than their younger counterparts, with rates of volunteering not declining until elders are in their mid-70s.³⁶

Over one-third of elder respondents (36 percent) in the Department's needs assessment survey volunteered for a wide variety of programs (including religious, community, and school-related organizations), and one-quarter were interested in receiving information about volunteer opportunities in their communities.

Intergenerational programs are beneficial to both elders and the community, providing such services as tutoring and teaching homemaking skills to children and young adults, and allowing elders to remain socially connected. The Department and the service provider network involve volunteers and intergenerational programming whenever possible to extend services to more people and help keep elders active and engaged. Just one example of an effective intergenerational project is the reverse mentoring project called "Tech Boot Camp" at the Senior Friendship Centers in Sarasota. At Tech Boot Camp, young people mentor older people on how to use technologies such as email, the internet, and electronic devices, such as cell phones, computers, etc.

³⁵ Morrow-Howell, N. (2010). Volunteering in later life: research frontiers. *Journal of Gerontology: Social Sciences*, 65B(4), 461-469, doi:10.1093/geronb/gbq024. Advance Access published on April 16, 2010.

³⁶ S Linda K. George. (2010). Still Happy After All These Years: Research Frontiers on Subjective Well-being in Later Life. *Journal of Gerontology, Series B, Volume 65B(4)*: 461-9.

Rural Considerations

The Older Americans Act requires the state to spend in each fiscal year, for services to older individuals residing in rural areas of the state, an amount not less than the amount expended for such services in federal fiscal year 2000. To meet the requirements of Section 307(a)(3)(B), this state plan defines rural elders as persons age 60 and older residing in areas defined as rural by the U.S. Bureau of the Census in 2000. An exception is made for services provided under Title V of the Older Americans Act, as amended, where rural elders are defined as persons age 55 and older residing in such areas.

Almost three-quarters of all rural elders live in counties that are primarily urban (see Table 1). Providers are instructed to make special efforts to serve rural elders in all counties by addressing program development, advocacy, and outreach efforts to benefit rural elders. To assure that rural elders are targeted for services, DOEA monitors the number and percent of clients living in rural areas who are in need of home and community-based services. Table 2 shows estimated expenditures for rural residents in specific programs. Table 3 includes the percent of rural service recipients receiving services compared to the overall percentage of the rural 60 and older population in Florida.

Table 1: Rural Population 60 and Older (Estimates based on 2000 Census)

County	Total 60+ Urban	Total Rural Age 60+(2011)	Total 60+ 2011 Estimate	% Rural
Alachua	27,266	12,284	39,550	31
Baker	2,056	2,424	4,480	54
Bay	35,376	3,781	39,157	10
Bradford	2,550	3,301	5,851	56
Brevard	153,338	5,897	159,235	4
Broward	344,695	376	345,071	0
Calhoun	1,179	1,839	3,018	61
Charlotte	66,179	5,097	71,276	7
Citrus	40,455	19,972	60,427	33
Clay	25,380	8,572	33,952	25
Collier	101,163	5,515	106,678	5
Columbia	6,544	8,991	15,535	58
De Soto	3,742	4,671	8,413	56
Dixie	937	3,563	4,500	79
Duval	148,438	5,343	153,781	3
Escambia	58,980	6,377	65,357	10

County	Total 60+ Urban	Total Rural Age 60+(2011)	Total 60+ 2011 Estimate	% Rural
Flagler	27,344	8,645	35,989	24
Franklin	1,157	2,163	3,320	65
Gadsden	4,130	5,903	10,033	59
Gilchrist	229	3,971	4,200	95
Glades	625	2,285	2,910	79
Gulf	1,754	2,197	3,951	56
Hamilton	948	1,753	2,701	65
Hardee	2,911	2,038	4,949	41
Hendry	4,116	1,805	5,921	30
Hernando	52,946	9,491	62,437	15
Highlands	27,265	12,656	39,921	32
Hillsborough	204,039	11,185	215,224	5
Holmes	1,262	3,316	4,578	72
Indian River	48,331	2,489	50,820	5
Jackson	2,967	8,889	11,856	75
Jefferson	229	3,253	3,482	93
Lafayette	114	1,650	1,764	94
Lake	78,473	21,436	99,909	21
Lee	177,826	20,486	198,312	10
Leon	32,920	5,744	38,664	15
Levy	779	10,460	11,239	93
Liberty	125	1,254	1,379	91
Madison	1,267	3,013	4,280	70
Manatee	90,054	4,594	94,648	5
Marion	72,747	33,738	106,485	32
Martin	48,399	4,427	52,826	8
Miami-Dade	482,786	2,489	485,275	1
Monroe	19,083	2,164	21,247	10
Nassau	10,424	7,698	18,122	42
Okaloosa	36,729	4,283	41,012	10
Okeechobee	6,100	2,895	8,995	32
Orange	152,698	4,710	157,408	3

County	Total 60+ Urban	Total Rural Age 60+(2011)	Total 60+ 2011 Estimate	% Rural
Osceola	33,071	10,306	43,377	24
Palm Beach	356,599	3,551	360,150	1
Pasco	124,240	11,514	135,754	8
Pinellas	265,799	253	266,052	0
Polk	118,189	26,202	144,391	18
Putnam	10,100	9,872	19,972	49
St. Johns	20,175	7,711	27,886	28
St. Lucie	152,688	5,811	158,499	4
Santa Rosa	71,090	2,632	73,722	4
Sarasota	36,256	7,974	44,230	18
Seminole	74,857	5,956	80,813	7
Sumter	26,258	13,641	39,899	34
Suwannee	2,661	8,582	11,243	76
Taylor	2,009	2,860	4,869	59
Union	887	1,324	2,211	60
Volusia	135,174	11,662	146,836	8
Union	887	1,324	2,211	60
Walton	4,265	10,711	14,976	72
Washington	1,456	4,272	5,728	75

Table 2: Projected Expenditures for OAA Titles B, C and E Services for Rural Residents 2013-2015*

PSA	Contract Year			
	2013	2014	2015	2016
1	1,092,329	1,092,329	1,092,329	1,092,329
2	2,903,257	2,903,257	2,903,257	2,903,257
3	3,581,775	3,581,775	3,581,775	3,581,775
4	3,461,701	3,461,701	3,461,701	3,461,701
5	239,115	239,115	239,115	239,115
6	1,311,532	1,311,532	1,311,532	1,311,532
7	1,252,306	1,252,306	1,252,306	1,252,306

Contract Year				
PSA	2013	2014	2015	2016
8	1,596,349	1,596,349	1,596,349	1,596,349
9	2,240,253	2,240,253	2,240,253	2,240,253
10	218,113	218,113	218,113	218,113
11	1,151,058	1,151,058	1,151,058	1,151,058
Total	19,047,786	19,047,786	19,047,786	19,047,786

* The projected expenditures for rural clients are based on 2011 client address data from the CIRTS Services Reported table. Clients with addresses with a rural ZIP code were counted. The percentages that were deemed to be rural were applied to the aggregated services counts to get an estimate of the clients that are reported in the aggregate. The service costs were estimated from average service costs in 2006 multiplied by 1.15 as a 3 percent per year adjustment for inflation.

Description of Current Service Population

The Department aims to improve the well-being of Florida's elders through the provision of appropriate and cost-effective home and community-based services. Greater than 950,000 Floridians age 60 and older received services from the Department in fiscal year 2010-2011 and over 95 percent of the Department's \$756 million budget is spent providing direct services to elders.

To improve the state's ability to identify the needs of elders seeking long-term care services, the Department began a project in early 2010 to revise the current comprehensive client assessment instrument. A workgroup of assessors, case managers, physicians, researchers, and other subject matter experts assisted the Department in this effort. The goal of the project is to better evaluate the needs of clients and improve the validity and reliability of the assessment instrument.

The new assessment instrument will incorporate questions and scoring from validated instruments on depression, dementia, and mental status. Specifically, the validated instruments include:

- PHQ-9, a brief depression survey used for self-reporting symptoms of depression;
- AD8, an eight-item informant interview to differentiate aging and dementia to capture caregiver insight into client memory loss; and
- BIMS (Brief Interview for Mental Status), which tests memory and orientation to time.

By collecting more information on problem areas, the revised assessment is designed to improve the accuracy of care planning, and using the same instruments as others, such as nursing homes and mental health clinics, should result in more appropriate referrals.

The Older Americans Act requires that states emphasize serving older individuals with the greatest economic and social needs, and give particular attention to low-income minority individuals and older individuals residing in rural areas. The Department uses poverty level as a

measure of economic need. Of the clients served by the Department, 45 percent are below the poverty level compared to 9.9 percent in the general 60-and-older population. The client's living situation is used to measure social need. Forty-three percent of the service population lives alone, compared to only 23 percent in the general 60-and-older population. The service population is 29 percent low-income minority, compared to 5 percent in the general population of people age 60 and older. The rural area designation is used to measure access to services. Twenty percent of the clients DOEA serves live in rural areas, compared to 10 percent in the general 60-and-older population. (See Table 3.)

Table 3: Targeting 2010

Characteristic	Florida 60+ Population	Percent 60+	Number of Registered Services* Recipients	Percent Receiving Services
All 60+	4,454,625	100%	118,066	* 100%
60+ Below Poverty Level	411,460	9%	53,424	45%
60+ Living Alone	1,042,357	23%	50,601	43%
60+ Minority	996,680	22%	53,057	45%
60+ Minority Below Poverty Level	199,265	5%	34,077	29%
60+ Rural Areas	456,039	10%	23,338	20%

*Registered Services include personal care, homemaker, chore, home delivered meals, adult day/health care, case management, escort and congregate meals.

Strengths, Weaknesses, Opportunities, and Threats (SWOT) analysis

As a part of the strategic planning process, the Department conducted a SWOT analysis. The analysis helped staff to identify critical topics on which to focus efforts and contributed to the development of the Goals, Objectives, and Strategies listed in this plan. The SWOT analysis can be found in Appendix 4.

	ALF Training Requirements	Current Law	Current DOEA Rule	Proposed DOEA Rule	SPB 7000
1	Administrator / Manager Training				
2	Regular License				
3	Initial Training	Not specified	26 Hours	40 Hours	
4	Continuing Education biennial	12 Hours	12 hours	18 Hours	no change
5					
6	Extended Congregate Care License				
7	Initial Training		4 Hours	no change	
8	Continuing Education biennial		4 Hours	no change	
9					
10	Limited Mental Health License				
11	Initial Training	6 Hours	6 Hours	no change	no change
12	Continuing Education biennial		3 Hours	no change	
13					
14	Alzheimer's Care				
15	Initial Training Direct Care	4 Hours	4 Hours	no change	no change
16	Continuing Education annual	4 Hours	4 Hours	no change	no change
17					
18	Staff Training				
19	Regular License				
20	Pre-employment for All Staff			1 Hour	2 Hours
21	Pre-Service - Direct Care Staff		1 Hour	no change	
22	Initial Training - Care Staff		6 Hours	5 Hours	
23	Elopement Training - Care Staff		In-Service	no change	
24	Do-Not-Resuscitate Orders - Care staff		1 Hour	no change	
25	Continuing Education - Care Staff		None	no change	
26	Assistance with Medication - Care Staff	4 Hours	4 Hours	6 Hours	no change
27	Assistance with Medication continuing education - biennial		2 Hours	no change	
28					
29	Extended Congregate Care License		2 Hours	no change	
30					
31	Limited Mental Health License				
32	Initial Training	6 Hours	6 Hours	no change	no change
33	Continuing Education biennial		3 Hours	no change	
34					
35	Alzheimer's Care				
36	Initial Training	4 Hours	4 Hours	no change	no change

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/8/13

Meeting Date

Topic Assisted Living Facilities Bill Number (if applicable)

Name Liz Dudek Amendment Barcode (if applicable)

Job Title secretary, Agency for Health Care Administration

Address 2727 Mahan Drive Phone 850-412-3600

Street

Tallahassee, FL

State

32308

Zip

E-mail

Speaking: For Against Information

Representing Agency for Health Care Administration

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic Assisted Living Facilities Bill Number (if applicable)

Name Molly McKinstry Amendment Barcode (if applicable)

Job Title Deputy secretary, Health Quality Assurance

Address 2727 Mahan Drive Phone 850-412-4334

Street

Tallahassee

FL

32308

State

Zip

E-mail

Speaking: For Against Information

Representing Agency for Health Care Administration

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/9

Meeting Date

Topic ALF Bill Number _____ (if applicable)

Name Nevin Smith Amendment Barcode _____ (if applicable)

Job Title Assistant Sec. for Substance Abuse & Mental Health

Address 1317 W. Wrenwood Phone 487 1000

Street

TLH

City

FL

State

32399

Zip

E-mail nevin-smith@dcf.state.fl.us

Fl.us

Speaking: For Against Information

Representing DCF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/8

Meeting Date

Topic ALF SB 7000 Bill Number SB 7000 (if applicable)

Name Carol Berkowitz Amendment Barcode _____ (if applicable)

Job Title Sr. Director -

Address 1812 Riggins Rd Phone 850.671.3700

Street

Tallahassee, FL 32305

City

State

Zip

E-mail cberkowitz@leadingageflorida.org

Speaking: For Against Information

Representing LeadingAge Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10-8-13
Meeting Date

Topic SB 7000 - ALF Bill Number SB 7000
Name PEGGY RIBSBY Amendment Barcode _____
Job Title DIRECTOR OF GOV AFFAIRS
Address 307 W Park Ave Phone 850-224-3907
Street Tallahassee FL 32301 E-mail prigsby@phca.org
City State Zip

Speaking: For Against Information
Representing FLORIDA Health Care Assoc
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.
This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/08/2013
Meeting Date

Topic Assisted Living Facilities Bill Number SB 7000
Name Janay Austin Amendment Barcode _____
Job Title Interim Associate State Director of Advocacy
Address 200 W College Ave Ste 304 Phone 850-577-5163
Street Tallahassee FL 32301 E-mail jaustin@aarp.org
City State Zip

Speaking: For Against Information
Representing AARP
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.
This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic ALF Bill Number SB7000
Name Gail Matillo Amendment Barcode _____
Job Title Executive Director Phone 850 496-2562
Address 9445 Buck Haven Tr. E-mail gmatillo@Alfa.org
Tallahassee, FL 32312
City State Zip
Speaking: For Against Information
Representing FL ALFA
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10-8-13

Meeting Date

Topic Assisted Living Facilities Bill Number SPB 7000
Name Lisa Murray Amendment Barcode _____
Job Title Government Housing Liaison Phone 850 414 2097
Address 9040 Esplanade Way E-mail MURRAYLK@elderaffairs.org
Tallahassee FL 32399
City State Zip
Speaking: For Against Information
Representing _____
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10-8-13

Meeting Date

Topic Assisted Living Facilities

Bill Number SPB 7000
(if applicable)

Name Susan Anderson

Amendment Barcode _____
(if applicable)

Job Title Deputy state ombudsman for legal affairs

Address 4040 Esplanade way

Phone 850-414-2054

Street

Tallahassee
City

FL
State

32309
Zip

E-mail andersons@elderaffairs.org

Speaking: For Against Information

Representing Dept. of Elder Affairs, Long-Term Care Ombudsman Program

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/8

Meeting Date

Topic Independent Living / Unlawful Adoptions

Bill Number _____ (if applicable)

Name Steve Pennypacker

Amendment Barcode _____ (if applicable)

Job Title Assistant Secretary for Programs

Address 1317 Winewood Blvd

Phone 487-1000

Street

Tallahassee

FL

32399

City

State

Zip

E-mail Stephen.pennypacker@dcf.state.fl.us

Speaking: For Against Information

Representing DCF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/8/13

Meeting Date

Topic SB 1036

Bill Number N/A (if applicable)

Name Deborah A. Schroth

Amendment Barcode N/A (if applicable)

Job Title CLS Counsel for Independent Living & Appellate Council

Address 921 N. Davis St. Ste B-360

Phone 850-524-5815

Street

Jacksonville

FL

32209

City

State

Zip

E-mail deborah_schroth@dcf.state.fl.us

Speaking: For Against Information

Representing Dept. Children & Families

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/8

Meeting Date

Topic Independent Living / Unlawful Adoptions

Bill Number _____
(if applicable)

Name Steve Pennypacker

Amendment Barcode _____
(if applicable)

Job Title Assistant Secretary for Programs

Address 1317 Winewood Blvd

Phone 487-1000

Street

Tallahassee

FL

32399

City

State

Zip

E-mail Stephen_pennypacker@dcf.state.fl.us

Speaking: For Against Information

Representing DCF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 108

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Joyner

SUBJECT: Public Records/Claim Settlement on Behalf of a Minor or Ward

DATE: October 8, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	GO	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 108 amends the law relating to guardianship to provide that the petition requesting permission for settlement of a ward’s or minor’s claim, the order on the petition, and any document associated with the settlement, are confidential and exempt from constitutional requirements. The court may order partial or full disclosure of the confidential and exempt record to specified individuals upon a showing of good cause. The bill provides a statement of public necessity as required by the State Constitution.

The bill is anticipated to have an insignificant fiscal impact on government and provides for an effective date of the same date as SB 120 or similar legislation takes effect if such legislation is adopted in the same legislative session or an extension of that session and becomes law.

This bill substantially amends section 744.3701, Florida Statutes.

II. Present Situation:

Settlements in Guardianship Cases

Litigation settlement agreements routinely include a provision that the terms will be held in confidence by all parties. Because an adult may settle a lawsuit without court approval, those confidentiality clauses are effective and enforceable.

However, a minor cannot settle a case valued in excess of \$15,000 without court approval.¹ The court approval process requires a petition setting forth the terms of the settlement and an order is eventually entered that also may contain the terms of settlement, or may refer to the petition.² The petition and the order are part of a court file, and therefore, are a matter of public record and open for inspection under current law.

Public Records Requirements

The Florida Constitution specifies requirements for public access to government records. It provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.³ The records of the legislative, executive, and judicial branches are specifically included.⁴

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records. The Public Records Act⁵ guarantees every person's right to inspect and copy any state or local government public record⁶ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷

Only the Legislature may create an exemption to public records requirements.⁸ Such an exemption must be created by general law and must specifically state the public necessity

¹ Section 744.301(2), F.S.

² Section 744.387, F.S.

³ FLA. CONST. art. I, s. 24(a).

⁴ *Id.*

⁵ Chapter 119, F.S.

⁶ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records. See *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992).

⁷ Section 119.07(1)(a), F.S.

⁸ FLA. CONST. art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances (see *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004), review denied 892 So. 2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to

justifying the exemption.⁹ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹⁰ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹¹

Court Records

Florida courts have consistently held that the judiciary is not an “agency” for purposes of ch. 119, F.S.¹² However, the Florida Supreme Court found that “both civil and criminal proceedings in Florida are public events” and that the court will “adhere to the well-established common law right of access to court proceedings and records.”¹³ There is a Florida constitutional guarantee of access to judicial records.¹⁴ The constitutional provision provides for public access to judicial records, except for those records expressly exempted by the State Constitution, Florida law in effect on July 1, 1993, court rules in effect on November 3, 1992, or by future acts of the legislature in accordance with the Constitution.¹⁵

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 744.3701, F.S., to provide that any court record relating to the settlement of a ward’s or minor’s claim, including a petition for approval of a settlement on behalf of a ward or minor, a report of a guardian ad litem relating to a pending settlement, or an order approving a settlement on behalf of a ward or minor, is confidential and exempt from the provisions of s. 24(a), Art. I of the State Constitution and may not be disclosed except as specifically authorized.

Because the record is made confidential and exempt, it may not be disclosed except as provided in law. Current law allows the court, the clerk of court, the guardian, the guardian’s attorney, the ward, unless the ward is a minor or has been determined to be totally incapacitated, and the ward’s attorney to review the guardianship court file. The bill amends s. 744.3701, F.S., to provide that the guardianship report or any court record relating to the settlement of a claim may also be disclosed to the guardian ad litem (if any) related to the settlement, to the ward if he or she is 14 years of age or older and has not been declared totally incapacitated, the minor if he or she is at least 14 years of age, and to the attorney representing the minor. The record may also be disclosed as ordered by the court.

Section 2 of the bill provides a statement of public necessity as required by the Florida Constitution. The bill states that it is a public necessity to keep confidential and exempt from public disclosure information contained in a settlement record which could be used to identify a minor or ward. The information contained in these records is of a sensitive, personal nature and

anyone other than the persons or entities specifically designated in the statutory exemption (see Attorney General Opinion 85-62, August 1, 1985).

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ The bill, however, may contain multiple exemptions that relate to one subject.

¹¹ FLA. CONST. art. I, s. 24(c).

¹² See e.g., *Times Publishing Company v. Ake*, 660 So. 2d 255 (Fla. 1995).

¹³ See *Barron v. Florida Freedom Newspapers*, 531 So. 2d 113, 116 (Fla. 1988).

¹⁴ FLA. CONST. art. I, s. 24(a).

¹⁵ FLA. CONST. art. I, ss. 24(c) and (d).

its disclosure could jeopardize the physical safety and financial security of the minor or ward. In order to protect minors, wards, and others who could be at risk upon disclosure of a settlement, it is necessary to ensure that only those interested persons who are involved in settlement proceedings or the administration of the guardianship have access to reports and records.

Section 3 of the bill provides that it shall take effect on the same date as SB 120 or similar legislation takes effect if such legislation is adopted in the same session.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption related to guardianships; thus, **it requires a two-thirds vote for final passage.**

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption related to guardianships; thus, it includes a public necessity statement.

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption related to guardianships. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

An increase in judicial workload potentially may occur due to the new obligation on the court to determine whether good cause is shown to permit disclosure of court records relating to settlement of a claim on behalf of a minor or ward, and to determine whether disclosure and recording of such records is warranted in relation to a real property transaction, or for such other purposes as the court allows. The potential increase cannot be quantified at this time.¹⁶

The fiscal impact of this legislation cannot be accurately determined due to the unavailability of data needed to establish the increase in judicial workload resulting from the new obligation on the court to determine whether good cause is shown to permit disclosure of court records relating to settlement of a claim on behalf of a minor or ward, and to determine whether disclosure and recording of such records is warranted in relation to a real property transactions, or for such other purposes as the court allows.¹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Children, Families, and Elder Affairs on October 8, 2013:**

The CS makes the following change to the bill:

- Removes the provision that certain court records are confidential and exempt from “the provisions of s. 119.07(1) because Florida courts have held that the Public Records Act does not apply to judicial records.”¹⁸

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

¹⁶ At the time of publication of this analysis, Senate professional staff did not have a copy of the 2014 Judicial Impact Statement for SB 108. This information is taken from the 2013 Judicial Impact Statement for SB 610, which was substantively similar to SB 108. See Office of the State Courts Administrator *2013 Judicial Impact Statement*, SB 610 (Mar. 4, 2013) (on file with the Senate Committee on Children, Families and Elder Affairs).

¹⁷ *Id.*

¹⁸ See *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992); *Fla. Pub. Co. v. State*, 706 So. 2d 54 (Fla. 1st DCA 1998).



924522

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
10/08/2013	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Hays) recommended the following:

Senate Amendment

Delete line 48
and insert:
exempt from the provisions of s. 24(a), Art. I

By Senator Joyner

19-00017-14

2014108__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 744.3701, F.S.; creating an exemption from public
 4 records requirements for records relating to the
 5 settlement of a claim on behalf of a minor or ward;
 6 authorizing a guardian ad litem, a ward, a minor, and
 7 a minor's attorney to inspect guardianship reports and
 8 court records relating to the settlement of a claim on
 9 behalf of a minor or ward, upon a showing of good
 10 cause; authorizing the court to direct disclosure and
 11 recording of an amendment to a report or court records
 12 relating to the settlement of a claim on behalf of a
 13 ward or minor, in connection with real property or for
 14 other purposes; providing a statement of public
 15 necessity; providing an effective date.

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

17 Section 1. Section 744.3701, Florida Statutes, is amended
 18 to read:

19 744.3701 Confidentiality Inspection of report.-
 20

21 (1) Unless otherwise ordered by the court, upon a showing
 22 of good cause, any initial, annual, or final guardianship report
 23 or amendment thereto, or any court record relating to the
 24 settlement of a claim, is subject to inspection only by the
 25 court, the clerk or the clerk's representative, the guardian and
 26 the guardian's attorney, the guardian ad litem with regard to
 27 the settlement of the claim, ~~and the ward if he or she is at~~
 28 least 14 years of age and has not, ~~unless he or she is a minor~~
 29

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

19-00017-14

2014108__

30 ~~or has~~ been determined to be totally incapacitated, ~~and~~ the
 31 ward's attorney, the minor if he or she is at least 14 years of
 32 age, or the attorney representing the minor with regard to the
 33 minor's claim, or as otherwise provided by this chapter.

34 (2) The court may direct disclosure and recording of parts
 35 of an initial, annual, or final report or amendment thereto, or
 36 a court record relating to the settlement of a claim, including
 37 a petition for approval of a settlement on behalf of a ward or
 38 minor, a report of a guardian ad litem relating to a pending
 39 settlement, or an order approving a settlement on behalf of a
 40 ward or minor, in connection with any real property transaction
 41 or for such other purpose as the court allows, ~~in its~~
 42 discretion.

43 (3) Any court record relating to the settlement of a ward's
 44 or minor's claim, including a petition for approval of a
 45 settlement on behalf of a ward or minor, a report of a guardian
 46 ad litem relating to a pending settlement, or an order approving
 47 a settlement on behalf of a ward or minor, is confidential and
 48 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
 49 of the State Constitution and may not be disclosed except as
 50 specifically authorized.

51 Section 2. The Legislature finds that it is a public
 52 necessity to keep confidential and exempt from public disclosure
 53 information contained in a settlement record which could be used
 54 to identify a minor or ward. The information contained in these
 55 records is of a sensitive, personal nature, and its disclosure
 56 could jeopardize the physical safety and financial security of
 57 the minor or ward. In order to protect minors, wards, and others
 58 who could be at risk upon disclosure of a settlement, it is

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

19-00017-14

2014108__

59 necessary to ensure that only those interested persons who are
60 involved in settlement proceedings or the administration of the
61 guardianship have access to reports and records. The Legislature
62 finds that the court retaining discretion to direct disclosure
63 of these records is a fair alternative to public access.

64 Section 3. This act shall take effect on the same date that
65 SB ___ or similar legislation takes effect if such legislation
66 is adopted in the same legislative session or an extension
67 thereof and becomes law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice, *Vice Chair*
Appropriations
Appropriations Subcommittee on General Government
Ethics and Elections
Health Policy
Judiciary
Transportation

SELECT COMMITTEE:
Select Committee on Indian River Lagoon and Lake Okeechobee Basin

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR ARTHENIA L. JOYNER
19th District

September 13, 2013

Senator Eleanor Sobel, Chair
Senate Committee on Children, Families, and Elder Affairs
520 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Madame Chair:

This is to request that Senate Bill 108 Guardianship, Public Records, be placed on the agenda for the Committee on Children Families, and Elder Affairs. This bill is linked to Senate Bill 120, Fees and Costs in Incurred in Guardianship Proceedings. Your consideration of this request is greatly appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arthenia L. Joyner".

Arthenia L. Joyner
State Senator, District 19

ALJ/rr

RECEIVED

SEP 13 2013

Senate Committee
Children and Families

REPLY TO:

- 508 W. Dr. Martin Luther King, Jr. Blvd., Suite C, Tampa, Florida 33603-3415 (813) 233-4277
- 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019 FAX: (813) 233-4280

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ARTHENIA L. JOYNER

19th District

COMMITTEES:
Appropriations Subcommittee on Criminal and
Civil Justice, *Vice Chair*
Appropriations
Appropriations Subcommittee on General
Government
Ethics and Elections
Health Policy
Judiciary
Transportation

SELECT COMMITTEE:
Select Committee on Indian River Lagoon
and Lake Okeechobee Basin

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

October 2, 2013

Senator Eleanor Sobel, Chair
Senate Committee on Children, Families, and Elder Affairs
520 Knott
Tallahassee, FL 32399

Dear Madame Chair:

This is to request that my Legislative Assistant, Randi Rosete, be permitted to present Senate Bill 108, Public Records/Claim Settlement on behalf of a Minor or Ward, to the Committee on Children, Families, and Elder Affairs on October 8. Allowing my assistant to present this bill will be greatly appreciated since I will not be able to personally present it due to maintaining quorum in the Committee on Judiciary.

Your consideration of this request is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Arthenia L. Joyner".

Arthenia L. Joyner
Senator, District 19

RECEIVED

OCT 02 2013

Senate Committee
Children and Families

ALJ/rr

REPLY TO:

- 508 W. Dr. Martin Luther King, Jr. Blvd., Suite C, Tampa, Florida 33603-3415 (813) 233-4277
- 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019 FAX: (813) 233-4280

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/08/2013

Meeting Date

Topic Movors, Settlements

Bill Number 1008
(if applicable)

Name HOWARD E. "Gene" ADAMS

Amendment Barcode _____
(if applicable)

Job Title ATTORNEY, PENNINGTON LAW FIRM

Address 215 SOUTH MONROE ST. 2ND FLOOR

Phone 850-222-3533

TALAHASSEE FLA. 32301
City State Zip

E-mail Gene@PenningtonLaw.com

Speaking: For Against Information

Representing REAL PROPERTY PROBATE + TRUST LAW SECTION FLA BAR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

CourtSmart Tag Report

Room: LL 37
Caption: Senate Children, Families, and Elder Affairs Committee

Case:

Type:
Judge:

Started: 10/8/2013 9:36:21 AM
Ends: 10/8/2013 11:13:41 AM
Length: 01:37:21

9:36:44 AM Meeting called to order
9:36:59 AM Roll call
9:37:20 AM Chair Sobel's opening remarks
9:38:44 AM (Tab 1) SPB 7000 - Assisted Living Facilites
9:42:54 AM Senator Detert's question
9:43:03 AM Chair Sobel's response
9:46:13 AM Liz Dudek, Secretary, Agency for Health Care Administration
9:47:48 AM Chair Sobel's question
9:47:58 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
9:48:29 AM Chair Sobel's remarks
9:49:07 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
9:49:20 AM Chair Sobel's question
9:49:27 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
9:49:52 AM Chair Sobel's question
9:49:56 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
9:50:13 AM Chair Sobel's question
9:50:16 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
9:50:28 AM Chair Sobel's remarks and question
9:51:12 AM Senator Dean's question
9:51:29 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
9:51:38 AM Senator Dean's remarks
9:52:15 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
9:52:47 AM Senator Dean's question
9:53:35 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
9:54:07 AM Senator Dean's continued remarks
9:54:23 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
9:54:31 AM Chair Sobel's remarks and question
9:55:01 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
9:55:46 AM Chair Sobel's remarks
9:56:57 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
9:57:31 AM Chair Sobel's question
9:58:07 AM Molly McKinstry, Deputy Secretary, Health Quality Assurance (Agency for Health Care Administration)
9:59:19 AM Chair Sobel's question
9:59:24 AM Molly McKinstry, Deputy Secretary, Health Quality Assurance (Agency for Health Care Administration)
response
9:59:58 AM Senator Diaz de la Portilla's question
10:00:10 AM Molly McKinstry, Deputy Secretary, Health Quality Assurance (Agency for Health Care Administration)
response
10:00:24 AM Senator Diaz de la Portilla's follow-up question
10:00:56 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
10:01:57 AM Senator Dean's question
10:02:21 AM Molly McKinstry, Deputy Secretary, Health Quality Assurance (Agency for Health Care Administration)
response
10:03:18 AM Senator Dean's question
10:03:36 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
10:04:04 AM Senator Hays' remarks and question
10:04:29 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
10:05:05 AM Senator Hays' question
10:05:20 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
10:05:26 AM Senator Hays' remarks
10:05:56 AM Chair Sobel's question
10:06:16 AM Senator Dean's remarks

10:06:57 AM Chair Sobel's remarks
10:07:19 AM Senator Hays' remarks
10:08:24 AM Senator Detert's question
10:09:05 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
10:09:40 AM Senator Altman's remarks
10:10:45 AM Senator Diaz de la Portilla's remarks
10:12:42 AM Chair Sobel's remarks
10:14:12 AM Senator Dean's remarks
10:15:01 AM Senator Hays' question
10:16:07 AM Liz Dudek, Secretary, Agency for Health Care Administration, response
10:16:30 AM Senator Hays' remarks
10:17:02 AM Chair Sobel's remarks
10:17:43 AM Amendment (barcode 968766) by Senator Sobel
10:19:34 AM Senator Diaz de la Portilla's question
10:19:53 AM Senator Sobel's response
10:21:01 AM Senator Diaz de la Portilla's follow-up question
10:21:36 AM Senator Sobel's response
10:21:45 AM Claude Hendon, Staff Director Children, Families, and Elder Affairs Committee, response
10:22:59 AM Senator Detert's remarks and question
10:24:40 AM Senator Sobel's response
10:27:00 AM Senator Detert's follow-up question
10:27:16 AM Senator Sobel's response
10:27:30 AM Senator Detert's question
10:27:43 AM Senator Dean's remarks and question
10:28:30 AM Chair Hays' response
10:28:48 AM Senator Sobel's remarks
10:28:59 AM Chair Hays' remarks
10:29:15 AM Amendment barcode 968766 adopted
10:29:35 AM Gail Mafillo, Executive Director, FL ALFA, waives in support
10:29:48 AM Janay Austin, Interim Associate State Director of Advocacy, AARP, waives in support
10:29:53 AM Peggy Rigsby, Director of Government Affairs, Florida Health Care Association, remarks
10:31:22 AM Senator Altman's remarks and question
10:32:11 AM Senator Sobel's response
10:33:14 AM Senator Altman's continued remarks
10:33:28 AM Senator Sobel's remarks
10:33:53 AM Carol Berkowitz, Senior Director, LeadingAge Florida, remarks
10:35:40 AM Senator Diaz de la Portilla's question
10:35:45 AM Carol Berkowitz, Senior Director, LeadingAge Florida, response
10:38:15 AM Roll call SPB 7000, Assisted Living Facilities
10:39:04 AM (Tab 2) Implementation of CS/SB 1036 - Independent Living (Nancy C. Detert Act)
10:39:34 AM Steve Pennypacker, Assistant Secretary for Programs, Department of Children and Families, remarks
10:45:15 AM Chair Sobel's remarks
10:45:33 AM Senator Detert's remarks
10:46:46 AM Steve Pennypacker, Assistant Secretary for Programs, Department of Children and Families, response
10:47:12 AM Senator Detert's remarks
10:47:21 AM Steve Pennypacker, Assistant Secretary for Programs, Department of Children and Families, response
10:47:34 AM Senator Detert's remarks
10:48:03 AM Steve Pennypacker, Assistant Secretary for Programs, Department of Children and Families, response
10:48:30 AM Chair Sobel's remarks
10:49:05 AM Steve Pennypacker, Assistant Secretary for Programs, Department of Children and Families, response
10:54:41 AM Senator Detert's question
10:54:56 AM Steve Pennypacker, Assistant Secretary for Programs, Department of Children and Families, response
10:55:21 AM Senator Detert's question
10:55:26 AM Steve Pennypacker, Assistant Secretary for Programs, Department of Children and Families, response
10:56:08 AM Deborah Schroth, CLS Counsel for Independent Living and Appellate Counsel, Department of Children and Families, remarks
10:57:56 AM Senator Detert's remarks
10:58:38 AM Chair Sobel's remarks
10:59:08 AM Steve Pennypacker, Assistant Secretary for Programs, Department of Children and Families, remarks
11:00:32 AM Chair Sobel's remarks
11:01:08 AM (Tab 3) Unlawful Adoptions
11:02:52 AM Steve Pennypacker, Assistant Secretary for Programs, Department of Children and Families, remarks

11:07:30 AM Chair Sobel's remarks
11:08:01 AM Steve Pennypacker, Assistant Secretary for Programs, Department of Children and Families, response
11:08:06 AM Chair Sobel's remarks and question
11:08:40 AM Steve Pennypacker, Assistant Secretary for Programs, Department of Children and Families, response
11:09:04 AM Chair Sobel's remarks
11:09:12 AM Steve Pennypacker, Assistant Secretary for Programs, Department of Children and Families, response
11:09:49 AM Senator Braynon's motion to vote in the affirmative - SPB 7000, Assisted Living Facilities
11:09:57 AM (Tab 4) SB 108 - Public Records/Claim Settlement on Behalf of a Minor or Ward (Randi Rosete, Senator Joyner's Legislative Assistant)
11:10:56 AM Amendment barcode 924522 technical amendment adopted
11:11:16 AM Senator Detert's question
11:11:23 AM Randi Rosete, Senator Joyner's Legislative Assistant, response
11:11:41 AM Gene Adams, Real Property Probate and Trust Law Section, Florida Bar response
11:12:27 AM Senator Detert's question
11:12:39 AM Gene Adams, Real Property Probate and Trust Law Section, Florida Bar response
11:12:51 AM Chair Sobel's remarks
11:13:07 AM Roll call SB 108, Public Records/Claim Settlement on Behalf of a Minor or Ward
11:13:32 AM Meeting adjourned