

20082216e1

1 A bill to be entitled
2 An act relating to adult protection and care; amending s.
3 322.142, F.S.; authorizing the Department of Children and
4 Family Services to obtain copies of driver's license files
5 maintained by the Department of Highway Safety and Motor
6 Vehicles for the purpose of conducting protective
7 investigations; amending s. 400.141, F.S.; requiring a
8 search of the Department of Law Enforcement's sexual
9 offender database to be conducted on all nursing home
10 residents; amending s. 400.19, F.S.; revising provisions
11 relating to unannounced inspections; amending s. 400.215,
12 F.S.; requiring contracted workers employed in a nursing
13 home to submit to background screening; prohibiting
14 employees and contracted workers who do not meet
15 background screening requirements from being employed in a
16 nursing home; providing certain exceptions; deleting an
17 obsolete provision; amending s. 408.809, F.S.; requiring
18 the agency to establish a fee schedule to cover the cost
19 of a level 1 or level 2 screening and giving the agency
20 rulemaking authority; amending s. 408.810, F.S.; requiring
21 health care facilities regulated by the Agency for Health
22 Care Administration to post certain information in the
23 facility; authorizing the agency to charge a fee to cover
24 production and distribution unless the information is
25 downloaded from the agency's website; amending s. 408.811,
26 F.S.; providing that agency employees who provide advance
27 notice of unannounced agency inspections are subject to
28 suspension; providing a timeline and process for
29 correction of deficiencies; providing that the agency may

20082216e1

30 provide electronic access to documents; amending s.
31 415.103, F.S.; requiring certain reports to the central
32 abuse hotline relating to vulnerable adults to be
33 immediately transferred to the county sheriff's office;
34 amending s. 415.1051, F.S.; authorizing the Department of
35 Children and Family Services to file the petition to
36 determine incapacity in adult protection proceedings;
37 prohibiting the department from serving as the guardian or
38 providing legal counsel to the guardian; amending s.
39 415.112, F.S.; specifying rules to be adopted by the
40 Department of Children and Family Services relating to
41 adult protective services under ch. 415, F.S.; amending s.
42 429.02, F.S.; revising the definition of "service plan" to
43 remove the limitation that plans are required only in
44 assisted living facilities that have an extended
45 congregate care license; requiring that the agency develop
46 a service plan form; amending s. 429.07, F.S.; providing
47 that license requirements for specialty licenses apply to
48 current licensees as well as applicants for an extended
49 congregate care and limited nursing license; conforming a
50 cross-reference; amending s. 429.174, F.S.; requiring
51 certain employees and contracted workers in assisted
52 living facilities to submit to background screening;
53 prohibiting employees and contracted workers who do not
54 meet background screening requirements from being employed
55 in an assisted living facility; providing certain
56 exceptions; requiring the person being screened to pay for
57 the cost of screening; amending s. 429.255, F.S.;
58 providing that the owner or administrator of an assisted

20082216e1

59 living facility is responsible for the services provided
60 in the facility; amending s. 429.26, F.S.; clarifying a
61 prohibition on moving a resident; providing for the
62 development of a service plan for all residents; requiring
63 a search of the Department of Law Enforcement's sexual
64 offender database to be conducted on all residents of an
65 assisted living facility; requiring residents to be
66 periodically assessed for competency to handle personal
67 affairs; amending s. 429.27, F.S.; prohibiting assisted
68 living facility personnel from making certain decisions
69 for a resident or acting as the resident's representative
70 or surrogate; amending s. 429.28, F.S.; requiring that
71 notice of a resident's relocation or termination of
72 residency be in writing and a copy sent to specified
73 persons; requiring the State Long-Term Ombudsman Program
74 include information within their annual report to the
75 Governor and the Legislature; requiring facilities to have
76 a written grievance procedure that includes certain
77 information; requiring that grievances reported to the
78 local ombudsman council be included in a statewide
79 reporting system; revising provisions relating to agency
80 surveys to determine compliance with resident rights in
81 assisted living facilities; amending s. 429.294, F.S.;
82 deleting a cross-reference; amending s. 429.34, F.S.;
83 providing for unannounced inspections; providing for
84 additional 6-month inspections for certain violations;
85 providing for an additional fine for 6-month inspections;
86 amending s. 429.41, F.S.; requiring all residents of
87 assisted living facilities to have a service plan;

20082216e1

88 amending s. 429.65, F.S.; providing a definition of the
89 term "reside"; amending s. 429.67, F.S.; expanding the
90 list of persons who must have a background screening in
91 adult family-care homes; amending s. 429.69, F.S.;
92 providing that the failure of a adult family-care home
93 provider to live in the home is grounds for the denial,
94 revocation, or suspension of a license; amending s.
95 429.73, F.S.; requiring adult family-care home residents
96 to be periodically assessed for competency to handle
97 personal affairs; amending ss. 435.03 and 435.04, F.S.;
98 providing additional criminal offenses for screening
99 certain health care facility personnel; repealing s.
100 400.141(13), F.S., relating to a requirement to post
101 certain information in nursing homes; repealing s.
102 408.809(3), F.S., relating to the granting of a
103 provisional license while awaiting the results of a
104 background screening; repealing s. 429.08(2), F.S.,
105 deleting a provision relating to local workgroups of field
106 offices of the Agency for Health Care Administration;
107 repealing s. 429.41(5), F.S., relating to agency
108 inspections; amending ss. 430.80 and 651.118, F.S.;
109 conforming cross-references; providing an appropriation
110 and authorizing additional positions; providing an
111 effective date.

112
113 Be It Enacted by the Legislature of the State of Florida:

114
115 Section 1. Subsection (4) of section 322.142, Florida
116 Statutes, is amended to read:

20082216e1

117 322.142 Color photographic or digital imaged licenses.--

118 (4) The department may maintain a film negative or print
119 file. The department shall maintain a record of the digital image
120 and signature of the licensees, together with other data required
121 by the department for identification and retrieval. Reproductions
122 from the file or digital record are exempt from the provisions of
123 s. 119.07(1) and shall be made and issued only for departmental
124 administrative purposes; for the issuance of duplicate licenses;
125 in response to law enforcement agency requests; to the Department
126 of State pursuant to an interagency agreement to facilitate
127 determinations of eligibility of voter registration applicants
128 and registered voters in accordance with ss. 98.045 and 98.075;
129 to the Department of Revenue pursuant to an interagency agreement
130 for use in establishing paternity and establishing, modifying, or
131 enforcing support obligations in Title IV-D cases; to the
132 Department of Children and Family Services pursuant to an
133 interagency agreement to conduct protective investigations under
134 chapter 415; or to the Department of Financial Services pursuant
135 to an interagency agreement to facilitate the location of owners
136 of unclaimed property, the validation of unclaimed property
137 claims, and the identification of fraudulent or false claims, ~~and~~
138 ~~are exempt from the provisions of s. 119.07(1).~~

139 Section 2. Subsection (25) is added to section 400.141,
140 Florida Statutes, to read:

141 400.141 Administration and management of nursing home
142 facilities.--Every licensed facility shall comply with all
143 applicable standards and rules of the agency and shall:

144 (25) Conduct a search of the Department of Law
145 Enforcement's sexual offender database for each prospective

20082216e1

146 resident before admission or immediately after admission. A
147 facility must maintain verification that all residents have been
148 screened. The information obtained may be used by the facility to
149 assess the needs of the resident and to provide adequate and
150 appropriate health care and protective and support services in
151 accordance with this part. The information obtained may be
152 disclosed to other residents. The facility does not have to
153 rescreen a resident who is away from a facility for no more than
154 45 days.

155

156 Facilities that have been awarded a Gold Seal under the program
157 established in s. 400.235 may develop a plan to provide certified
158 nursing assistant training as prescribed by federal regulations
159 and state rules and may apply to the agency for approval of their
160 program.

161 Section 3. Subsection (3) of section 400.19, Florida
162 Statutes, is amended to read:

163 400.19 Right of entry and inspection.--

164 (3) The agency shall every 15 months conduct at least one
165 unannounced inspection to determine compliance by the licensee
166 with statutes, and related with ~~rules promulgated under the~~
167 ~~provisions of these statutes,~~ governing minimum standards of
168 construction, quality and adequacy of care, and rights of
169 residents. The survey shall be conducted every 6 months for the
170 next 2-year period if the facility has been cited for a class I
171 deficiency, has been cited for two or more class II deficiencies
172 arising from separate surveys or investigations within a 60-day
173 period, or has had three or more substantiated complaints within
174 a 6-month period, each resulting in at least one class I or class

20082216e1

175 II deficiency. In addition to any other fees or fines in this
176 part, the agency shall assess a fine for each facility that is
177 subject to the 6-month survey cycle. The fine for the 2-year
178 period shall be \$6,000, one-half to be paid at the completion of
179 each survey. The agency may adjust this fine by the change in the
180 Consumer Price Index, based on the 12 months immediately
181 preceding the change ~~increase~~, to cover the cost of the
182 additional surveys. The agency shall verify through subsequent
183 inspection that any deficiency identified during inspection is
184 corrected. However, the agency may verify the correction of a
185 class III or class IV deficiency unrelated to resident rights or
186 resident care without reinspecting the facility if adequate
187 written documentation has been received from the facility, which
188 provides assurance that the deficiency has been corrected. ~~The~~
189 ~~giving or causing to be given of advance notice of such~~
190 ~~unannounced inspections by an employee of the agency to any~~
191 ~~unauthorized person shall constitute cause for suspension of not~~
192 ~~fewer than 5 working days according to the provisions of chapter~~
193 ~~110.~~

194 Section 4. Section 400.215, Florida Statutes, is amended to
195 read:

196 400.215 Background Personnel screening ~~requirement~~.--

197 (1) ~~The agency shall require~~ Background screening as
198 provided in chapter 435 is required for all nursing home facility
199 ~~employees or prospective employees of facilities licensed under~~
200 ~~this part~~ who are expected to, or whose responsibilities may
201 require them to:

202 (a) Provide personal care or services to residents;

203 (b) Have access to resident living areas; or

20082216e1

204 (c) Have access to resident funds or other personal
205 property.

206 (2) Background screening as provided in chapter 435 is
207 required for all nursing home facility contracted workers who are
208 expected to, or whose responsibilities may require them to,
209 provide personal care or services to residents. The facility
210 shall maintain verification that such contracted workers have
211 been screened pursuant to this section. The facility may either
212 obtain a copy of the qualifying screening results from the entity
213 or receive an affidavit from the entity which specifies that a
214 background screen has been performed on all contracted workers
215 sent to the facility. Contracted workers who do not provide
216 personal care or services to residents are not required to be
217 screened pursuant to this section but must sign in at the
218 reception desk or nurses' station upon entering the facility,
219 wear an identification badge while on the premises, and sign out
220 before leaving the facility. The nursing facility shall maintain
221 a log containing the information collected.

222 (3) ~~(2)~~ Employers, and employees, contractors, and
223 contracted workers shall comply with the requirements of s.
224 435.05.

225 (a) Notwithstanding ~~the provisions of~~ s. 435.05(1),
226 facilities must have in their possession evidence that level 1
227 screening under s. 435.03 has been completed before allowing an
228 employee or contracted worker to begin employment in the facility
229 ~~working with patients~~ as provided in subsection (1). All
230 information necessary for conducting level 1 background screening
231 ~~using level 1 standards as specified in s. 435.03~~ shall be
232 submitted by the nursing facility to the agency. Results of the

20082216e1

233 background screening shall be provided by the agency to the
234 requesting nursing facility.

235 (b) Employees and contracted workers qualified under ~~the~~
236 ~~provisions of~~ paragraph (a) who have not maintained continuous
237 residency within the state for the 5 years immediately preceding
238 the date of request for background screening must complete level
239 2 screening, as provided in s. 435.04 ~~chapter 435~~. Such Employees
240 may work in a conditional status for up to 180 days pending the
241 receipt of written findings evidencing the completion of level 2
242 screening. Contracted workers who are awaiting the completion of
243 level 2 screening may work only under the direct and visual
244 supervision of persons who have met the screening requirements of
245 this section. Level 2 screening is ~~shall not be~~ required for ~~of~~
246 employees, or prospective employees, or contracted workers who
247 attest in writing under penalty of perjury that they meet the
248 residency requirement. To complete ~~Completion of~~ level 2
249 screening: ~~shall require~~

250 1. The employee or contracted worker shall ~~prospective~~
251 ~~employee to~~ furnish to the nursing facility a full set of
252 fingerprints for conducting a federal criminal records check to
253 ~~enable a criminal background investigation to be conducted~~.

254 2. The nursing facility shall submit the completed
255 fingerprint card to the agency.

256 3. The agency shall establish a record of the request in
257 the database provided for in paragraph (c) and forward the
258 request to the Department of Law Enforcement, which is authorized
259 to submit the fingerprints to the Federal Bureau of Investigation
260 for a national criminal history records check.

261 4. The results of the national criminal history records

20082216e1

262 check shall be returned to the agency, which shall maintain the
263 results in the database provided for in paragraph (c).

264 5. The agency shall notify the administrator of the
265 requesting nursing facility or the administrator of any other
266 requesting facility licensed under chapter 393, chapter 394,
267 chapter 395, chapter 397, chapter 429, or this chapter, ~~as~~
268 ~~requested by such facility,~~ as to whether ~~or not~~ the employee has
269 qualified under level 1 or level 2 screening.

270
271 An employee or contracted worker ~~prospective employee~~ who has
272 qualified under level 2 screening and has maintained ~~such~~
273 continuous residency within the state is ~~shall~~ not be required to
274 complete a subsequent level 2 screening as a condition of
275 employment at another facility.

276 (c) The agency shall establish and maintain a database that
277 includes ~~of background screening information which shall include~~
278 the results of all ~~both~~ level 1 and level 2 screening. The
279 Department of Law Enforcement shall timely provide to the agency,
280 electronically, the results of each statewide screening for
281 incorporation into the database. The agency shall, upon request
282 from any facility, agency, or program required by or authorized
283 by law to screen its employees or contracted workers ~~applicants,~~
284 notify the administrator of the facility, agency, or program of
285 the qualifying or disqualifying status of the person ~~employee or~~
286 ~~applicant~~ named in the request.

287 (d) ~~Applicants and~~ Employees, prospective employees, and
288 contracted workers shall be excluded from employment pursuant to
289 s. 435.06, and may not be employed or resume employment until
290 exempted or all appeals have been resolved in favor of the person

20082216e1

291 screened. However, an employee of a nursing facility, employed
292 prior to October 1, 1998, who is determined to have a
293 disqualifying offense occurring after October 1, 1998, may
294 continue employment pending the outcome of an exemption request
295 if such request is made within 30 days of receipt of the results
296 of the background screening. An employee of a nursing facility,
297 employed before October 1, 1998, who is determined to have a
298 disqualifying offense before October 1, 1998, but does not have a
299 disqualifying offense after that date, is not required to submit
300 an exemption request pursuant to s. 435.07 and may continue his
301 or her employment.

302
303 An employer is not required to rescreen a person continuously
304 employed with the same employer after October 1, 1998, who has
305 already been screened by that employer. Notwithstanding chapter
306 435, the agency may not provide to the employer the results of a
307 background screening for offenses occurring prior to October 1,
308 1998, for persons employed before October 1, 1998.

309
310 Notwithstanding chapter 435, the agency may not provide to the
311 employer the results of background screening for offenses
312 occurring prior to October 1, 1998, for persons employed before
313 October 1, 1998, except for an absolute disqualifying offense.
314 For the purposes of this section, the term "absolute
315 disqualifying offense" means a felony offense pursuant to s.
316 787.01(3)(a); s. 787.02(3)(a); s. 787.025, s. 796.03; s. 796.035;
317 s. 800.04, except for crimes identified in ss. 800.04(7)(c) and
318 (d); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135(2) and
319 (3); s. 847.0137(2) and (3); and s. 847.0138(2) and (3); s.

20082216e1

320 847.0145; s. 796.045; or chapter 794. Notwithstanding s. 435.07,
321 a person who has been convicted of, or entered a plea of guilty
322 or nolo contendere, regardless of adjudication, to an absolute
323 disqualifying offense may not be granted an exemption from
324 disqualification from employment.

325 (4)~~(3)~~ The person being screened ~~applicant~~ is responsible
326 for paying the fees associated with obtaining the required
327 screening. Payment for the screening shall be submitted to the
328 agency. The agency shall establish a schedule of fees to cover
329 the costs of level 1 and level 2 screening. Facilities may pay
330 ~~reimburse employees~~ for these costs. The Department of Law
331 Enforcement shall charge the agency for a level 1 or level 2
332 screening a rate sufficient to cover the costs of ~~such~~ screening
333 pursuant to s. 943.053(3). The agency shall, as allowable,
334 reimburse nursing facilities for the cost of conducting
335 background screening as required by this section. This
336 reimbursement is ~~will~~ not be subject to any rate ceilings or
337 payment targets in the Medicaid Reimbursement plan.

338 (5)~~(4)~~~~(a)~~ As provided in s. 435.07:7

339 (a) The agency may grant an exemption from disqualification
340 to an employee, ~~or~~ prospective employee, or contracted worker who
341 is subject to this section and who has not received a
342 professional license or certification from the Department of
343 Health.

344 (b) ~~As provided in s. 435.07,~~ The appropriate regulatory
345 board within the Department of Health, or that department itself
346 when there is no board, may grant an exemption from
347 disqualification to an employee, ~~or~~ prospective employee, or
348 contracted worker who is subject to this section and who has

20082216e1

349 received a professional license or certification from the
350 Department of Health or a regulatory board within that
351 department.

352 ~~(6)~~(5) ~~Any provision of law to the contrary~~
353 ~~notwithstanding,~~ Persons who have been screened and qualified as
354 required by this section, and who have not been unemployed for
355 more than 180 days ~~thereafter,~~ and who, under penalty of perjury,
356 attest to not having been convicted of a disqualifying offense
357 since the completion of such screening are, ~~shall not be~~ required
358 to be rescreened. An employer may obtain, pursuant to s. 435.10,
359 written verification of qualifying screening results from the
360 previous employer, contractor, or other entity that ~~which~~ caused
361 the ~~such~~ screening to be performed.

362 ~~(7)~~(6) The agency and the Department of Health may ~~shall~~
363 ~~have authority to~~ adopt rules to administer ~~pursuant to the~~
364 ~~Administrative Procedure Act to implement~~ this section.

365 ~~(7)~~ ~~All employees shall comply with the requirements of~~
366 ~~this section by October 1, 1998. No current employee of a nursing~~
367 ~~facility as of the effective date of this act shall be required~~
368 ~~to submit to rescreening if the nursing facility has in its~~
369 ~~possession written evidence that the person has been screened and~~
370 ~~qualified according to level 1 standards as specified in s.~~
371 ~~435.03(1). Any current employee who meets the level 1 requirement~~
372 ~~but does not meet the 5-year residency requirement as specified~~
373 ~~in this section must provide to the employing nursing facility~~
374 ~~written attestation under penalty of perjury that the employee~~
375 ~~has not been convicted of a disqualifying offense in another~~
376 ~~state or jurisdiction. All applicants hired on or after October~~
377 ~~1, 1998, shall comply with the requirements of this section.~~

20082216e1

378 (8) There is no monetary or unemployment liability on the
379 part of, and a ~~no~~ cause of action for damages does not arise
380 ~~arising~~ against, an employer that, upon notice of a disqualifying
381 offense listed under chapter 435 or an act of domestic violence,
382 terminates the employee against whom the report was issued,
383 whether or not the employee has filed for an exemption with the
384 Department of Health or the agency ~~for Health Care~~
385 ~~Administration~~.

386 Section 5. Subsection (6) is added to section 408.809,
387 Florida Statutes, to read:

388 408.809 Background screening; prohibited offenses.--

389 (6) The agency shall establish a schedule of fees to cover
390 the costs of any level 1 or level 2 screening required pursuant
391 to this part or other authorizing statutes and may adopt rules to
392 carry out these screenings and for the schedule of fees.

393 Section 6. Subsection (5) of section 408.810, Florida
394 Statutes, is amended to read:

395 408.810 Minimum licensure requirements.--In addition to the
396 licensure requirements specified in this part, authorizing
397 statutes, and applicable rules, each applicant and licensee must
398 comply with the requirements of this section in order to obtain
399 and maintain a license.

400 (5) Each licensee must:

401 (a) On or before the first day services are provided to a
402 client, ~~a licensee must~~ inform the client and his or her
403 immediate family or representative, if appropriate, of the right
404 to report:

405 1. Complaints. The statewide toll-free telephone number for
406 reporting complaints to the agency must be provided to clients in

20082216e1

407 a manner that is clearly legible and must include the words: "To
408 report a complaint regarding the services you receive, please
409 call toll-free (phone number)."

410 2. Abusive, neglectful, or exploitative practices. The
411 statewide toll-free telephone number for the central abuse
412 hotline must be provided to clients in a manner that is clearly
413 legible and must include the words: "To report abuse, neglect, or
414 exploitation, please call toll-free (phone number)." The agency
415 shall publish a minimum of a 90-day advance notice of a change in
416 the toll-free telephone numbers.

417 (b) ~~Each licensee shall~~ Establish appropriate policies and
418 procedures for providing such notice to clients.

419 (c) Publicly display a poster approved by the agency
420 containing the names, addresses, and telephone numbers for the
421 state's central abuse hotline, the State Long-Term Care
422 Ombudsman, the agency's consumer hotline, the Advocacy Center for
423 Persons with Disabilities, the Florida Statewide Advocacy
424 Council, and the Medicaid Fraud Control Unit, along with a clear
425 description of the assistance to be expected from each. The
426 Statewide Public Guardianship Office and its website shall also
427 be listed. The agency may charge a fee for the cost of production
428 and distribution of the poster. However, providers may download
429 the poster, at no charge, from the agency's website.

430 Section 7. Section 408.811, Florida Statutes, is amended to
431 read:

432 408.811 Right of inspection; copies; inspection reports.--

433 (1) An authorized officer or employee of the agency may
434 make or cause to be made any inspection or investigation deemed
435 necessary by the agency to determine the state of compliance with

20082216e1

436 this part, authorizing statutes, and applicable rules. The right
437 of inspection extends to any business that the agency has reason
438 to believe is being operated as a provider without a license, but
439 inspection of any business suspected of being operated without
440 the appropriate license may not be made without the permission of
441 the owner or person in charge unless a warrant is first obtained
442 from a circuit court. Any application for a license issued under
443 this part, authorizing statutes, or applicable rules constitutes
444 permission for an appropriate inspection to verify the
445 information submitted on or in connection with the application.

446 (a) All inspections shall be unannounced, except as
447 specified in s. 408.806. The giving or causing to be given of
448 advance notice of the unannounced inspection by an agency
449 employee to any unauthorized person shall, in accordance with
450 chapter 110, constitute cause for suspension of the employee for
451 at least 5 working days.

452 (b) Inspections for relicensure shall be conducted
453 biennially unless otherwise specified by authorizing statutes or
454 applicable rules.

455 (c) Deficiencies found during an inspection or
456 investigation must be corrected within 30 days unless an
457 alternative timeframe is required or approved by the agency.

458 (d) The agency may require an applicant or licensee to
459 submit a plan of correction for deficiencies. If required, the
460 plan of correction must be filed with the agency within 10 days
461 unless an alternative timeframe is required.

462 (2) Inspections conducted in conjunction with certification
463 may be accepted in lieu of a complete licensure inspection.
464 However, a licensure inspection may also be conducted to review

20082216e1

465 any licensure requirements that are not also requirements for
466 certification.

467 (3) The agency shall have access to and the licensee shall
468 provide copies of all provider records required during an
469 inspection at no cost to the agency.

470 (4) (a) Each licensee shall maintain as public information,
471 available upon request, records of all inspection reports
472 pertaining to that provider that have been filed by the agency
473 unless those reports are exempt from or contain information that
474 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State
475 Constitution or is otherwise made confidential by law. Effective
476 October 1, 2006, copies of such reports shall be retained in the
477 records of the provider for at least 3 years following the date
478 the reports are filed and issued, regardless of a change of
479 ownership.

480 (b) A licensee shall, upon the request of any person who
481 has completed a written application with intent to be admitted by
482 such provider, any person who is a client of such provider, or
483 any relative, spouse, or guardian of any such person, furnish to
484 the requester a copy of the last inspection report pertaining to
485 the licensed provider that was issued by the agency or by an
486 accrediting organization if such report is used in lieu of a
487 licensure inspection.

488 (c) As an alternative to sending reports required by this
489 part or authorizing statutes, the agency may provide electronic
490 access to information or documents.

491 Section 8. Subsection (2) of section 415.103, Florida
492 Statutes, is amended to read:

493 415.103 Central abuse hotline.--

20082216e1

494 (2) Upon receiving an oral or written report of known or
495 suspected abuse, neglect, or exploitation of a vulnerable adult,
496 the central abuse hotline shall ~~must~~ determine if the report
497 requires an immediate onsite protective investigation.

498 (a) For reports requiring an immediate onsite protective
499 investigation, the central abuse hotline must immediately notify
500 the department's designated protective investigative district
501 staff responsible for protective investigations to ensure prompt
502 initiation of an onsite investigation.

503 (b) For reports not requiring an immediate onsite
504 protective investigation, the central abuse hotline must notify
505 the department's designated protective investigative district
506 staff responsible for protective investigations in sufficient
507 time to allow for an investigation to be commenced within 24
508 hours. At the time of notification ~~of district staff with respect~~
509 ~~to the report~~, the central abuse hotline must also provide any
510 ~~known information on any~~ previous reports ~~report~~ concerning the a
511 subject of the present report or any pertinent information
512 relative to the present report or any noted earlier reports.

513 (c) If the report is of known or suspected abuse of a
514 vulnerable adult by someone other than a relative, caregiver, or
515 household member, the call shall be immediately transferred to
516 the appropriate county sheriff's office.

517 Section 9. Paragraph (e) of subsection (1) and paragraph
518 (g) of subsection (2) of section 415.1051, Florida Statutes, are
519 amended to read:

520 415.1051 Protective services interventions when capacity to
521 consent is lacking; nonemergencies; emergencies; orders;
522 limitations.--

20082216e1

523 (1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.--If the
524 department has reasonable cause to believe that a vulnerable
525 adult or a vulnerable adult in need of services is being abused,
526 neglected, or exploited and is in need of protective services but
527 lacks the capacity to consent to protective services, the
528 department shall petition the court for an order authorizing the
529 provision of protective services.

530 (e) Continued protective services.--

531 1. Within ~~No more than~~ 60 days after the date of the order
532 authorizing the provision of protective services, the department
533 shall petition the court to determine whether:

534 a. Protective services are to ~~will~~ be continued with the
535 consent of the vulnerable adult pursuant to this subsection;

536 b. Protective services are to ~~will~~ be continued for the
537 vulnerable adult who lacks capacity;

538 c. Protective services are to ~~will~~ be discontinued; or

539 d. A petition for guardianship shall ~~should~~ be filed
540 pursuant to chapter 744.

541 2. If the court determines that a petition for guardianship
542 shall ~~should~~ be filed pursuant to chapter 744, the court, for
543 good cause shown, may order continued protective services until
544 it makes a determination regarding capacity.

545 3. If the department has a good faith belief that the
546 vulnerable adult lacks capacity, the petition to determine
547 incapacity under s. 744.3201 may be filed by the department. Once
548 the petition is filed, the department may not be appointed
549 guardian and may not provide legal counsel for the guardian.

550 (2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.--If the
551 department has reasonable cause to believe that a vulnerable

20082216e1

552 adult is suffering from abuse or neglect that presents a risk of
553 death or serious physical injury to the vulnerable adult and that
554 the vulnerable adult lacks the capacity to consent to emergency
555 protective services, the department may take action under this
556 subsection. If the vulnerable adult has the capacity to consent
557 and refuses consent to emergency protective services, emergency
558 protective services may not be provided.

559 (g) Continued emergency protective services.--

560 1. Within ~~Not more than~~ 60 days after the date of the order
561 authorizing the provision of emergency protective services, the
562 department shall petition the court to determine whether:

563 a. Emergency protective services are to ~~will~~ be continued
564 with the consent of the vulnerable adult;

565 b. Emergency protective services are to ~~will~~ be continued
566 for the vulnerable adult who lacks capacity;

567 c. Emergency protective services are to ~~will~~ be
568 discontinued; or

569 d. A petition shall ~~should~~ be filed under chapter 744.

570 2. If it is decided to file a petition under chapter 744,
571 for good cause shown, the court may order continued emergency
572 protective services until a determination is made by the court.

573 3. If the department has a good faith belief that the
574 vulnerable adult lacks capacity, the petition to determine
575 incapacity under s. 744.3201 may be filed by the department. Once
576 the petition is filed, the department may not be appointed
577 guardian and may not provide legal counsel for the guardian.

578 Section 10. Section 415.112, Florida Statutes, is amended
579 to read:

580 415.112 ~~Rules for implementation of ss. 415.101-~~

20082216e1

581 415.113.--The department shall adopt ~~promulgate~~ rules to
582 administer this chapter including, but not limited to: for the
583 ~~implementation of ss. 415.101-415.113.~~

584 (1) Background screening of department employees and
585 employee applicants which includes a criminal records check and
586 drug testing of adult protective investigators and adult
587 protective investigator supervisors.

588 (2) The reporting of adult abuse, neglect, exploitation, a
589 vulnerable adult in need of services, false reporting, and adult
590 protective investigations.

591 (3) Confidentiality and retention of department records,
592 access to records, and record requests.

593 (4) Injunctions and other protective orders.

594 (5) The provision of emergency and nonemergency protective
595 services intervention.

596 (6) Agreements with law enforcement and other state
597 agencies.

598 (7) Legal and casework procedures, including, but not
599 limited to, diligent search, petitions, emergency removals,
600 capacity to consent, and adult protection teams.

601 (8) The legal and casework management of cases involving
602 protective supervision, protective orders, judicial reviews,
603 administrative reviews, case plans, and documentation
604 requirements.

605 (9) The coordination of casework with the following
606 agencies as appropriate to the individual situation: the Agency
607 for Health Care Administration, the Department of Elderly
608 Affairs, the Area Agency on Aging, the Nursing Home Diversion or
609 Medicaid Waiver Program provider, the Florida Senior Care

20082216e1

610 Provider, and other relevant agencies or organizations to develop
611 a plan that improves the prospects for safety of affected
612 residents and, if necessary, identifies alternative living
613 arrangements such as facilities licensed under part II of chapter
614 400 or chapter 429.

615 Section 11. Subsection (21) of section 429.02, Florida
616 Statutes, is amended to read:

617 429.02 Definitions.--When used in this part, the term:

618 (21) "Service plan" means a written plan, developed and
619 agreed upon by the resident and, if applicable, the resident's
620 representative or designee or the resident's surrogate, guardian,
621 or attorney in fact, if any, and the administrator or designee
622 representing the facility, which addresses the unique physical
623 and psychosocial needs, abilities, and personal preferences of
624 each resident ~~receiving extended congregate care services~~. The
625 plan must ~~shall~~ include a brief written description, in easily
626 understood language, of what services shall be provided, who
627 shall provide the services, when the services shall be rendered,
628 and the purposes and benefits of the services. The agency shall
629 develop a service plan form for use by providers. The agency may
630 accept the community supported-living plan instead of a service
631 plan for mental health residents.

632 Section 12. Paragraphs (b) and (c) of subsection (3) of
633 section 429.07, Florida Statutes, are amended to read:

634 429.07 License required; fee.--

635 (3) In addition to the requirements of s. 408.806, each
636 license granted by the agency must state the type of care for
637 which the license is granted. Licenses shall be issued for one or
638 more of the following categories of care: standard, extended

20082216e1

639 | congregate care, limited nursing services, or limited mental
640 | health.

641 | (b) An extended congregate care license shall be issued to
642 | facilities providing, directly or through contract, services
643 | beyond those authorized in paragraph (a), including services
644 | performed by persons licensed under ~~acts performed pursuant to~~
645 | ~~part I of chapter 464 by persons licensed thereunder,~~ and
646 | supportive services, as defined by rule, to persons who would
647 | otherwise ~~would~~ be disqualified from continued residence in a
648 | facility licensed under this part.

649 | 1. To obtain an ~~In order for~~ extended congregate care
650 | license services to be provided in a facility licensed under this
651 | ~~part,~~ the agency must first determine that all requirements
652 | established in law and rule are met and must specifically
653 | designate, on the facility's license, that such services may be
654 | provided and whether the designation applies to all or part of
655 | the a facility. Such designation may be made at the time of
656 | initial licensure or relicensure, or upon request in writing by a
657 | licensee under this part and part II of chapter 408. Notification
658 | of approval or denial of the ~~such~~ request shall be made in
659 | accordance with part II of chapter 408. ~~Existing~~

660 | 2. Facilities applying for, and facilities currently
661 | licensed ~~qualifying~~ to provide, extended congregate care services
662 | must have ~~maintained~~ a standard license and may not have been
663 | subject to administrative sanctions during the previous 2 years,
664 | or since initial licensure if the facility has been licensed for
665 | less than 2 years, for any of the following reasons:

- 666 | a. A class I or class II violation;
- 667 | b. Three or more repeat or recurring class III violations

20082216e1

668 of identical or similar resident care standards as specified in
669 rule from which a pattern of noncompliance is found by the
670 agency;

671 c. Three or more class III violations that were not
672 corrected in accordance with the corrective action plan approved
673 by the agency;

674 d. Violation of resident care standards which result in
675 requiring the facility ~~resulting in a requirement~~ to employ the
676 services of a consultant pharmacist or consultant dietitian;

677 e. Denial, suspension, or revocation of a license for
678 another facility licensed under this part in which the applicant
679 for an extended congregate care license has at least 25 percent
680 ownership interest; or

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

683 3.2. A facility that is ~~Facilities that are~~ licensed to
684 provide extended congregate care services must ~~shall~~ maintain a
685 written progress report on each person who receives ~~such~~
686 services, which report describes the type, amount, duration,
687 scope, and outcome of services that are rendered and the general
688 status of the resident's health. A registered nurse, or
689 appropriate designee, representing the agency shall visit the
690 facility ~~such facilities~~ at least quarterly to monitor residents
691 who are receiving extended congregate care services and to
692 determine if the facility is in compliance with this part, part
693 II of chapter 408, and rules that relate to extended congregate
694 care. One of these visits may be in conjunction with the regular
695 survey. The monitoring visits may be provided through contractual
696 arrangements with appropriate community agencies. A registered

20082216e1

697 nurse shall serve as part of the team that inspects the ~~such~~
698 facility. The agency may waive one of the required yearly
699 monitoring visits for a facility that has been licensed for at
700 least 24 months to provide extended congregate care services, if,
701 during the inspection, the registered nurse determines that
702 extended congregate care services are being provided
703 appropriately, and if the facility has no class I or class II
704 violations and no uncorrected class III violations. ~~Before such~~
705 ~~decision is made,~~ The agency must first ~~shall~~ consult with the
706 long-term care ombudsman council for the area in which the
707 facility is located to determine if any complaints have been made
708 and substantiated about the quality of services or care. The
709 agency may not waive one of the required yearly monitoring visits
710 if complaints have been made and substantiated.

711 4.3- Facilities that are licensed to provide extended
712 congregate care services must ~~shall~~:

713 a. Demonstrate the capability to meet unanticipated
714 resident service needs.

715 b. Offer a physical environment that promotes a homelike
716 setting, provides for resident privacy, promotes resident
717 independence, and allows sufficient congregate space as defined
718 by rule.

719 c. Have sufficient staff available, taking into account the
720 physical plant and firesafety features of the building, to assist
721 with the evacuation of residents in an emergency, ~~as necessary.~~

722 d. Adopt and follow policies and procedures that maximize
723 resident independence, dignity, choice, and decisionmaking to
724 permit residents to age in place ~~to the extent possible,~~ so that
725 moves due to changes in functional status are minimized or

20082216e1

726 avoided.

727 e. Allow residents or, if applicable, a resident's
728 representative, designee, surrogate, guardian, or attorney in
729 fact to make a variety of personal choices, participate in
730 developing service plans, and share responsibility in
731 decisionmaking.

732 f. Implement the concept of managed risk.

733 g. Provide, ~~either~~ directly or through contract, the
734 services of a person licensed pursuant to part I of chapter 464.

735 h. In addition to the training mandated in s. 429.52,
736 provide specialized training as defined by rule for facility
737 staff.

738 ~~5.4.~~ Facilities licensed to provide extended congregate
739 care services are exempt from the criteria for continued
740 residency ~~as~~ set forth in rules adopted under s. 429.41.
741 Facilities so licensed must ~~shall~~ adopt their own requirements
742 within guidelines for continued residency set forth by rule.
743 However, such facilities may not serve residents who require 24-
744 hour nursing supervision. Facilities licensed to provide extended
745 congregate care services must ~~shall~~ provide each resident with a
746 written copy of facility policies governing admission and
747 retention.

748 ~~6.5.~~ The primary purpose of extended congregate care
749 services is to allow residents, as they become more impaired, the
750 option of remaining in a familiar setting from which they would
751 otherwise be disqualified for continued residency. A facility
752 licensed to provide extended congregate care services may also
753 admit an individual who exceeds the admission criteria for a
754 facility with a standard license, if the individual is determined

20082216e1

755 appropriate for admission to the extended congregate care
756 facility.

757 ~~7.6.~~ Before admission of an individual to a facility
758 licensed to provide extended congregate care services, the
759 individual must undergo a medical examination ~~as provided in s.~~
760 ~~429.26(4)~~ and the facility must develop a preliminary service
761 plan for the individual as provided in s. 429.26.

762 ~~8.7.~~ When a facility can no longer provide or arrange for
763 services in accordance with the resident's service plan and needs
764 and the facility's policy, the facility shall make arrangements
765 for relocating the person in accordance with s. 429.28(1)(k).

766 ~~9.8.~~ Failure to provide extended congregate care services
767 may result in denial of extended congregate care license renewal.

768 ~~9.~~ ~~No later than January 1 of each year, the department, in~~
769 ~~consultation with the agency, shall prepare and submit to the~~
770 ~~Governor, the President of the Senate, the Speaker of the House~~
771 ~~of Representatives, and the chairs of appropriate legislative~~
772 ~~committees, a report on the status of, and recommendations~~
773 ~~related to, extended congregate care services. The status report~~
774 ~~must include, but need not be limited to, the following~~
775 ~~information:~~

776 ~~a.~~ ~~A description of the facilities licensed to provide such~~
777 ~~services, including total number of beds licensed under this~~
778 ~~part.~~

779 ~~b.~~ ~~The number and characteristics of residents receiving~~
780 ~~such services.~~

781 ~~c.~~ ~~The types of services rendered that could not be~~
782 ~~provided through a standard license.~~

783 ~~d.~~ ~~An analysis of deficiencies cited during licensure~~

20082216e1

784 inspections.

785 ~~e. The number of residents who required extended congregate~~
786 ~~care services at admission and the source of admission.~~

787 ~~f. Recommendations for statutory or regulatory changes.~~

788 ~~g. The availability of extended congregate care to state~~
789 ~~clients residing in facilities licensed under this part and in~~
790 ~~need of additional services, and recommendations for~~
791 ~~appropriations to subsidize extended congregate care services for~~
792 ~~such persons.~~

793 ~~h. Such other information as the department considers~~
794 ~~appropriate.~~

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

798 1. To obtain a ~~In order for~~ limited nursing services
799 license ~~to be provided in a facility licensed under this part,~~
800 the agency must first determine that all requirements established
801 in law and rule are met and must specifically designate, on the
802 facility's license, that such services may be provided. Such
803 designation may be made at the time of initial licensure or
804 relicensure, or upon request in writing by a licensee under this
805 part and part II of chapter 408. Notification of approval or
806 denial of such request shall be made in accordance with part II
807 of chapter 408. ~~Existing~~

808 2. Facilities applying for, and facilities currently
809 licensed ~~qualifying~~ to provide, limited nursing services must
810 ~~shall~~ have ~~maintained~~ a standard license and may not have been
811 subject to administrative sanctions that affect the health,
812 safety, and welfare of residents for the previous 2 years or

20082216e1

813 since initial licensure if the facility has been licensed for
814 less than 2 years.

815 ~~3.2.~~ Facilities that are licensed to provide limited
816 nursing services shall maintain a written progress report on each
817 person who receives ~~such~~ nursing services, which report describes
818 the type, amount, duration, scope, and outcome of services that
819 are rendered and the general status of the resident's health. A
820 registered nurse representing the agency shall visit such
821 facilities at least twice a year to monitor residents who are
822 receiving limited nursing services and to determine if the
823 facility is in compliance with applicable provisions of this
824 part, part II of chapter 408, and related rules. The monitoring
825 visits may be provided through contractual arrangements with
826 appropriate community agencies. A registered nurse shall also
827 serve as part of the team that inspects the ~~such~~ facility.

828 ~~4.3.~~ A person who receives limited nursing services ~~under~~
829 ~~this part~~ must meet the admission criteria established by the
830 agency for assisted living facilities. ~~If~~ When a resident no
831 longer meets the admission criteria for a facility licensed under
832 this part, arrangements for relocating the person shall be made
833 in accordance with s. 429.28(1)(k), unless the facility is also
834 licensed to provide extended congregate care services.

835 Section 13. Section 429.174, Florida Statutes, is amended
836 to read:

837 429.174 Background screening; exemptions.--

838 (1) The owner or administrator of an assisted living
839 facility must conduct level 1 ~~background~~ screening, as set forth
840 in chapter 435, on all employees ~~hired on or after October 1,~~
841 ~~1998,~~ who perform personal services or who have access to

20082216e1

842 resident living areas ~~as defined in s. 429.02(16)~~. The agency may
843 exempt an individual from ~~employment~~ disqualification as set
844 forth in s. 435.07 ~~chapter 435~~. However, such person may not be
845 employed or resume employment pending the granting of an
846 exemption or until all appeals have been resolved in favor of the
847 person screened. A person employed before October 1, 1998, who is
848 determined to have a disqualifying offense occurring after
849 October 1, 1998, may continue employment pending the outcome of
850 an exemption request if such request is made within 30 days of
851 receipt of the results of the background screening. A person
852 employed before October 1, 1998, who is determined to have a
853 disqualifying offense before October 1, 1998, but does not have a
854 disqualifying offense after that date, is not required to submit
855 an exemption request pursuant to s. 435.07 and may continue his
856 or her employment. Employees ~~Such persons~~ shall be considered as
857 having met the screening requirements ~~this requirement~~ if:

858 (a) ~~(1)~~ Proof of compliance with level 1 screening
859 ~~requirements~~ obtained to meet ~~any~~ professional license
860 requirements in this state is provided and accompanied, under
861 penalty of perjury, by a copy of the person's current
862 professional license and an affidavit of current compliance with
863 the background screening requirements.

864 (b) ~~(2)~~ The person required to be screened has been
865 continuously employed in the same type of occupation for which
866 the person is seeking employment without a breach in service
867 which exceeds 180 days, and proof of compliance with the level 1
868 screening requirement which is no more than 2 years old is
869 provided. Proof of compliance shall be provided directly from one
870 employer or contractor to another, and not from the person

20082216e1

871 screened. Upon request, a copy of screening results shall be
872 provided by the employer retaining documentation of the screening
873 to the person screened.

874 ~~(c)(3)~~ The person required to be screened is employed by a
875 corporation or business entity or related corporation or business
876 entity that owns, operates, or manages more than one facility or
877 agency licensed under this chapter, and for whom a level 1
878 screening was conducted by the corporation or business entity as
879 a condition of initial or continued employment.

880

881 An employer is not required to rescreen a person continuously
882 employed with the same employer after October 1, 1998, who has
883 already been screened by that employer. Notwithstanding chapter
884 435, the agency may not provide to the employer the results of a
885 background screening for offenses occurring prior to October 1,
886 1998, for persons employed before October 1, 1998.

887

888 Notwithstanding chapter 435, the agency may not provide to the
889 employer the results of background screening for offenses
890 occurring prior to October 1, 1998, for persons employed before
891 October 1, 1998, except for an absolute disqualifying offense.
892 For the purposes of this section, the term "absolute
893 disqualifying offense" means a felony offense pursuant to s.
894 787.01(3)(a); s. 787.02(3)(a); s. 787.025, s. 796.03; s. 796.035;
895 s. 800.04, except for crimes identified in ss. 800.04(7)(c) and
896 (d); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135(2) and
897 (3); s. 847.0137(2) and (3); and s. 847.0138(2) and (3); s.
898 847.0145; s. 796.045; or chapter 794. Notwithstanding s. 435.07,
899 a person who has been convicted of, or entered a plea of guilty

20082216e1

900 or nolo contendere, regardless of adjudication, to an absolute
901 disqualifying offense may not be granted an exemption from
902 disqualification from employment.

903 (2) Level 1 screening as provided in chapter 435 is
904 required for all contracted workers who are expected to, or whose
905 responsibilities may require them to, provide personal services
906 to residents. The facility shall maintain verification that such
907 contracted workers have been screened pursuant to this section.
908 The facility may either obtain a copy of the qualifying screening
909 results from the entity or receive an affidavit from the entity
910 which specifies that a background screen has been performed on
911 all contracted workers sent to the facility. A contracted worker
912 who does not provide personal services to residents is not
913 required to be screened pursuant to this section but must sign in
914 at the reception desk upon entering the facility, wear an
915 identification badge while on the premises, and sign out before
916 leaving the facility. The facility shall maintain a log
917 containing the information collected.

918 (3) The person being screened is responsible for paying the
919 fees associated with obtaining the required screening. Payment
920 for the screening shall be submitted to the agency. The agency
921 shall establish a schedule of fees to cover the costs of level 1
922 and level 2 screening. Facilities may reimburse employees or
923 contracted workers for these costs. The Department of Law
924 Enforcement shall charge the agency for a level 1 or level 2
925 screening a rate sufficient to cover the costs of screening
926 pursuant to s. 943.053(3).

927 Section 14. Subsection (1) of section 429.255, Florida
928 Statutes, is amended to read:

20082216e1

929 429.255 Use of personnel; emergency care.--

930 (1) (a) Facility staff, including persons under contract to
931 the facility, facility employees ~~staff~~, or volunteers, who are
932 licensed according to part I of chapter 464, or those persons
933 exempt under s. 464.022(1), and others as defined by rule, may
934 administer medications to residents, take residents' vital signs,
935 manage individual weekly pill organizers for residents who self-
936 administer medication, give prepackaged enemas ordered by a
937 physician, observe residents, document observations on the
938 appropriate resident's record, report observations to the
939 resident's physician, and contract or allow residents or a
940 resident's representative, designee, surrogate, guardian, or
941 attorney in fact to contract with a third party, provided
942 residents meet the criteria for appropriate placement as defined
943 in s. 429.26. Nursing assistants certified pursuant to part II of
944 chapter 464 may take residents' vital signs as directed by a
945 licensed nurse or physician.

946 (b) Facility ~~All~~ staff, including persons under contract to
947 the facility and facility employees in facilities licensed under
948 this part shall exercise their professional responsibility to
949 observe residents, to document observations on the appropriate
950 resident's record, ~~and~~ to report the observations to the
951 resident's physician, and to provide needed services competently.
952 Licensed volunteers have the same obligations, but shall report
953 to a facility employee who shall make the appropriate notation in
954 the resident's records. However, the owner or administrator of
955 the facility is ~~shall be~~ responsible for determining that the
956 resident receiving services is appropriate for residence in the
957 facility and for the provision of and quality of care and

20082216e1

958 services provided to the resident.

959 (c) In an emergency situation, licensed personnel may carry
960 out their professional duties pursuant to part I of chapter 464
961 until emergency medical personnel assume responsibility for care.

962 Section 15. Present subsections (8) through (12) of section
963 429.26, Florida Statutes, are renumbered as sections (6) through
964 (10), respectively, and present subsections (1) through (7) of
965 that section, are amended to read:

966 429.26 Appropriateness of placements; examinations of
967 residents.--

968 (1) The owner or administrator of a facility is responsible
969 for determining the appropriateness of admission of an individual
970 to the facility and for determining the continued appropriateness
971 of residence of an individual in the facility. A determination
972 shall be based upon an assessment of the strengths, needs, and
973 preferences of the resident, the care and services offered or
974 arranged for by the facility in accordance with facility policy,
975 and any limitations in law or rule related to admission criteria
976 or continued residency for the type of license held by the
977 facility under this part. Except as provided in s. 429.28(1)(k),
978 a resident may not be moved from one facility to another without
979 consultation with and agreement from the resident or, if
980 applicable, the resident's representative or designee or the
981 resident's family, guardian, surrogate, or attorney in fact. If
982 ~~In the case of~~ a resident ~~who~~ has been placed by the department
983 or the Department of Children and Family Services, the
984 administrator must notify the appropriate contact person in the
985 applicable department.

986 ~~(2) A physician, physician assistant, or nurse practitioner~~

20082216e1

987 ~~who is employed by an assisted living facility to provide an~~
988 ~~initial examination for admission purposes may not have financial~~
989 ~~interest in the facility.~~

990 ~~(3) Persons licensed under part I of chapter 464 who are~~
991 ~~employed by or under contract with a facility shall, on a routine~~
992 ~~basis or at least monthly, perform a nursing assessment of the~~
993 ~~residents for whom they are providing nursing services ordered by~~
994 ~~a physician, except administration of medication, and shall~~
995 ~~document such assessment, including any substantial changes in a~~
996 ~~resident's status which may necessitate relocation to a nursing~~
997 ~~home, hospital, or specialized health care facility. Such records~~
998 ~~shall be maintained in the facility for inspection by the agency~~
999 ~~and shall be forwarded to the resident's case manager, if~~
1000 ~~applicable.~~

1001 ~~(2)~~(4) If possible, each resident shall have been examined
1002 by a licensed physician, a licensed physician assistant, or a
1003 licensed nurse practitioner within 60 days before admission to
1004 the facility. The person conducting an examination under this
1005 subsection may not have financial interest in the facility. The
1006 signed and completed medical examination report shall be
1007 submitted to the owner or administrator of the facility who shall
1008 use the information contained in the report therein to assist in
1009 determining the determination of the appropriateness of the
1010 resident's admission and continued stay in the facility and to
1011 develop a service plan for the resident. The medical examination
1012 report and service plan shall become a permanent part of the
1013 record of the resident at the facility and shall be made
1014 available to the agency during inspection or upon request. An
1015 assessment that has been completed through the Comprehensive

20082216e1

1016 Assessment and Review for Long-Term Care Services (CARES) Program
1017 fulfills the requirements for a medical examination under this
1018 subsection and ~~s. 429.07(3)(b)6.~~

1019 ~~(a)(5)~~ Except as provided in s. 429.07, if a medical
1020 examination has not been completed within 60 days before the
1021 admission of the resident to the facility, medical personnel ~~a~~
1022 ~~licensed physician, licensed physician assistant, or licensed~~
1023 ~~nurse practitioner~~ shall examine the resident and complete a
1024 medical examination form provided by the agency within 30 days
1025 following the admission to the facility ~~to enable the facility~~
1026 ~~owner or administrator to determine the appropriateness of the~~
1027 ~~admission. The medical examination form shall become a permanent~~
1028 ~~part of the record of the resident at the facility and shall be~~
1029 ~~made available to the agency during inspection by the agency or~~
1030 ~~upon request.~~

1031 ~~(b)(6)~~ Any resident accepted in a facility and placed by
1032 the department or the Department of Children and Family Services
1033 must be ~~shall have been~~ examined by medical personnel within 30
1034 days before placement in the facility and recorded on a medical
1035 examination form provided by the agency. The examination shall
1036 include an assessment of the appropriateness of placement in a
1037 facility. ~~The findings of this examination shall be recorded on~~
1038 ~~the examination form provided by the agency. The completed form~~
1039 ~~shall accompany the resident and shall be submitted to the~~
1040 ~~facility owner or administrator. For Additionally, in the case of~~
1041 a mental health resident, the Department of Children and Family
1042 Services must provide documentation that the individual has been
1043 assessed by a psychiatrist, clinical psychologist, clinical
1044 social worker, or psychiatric nurse, or an individual who is

20082216e1

1045 supervised by one of these professionals, and determined to be
1046 appropriate to reside in an assisted living facility. The
1047 documentation must be in the facility within 30 days after the
1048 mental health resident has been admitted to the facility. An
1049 evaluation completed upon discharge from a state mental hospital
1050 meets the requirements of this subsection related to
1051 appropriateness for placement as a mental health resident
1052 providing it was completed within 90 days prior to admission to
1053 the facility. The applicable department shall provide to the
1054 facility administrator any information about the resident that
1055 would help the administrator meet his or her responsibilities
1056 under this section ~~subsection (1)~~. Further, department personnel
1057 shall explain to the facility operator any special needs of the
1058 resident and advise the operator whom to call should problems
1059 arise. The applicable department shall advise and assist the
1060 facility administrator where the special needs of residents who
1061 are recipients of optional state supplementation require such
1062 assistance.

1063 (3) A search of the Department of Law Enforcement's sexual
1064 offender database for each prospective resident must be conducted
1065 by the facility before admission or immediately after admission.
1066 The facility must maintain verification that all residents have
1067 been screened. The information obtained may be used by the
1068 facility to assess the needs of the resident and the care and
1069 services offered or arranged by the facility in accordance with
1070 this section. The information obtained may be disclosed to other
1071 residents. The facility does not have to rescreen a resident who
1072 is away from a facility for not more than 45 days.

1073 (4) Persons licensed under part I of chapter 464 who are

20082216e1

1074 employed by or under contract with a facility shall, at least
1075 monthly, perform a nursing assessment of residents for whom they
1076 are providing nursing services ordered by a physician, except
1077 administration of medication, and shall document such assessment,
1078 including any substantial change in a resident's status which may
1079 necessitate relocation to a nursing home, hospital, or
1080 specialized health care facility. The records must be maintained
1081 in the facility for inspection by the agency and shall be
1082 forwarded to the resident's case manager, if applicable.

1083 (5)~~(7)~~ Residents shall be periodically assessed to
1084 determine if the resident is competent to handle his or her
1085 personal and financial affairs and, if not, whether a responsible
1086 person such as a resident representative or designee, guardian,
1087 surrogate, or attorney in fact is available to make decisions on
1088 behalf of the resident. If a resident is having difficulty
1089 handling his or her personal or financial affairs because of a
1090 decline in health or cognitive abilities, the owner or
1091 administrator shall contact the resident's representative or
1092 designee, guardian, surrogate, or attorney in fact. If a resident
1093 does not have family or a legal representative to make decisions
1094 on his or her behalf, the owner or administrator must contact the
1095 Florida Abuse Hotline. The facility must notify a licensed
1096 physician when a resident exhibits signs of dementia or cognitive
1097 impairment or has a change of condition in order to rule out the
1098 presence of an underlying physiological condition that may be
1099 contributing to such dementia or impairment. The notification
1100 must occur within 30 days after the acknowledgment of such signs
1101 by facility staff. If an underlying condition is determined to
1102 exist, the facility shall arrange, with the appropriate health

20082216e1

1103 care provider, the necessary care and services to treat the
1104 condition.

1105 Section 16. Subsections (3) through (8) of section 429.27,
1106 Florida Statutes, are renumbered as subsections (6) through (11),
1107 respectively, and subsections (1) and (2) of that section, are
1108 amended to read:

1109 429.27 Property and personal affairs of residents.--

1110 (1) ~~(a)~~ A resident shall be given the option of using his or
1111 her own belongings, as space permits; choosing his or her
1112 roommate; and, whenever possible, unless the resident is
1113 adjudicated incompetent or incapacitated under state law,
1114 managing his or her own affairs.

1115 (2) ~~(b)~~ The admission of a resident to a facility does ~~and~~
1116 ~~his or her presence therein shall~~ not confer on the facility or
1117 its owner, administrator, staff ~~employees~~, or representatives any
1118 authority to manage, use, or dispose of any property of the
1119 resident or to make financial or health care decisions on behalf
1120 of the resident; ~~nor shall such admission or presence confer on~~
1121 ~~any of such persons any authority or responsibility for the~~
1122 ~~personal affairs of the resident, except if that which may be~~
1123 necessary for the safe management of the facility or for the
1124 safety of the resident.

1125 (3) ~~(2)~~ A facility, or an owner, administrator, staff
1126 ~~employee~~, or representative thereof, may not act as the
1127 resident's representative or designee, guardian, health care
1128 surrogate, trustee, or conservator for a ~~any~~ resident ~~of the~~
1129 ~~assisted living facility~~ or any of the ~~such~~ resident's property
1130 unless the person is a relative of the resident.

1131 (4) A facility ~~An~~ owner, administrator, or staff member, or

20082216e1

1132 representative thereof, may not act as a competent resident's
1133 payee for social security, veteran's, or railroad benefits
1134 without the consent of the resident. Any facility ~~whose~~ owner,
1135 administrator, or staff, or representative thereof who, serves as
1136 representative payee for a any resident must ~~of the facility~~
1137 ~~shall~~ file a surety bond with the agency in an amount equal to
1138 twice the average monthly aggregate income or personal funds due
1139 to residents, or expendable for his or her ~~their~~ account, which
1140 are received by a facility.

1141 (5) Any facility ~~whose~~ owner, administrator, or staff, or a
1142 representative thereof who, is granted power of attorney for a
1143 ~~any resident must~~ ~~of the facility shall~~ file a surety bond with
1144 the agency for each resident for whom such power of attorney is
1145 granted. The surety bond must ~~shall~~ be in an amount equal to
1146 twice the average monthly income of the resident, plus the value
1147 of any resident's property under the control of the attorney in
1148 fact. The bond must ~~shall~~ be executed by the facility as
1149 principal and a licensed surety company. The bond shall be
1150 conditioned upon the faithful compliance of the facility with
1151 this section and shall run to the agency for the benefit of any
1152 resident who suffers a financial loss as a result of the misuse
1153 or misappropriation ~~by a facility~~ of funds held pursuant to this
1154 subsection. Any surety company that cancels or does not renew the
1155 bond of any licensee shall notify the agency in writing not less
1156 than 30 days in advance of such action, giving the reason for the
1157 cancellation or nonrenewal. Any facility owner, administrator, or
1158 staff, or representative thereof, who is granted power of
1159 attorney for a any resident ~~of the facility~~ shall, on a monthly
1160 basis, ~~be required to~~ provide the resident with a written

20082216e1

1161 statement of any transaction made on behalf of the resident
1162 pursuant to this subsection, and a copy of such statement ~~given~~
1163 ~~to the resident~~ shall be retained in each resident's file and
1164 available for agency inspection.

1165 Section 17. Paragraphs (k) and (l) of subsection (1) and
1166 subsection (3) of section 429.28, Florida Statutes, are amended
1167 to read:

1168 429.28 Resident bill of rights.--

1169 (1) No resident of a facility shall be deprived of any
1170 civil or legal rights, benefits, or privileges guaranteed by law,
1171 the Constitution of the State of Florida, or the Constitution of
1172 the United States as a resident of a facility. Every resident of
1173 a facility shall have the right to:

1174 (k) At least 45 days' written notice of relocation or
1175 termination of residency from the facility unless, for medical
1176 reasons, the resident is certified by a physician to require an
1177 emergency relocation to a facility providing a more skilled level
1178 of care or the resident engages in a pattern of conduct that is
1179 harmful or offensive to other residents. The notice must specify
1180 the reasons for the relocation or termination and a copy of the
1181 notice must be sent by registered mail to the resident's
1182 representative or designee, guardian, surrogate, and attorney in
1183 fact at the same time the notice is mailed to the resident.
1184 Notice must also be sent by regular mail, facsimile, or e-mail to
1185 the State Long-Term Care Ombudsman Program within 5 business days
1186 after being mailed to the resident. The ombudsman program shall
1187 incorporate the information received in their annual report,
1188 including the number and reasons for relocation or termination of
1189 facility residents, type and size of facilities, and other

20082216e1

1190 relevant information, which shall be submitted to the Governor,
1191 the President of the Senate, and the Speaker of the House of
1192 Representatives. ~~In the case of a resident who has been~~
1193 ~~adjudicated mentally incapacitated, the guardian shall be given~~
1194 ~~at least 45 days' notice of a nonemergency relocation or~~
1195 ~~residency termination. Reasons for relocation shall be set forth~~
1196 ~~in writing.~~ In order for a facility to terminate the residency of
1197 an individual without notice as provided in this paragraph
1198 ~~herein,~~ the facility must ~~shall~~ show good cause in a court of
1199 competent jurisdiction.

1200 (1) Present grievances and recommend changes in policies,
1201 procedures, and services to the staff of the facility, governing
1202 officials, or any other person without restraint, interference,
1203 coercion, discrimination, or reprisal. Each facility shall
1204 establish a written grievance procedure to facilitate the
1205 residents' exercise of this right which must include, at a
1206 minimum, maintaining a written record of each grievance, the
1207 stated reason for the grievance, actions taken by the facility,
1208 and reporting of grievances. Each facility shall transmit a copy
1209 of the written record on a weekly basis to the local ombudsman
1210 council by regular mail, facsimile, or e-mail. Each facility must
1211 accept grievances orally and may accept grievances in writing.
1212 The local ombudsman council shall maintain a record of all
1213 grievances received from each facility in the local area which
1214 shall be submitted by the local council to the Office of State
1215 Long-Term Care Ombudsman pursuant to s. 400.0089. This right also
1216 includes access to ombudsman volunteers and advocates and the
1217 right to be a member of, to be active in, and to associate with
1218 advocacy or special interest groups.

20082216e1

1219 ~~(3) (a) The agency shall conduct a survey to determine~~
1220 ~~general compliance with facility standards and compliance with~~
1221 ~~residents' rights as a prerequisite to initial licensure or~~
1222 ~~licensure renewal.~~

1223 ~~(b)~~ In order to determine whether the facility is
1224 adequately protecting residents' rights, the agency's biennial
1225 survey shall include private informal conversations with a sample
1226 of residents and consultation with the ombudsman council in the
1227 planning and service area in which the facility is located to
1228 discuss residents' experiences within the facility.

1229 ~~(c) During any calendar year in which no survey is~~
1230 ~~conducted, the agency shall conduct at least one monitoring visit~~
1231 ~~of each facility cited in the previous year for a class I or~~
1232 ~~class II violation, or more than three uncorrected class III~~
1233 ~~violations.~~

1234 ~~(d) The agency may conduct periodic followup inspections as~~
1235 ~~necessary to monitor the compliance of facilities with a history~~
1236 ~~of any class I, class II, or class III violations that threaten~~
1237 ~~the health, safety, or security of residents.~~

1238 ~~(e) The agency may conduct complaint investigations as~~
1239 ~~warranted to investigate any allegations of noncompliance with~~
1240 ~~requirements required under this part or rules adopted under this~~
1241 ~~part.~~

1242 Section 18. Subsection (1) of section 429.294, Florida
1243 Statutes, is amended to read:

1244 429.294 Availability of facility records for investigation
1245 of resident's rights violations and defenses; penalty.--

1246 (1) Failure to provide complete copies of a resident's
1247 records, including, but not limited to, all medical records and

20082216e1

1248 the resident's chart, within the control or possession of the
1249 facility within 10 days, ~~in accordance with the provisions of s.~~
1250 ~~400.145,~~ shall constitute evidence of failure of that party to
1251 comply with good faith discovery requirements and shall waive the
1252 good faith certificate and presuit notice requirements under this
1253 part by the requesting party.

1254 Section 19. Section 429.34, Florida Statutes, is amended to
1255 read:

1256 429.34 Right of entry and inspection.--In addition to the
1257 requirements of s. 408.811:⁷

1258 (1) Any duly designated officer or employee of the
1259 department, the Department of Children and Family Services, the
1260 Medicaid Fraud Control Unit of the Office of the Attorney
1261 General, the state or local fire marshal, or a member of the
1262 state or local long-term care ombudsman council shall have the
1263 right to enter unannounced upon and into the premises of any
1264 facility licensed pursuant to this part in order to determine the
1265 state of compliance with the provisions of this part, part II of
1266 chapter 408, and applicable rules. Data collected by the state or
1267 local long-term care ombudsman councils or the state or local
1268 advocacy councils may be used by the agency in investigations
1269 involving violations of regulatory standards.

1270 (2) Every 24 months the agency shall conduct at least one
1271 unannounced inspection to determine compliance with this chapter
1272 and related rules, including minimum standards of quality and
1273 adequacy of care and the rights of residents. Two additional
1274 surveys shall be conducted every 6 months for the next year if
1275 the facility has been cited for a class I deficiency or two or
1276 more class II deficiencies arising from separate surveys or

20082216e1

1277 investigations within a 60-day period. In addition to any fines
1278 imposed on a facility under s. 429.19, the agency shall assess a
1279 fine of \$69 per bed for each of the additional two surveys, not
1280 to exceed \$12,000 each. The agency shall adjust this fine by the
1281 change in the Consumer Price Index, based on the 12 months
1282 immediately preceding the change, to cover the cost of the
1283 additional two surveys. The agency shall verify through
1284 subsequent inspections that any deficiency identified during an
1285 inspection is corrected. However, the agency may verify the
1286 correction of a class III or class IV deficiency unrelated to
1287 resident rights or resident care without reinspecting the
1288 facility if adequate written documentation has been received from
1289 the facility which provides assurance that the deficiency has
1290 been corrected.

1291 Section 20. Present paragraphs (k) and (l) of subsection
1292 (1) of section 429.41, Florida Statutes, are redesignated as
1293 paragraphs (l) and (m), respectively, and a new paragraph (k) is
1294 added to that subsection, to read:

1295 429.41 Rules establishing standards.--

1296 (1) It is the intent of the Legislature that rules
1297 published and enforced pursuant to this section shall include
1298 criteria by which a reasonable and consistent quality of resident
1299 care and quality of life may be ensured and the results of such
1300 resident care may be demonstrated. Such rules shall also ensure a
1301 safe and sanitary environment that is residential and
1302 noninstitutional in design or nature. It is further intended that
1303 reasonable efforts be made to accommodate the needs and
1304 preferences of residents to enhance the quality of life in a
1305 facility. The agency, in consultation with the department, may

20082216e1

1306 adopt rules to administer the requirements of part II of chapter
1307 408. In order to provide safe and sanitary facilities and the
1308 highest quality of resident care accommodating the needs and
1309 preferences of residents, the department, in consultation with
1310 the agency, the Department of Children and Family Services, and
1311 the Department of Health, shall adopt rules, policies, and
1312 procedures to administer this part, which must include reasonable
1313 and fair minimum standards in relation to:

1314 (k) The requirement that all residents have service plans.
1315 The service plan must be reviewed and updated annually; however,
1316 for a resident receiving nursing services ordered by a physician,
1317 except administration of medication, the plan must be reviewed
1318 and updated quarterly and whenever a resident experiences a
1319 significant change in condition.

1320 Section 21. Present subsection (14) of section 429.65,
1321 Florida Statutes, is renumbered as subsection (15), and a new
1322 subsection (14) is added to that section, to read:

1323 429.65 Definitions.--As used in this part, the term:

1324 (14) "Reside" means the licensee or applicant lives in the
1325 adult family care home as a primary residence. For purposes of
1326 this part, any two of the following documents that include the
1327 adult family care home address and the name of the licensee or
1328 applicant may be accepted by the agency as proof that the
1329 licensee or applicant resides in the adult family care home:

1330 (a) Homestead exemption documentation;

1331 (b) Lease or rental agreement accompanied by a
1332 corresponding utility bill; or

1333 (c) Personal identification issued by a state or federal
1334 agency.

20082216e1

1335 Section 22. Subsection (4) of section 429.67, Florida
1336 Statutes, is amended to read:

1337 429.67 Licensure.--

1338 (4) Upon receipt of a completed license application or
1339 license renewal, and the fee, the agency shall initiate a level 1
1340 background screening as provided under chapter 435 on the adult
1341 family-care home provider, the designated relief person, all
1342 adult household members, ~~and all staff members,~~ and any other
1343 person who provides personal services to residents or who have
1344 routine access to the adult family-care home.

1345 (a) Proof of compliance with level 1 screening standards
1346 which has been submitted within the previous 5 years to meet any
1347 facility or professional licensure requirements of the agency or
1348 the Department of Health satisfies the requirements of this
1349 subsection. Such proof must be accompanied, under penalty of
1350 perjury, by a copy of the person's current professional license
1351 and an affidavit of current compliance with the background
1352 screening requirements.

1353 (b) The person required to be screened must have been
1354 continuously employed in the same type of occupation for which
1355 the person is seeking employment without a breach in service that
1356 exceeds 180 days, and proof of compliance with the level 1
1357 screening requirement which is no more than 2 years old must be
1358 provided. Proof of compliance shall be provided directly from one
1359 employer or contractor to another, and not from the person
1360 screened. Upon request, a copy of screening results shall be
1361 provided to the person screened by the employer retaining
1362 documentation of the screening.

1363 Section 23. Subsection (3) is added to section 429.69,

20082216e1

1364 Florida Statutes, to read:

1365 429.69 Denial, revocation, and suspension of a license.--In
1366 addition to the requirements of part II of chapter 408, the
1367 agency may deny, suspend, and revoke a license for any of the
1368 following reasons:

1369 (3) Failure of the adult family-care home provider who owns
1370 or rents the home to live in the home.

1371 Section 24. Paragraph (b) of subsection (1) of section
1372 429.73, Florida Statutes, is amended to read:

1373 429.73 Rules and standards relating to adult family-care
1374 homes.--

1375 (1) The agency, in consultation with the department, may
1376 adopt rules to administer the requirements of part II of chapter
1377 408. The department, in consultation with the Department of
1378 Health, the Department of Children and Family Services, and the
1379 agency shall, by rule, establish minimum standards to ensure the
1380 health, safety, and well-being of each resident in the adult
1381 family-care home pursuant to this part. The rules must address:

1382 (b) Services that must be provided to all residents of an
1383 adult family-care home and standards for such services, which
1384 must include, but need not be limited to:

- 1385 1. Room and board.
- 1386 2. Assistance necessary to perform the activities of daily
1387 living.
- 1388 3. Assistance necessary to administer medication.
- 1389 4. Supervision of residents.
- 1390 5. Health monitoring, including periodic assessments to
1391 determine if the resident is competent to handle his or her
1392 personal and financial affairs and, if not, whether a responsible

20082216e1

1393 person such as a guardian, surrogate, or attorney in fact is
1394 available to make decisions on behalf of the resident.

1395 6. Social and leisure activities.

1396 Section 25. Subsections (2) and (3) of section 435.03,
1397 Florida Statutes, are amended to read:

1398 435.03 Level 1 screening standards.--

1399 (2) Any person for whom employment screening is required by
1400 statute must not have been convicted of ~~found guilty of,~~
1401 ~~regardless of adjudication,~~ or entered a plea of guilty or nolo
1402 ~~contendere or guilty to,~~ regardless of adjudication, to any
1403 offense prohibited under any of the following ~~provisions of the~~
1404 ~~Florida~~ statutes or under any similar statute of another
1405 jurisdiction:

1406 (a) Section 393.135, relating to sexual misconduct with
1407 certain developmentally disabled clients and reporting of such
1408 sexual misconduct.

1409 (b) Section 394.4593, relating to sexual misconduct with
1410 certain mental health patients and reporting of such sexual
1411 misconduct.

1412 (c) Section 415.111, relating to abuse, neglect, or
1413 exploitation of a vulnerable adult.

1414 (d) Section 782.04, relating to murder.

1415 (e) Section 782.07, relating to manslaughter, aggravated
1416 manslaughter of an elderly person or disabled adult, or
1417 aggravated manslaughter of a child.

1418 (f) Section 782.071, relating to vehicular homicide.

1419 (g) Section 782.09, relating to killing of an unborn quick
1420 child by injury to the mother.

1421 (h) Section 784.011, relating to assault, if the victim of

20082216e1

1422 the offense was a minor.

1423 (i) Section 784.021, relating to aggravated assault.

1424 (j) Section 784.03, relating to battery, if the victim of
1425 the offense was a minor.

1426 (k) Section 784.045, relating to aggravated battery.

1427 (l) Section 787.01, relating to kidnapping.

1428 (m) Section 787.02, relating to false imprisonment.

1429 (n) Section 794.011, relating to sexual battery.

1430 (o) Former s. 794.041, relating to prohibited acts of
1431 persons in familial or custodial authority.

1432 (p) Chapter 796, relating to prostitution.

1433 (q) Section 798.02, relating to lewd and lascivious
1434 behavior.

1435 (r) Chapter 800, relating to lewdness and indecent
1436 exposure.

1437 (s) Section 806.01, relating to arson.

1438 (t) Chapter 812, relating to theft, robbery, and related
1439 crimes, if the offense was a felony.

1440 (u) Section 817.563, relating to fraudulent sale of
1441 controlled substances, only if the offense was a felony.

1442 (v) Section 825.102, relating to abuse, aggravated abuse,
1443 or neglect of an elderly person or disabled adult.

1444 (w) Section 825.1025, relating to lewd or lascivious
1445 offenses committed upon or in the presence of an elderly person
1446 or disabled adult.

1447 (x) Section 825.103, relating to exploitation of an elderly
1448 person or disabled adult, if the offense was a felony.

1449 (y) Section 826.04, relating to incest.

1450 (z) Section 827.03, relating to child abuse, aggravated

20082216e1

1451 child abuse, or neglect of a child.

1452 (aa) Section 827.04, relating to contributing to the
1453 delinquency or dependency of a child.

1454 (bb) Former s. 827.05, relating to negligent treatment of
1455 children.

1456 (cc) Section 827.071, relating to sexual performance by a
1457 child.

1458 (dd) Chapter 847, relating to obscene literature.

1459 (ee) Chapter 893, relating to drug abuse prevention and
1460 control, only if the offense was a felony or if any other person
1461 involved in the offense was a minor.

1462 (ff) Section 916.1075, relating to sexual misconduct with
1463 certain forensic clients and reporting of such sexual misconduct.

1464 (3) Standards must also ensure that the person:

1465 (a) Has not been convicted of, or entered a plea of guilty
1466 or nolo contendere to, regardless of adjudication, offenses
1467 prohibited under any of the following statutes or under any
1468 similar statute of another jurisdiction, if he or she is an
1469 employee or employer ~~For employees and employers~~ licensed or
1470 registered pursuant to chapter 393, chapter 400, part II of
1471 chapter 408, or chapter 429, or an employee or employer at a ~~and~~
1472 ~~for employees and employers of developmental disabilities~~
1473 ~~institutions as defined in s. 393.063, intermediate care~~
1474 ~~facilities for the developmentally disabled as defined in s.~~
1475 ~~400.960, and mental health treatment facility facilities as~~
1476 ~~defined in s. 394.455, meets the requirements of this chapter.~~

1477 1. Sections 409.920 and 409.9201, relating to Medicaid
1478 fraud.

1479 2. Chapter 429, relating to assisted care communities.

20082216e1

1480 3. Chapter 784, relating to assault, battery, and culpable
1481 negligence, if the offense is a felony.

1482 4. Section 810.02, relating to burglary, if the offense is
1483 a felony.

1484 5. Section 817.034, relating to communications fraud.

1485 6. Section 817.234, relating to fraudulent insurance
1486 claims.

1487 7. Section 817.505, relating to patient brokering.

1488 8. Section 817.568, relating to identification theft.

1489 9. Sections 817.60 and 817.61, relating to credit cards, if
1490 the offense is a felony.

1491 10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and
1492 831.31 relating to forgery, uttering, and counterfeiting.

1493 (b) Has not committed an act that constitutes domestic
1494 violence as defined in s. 741.28.

1495 Section 26. Subsections (2) and (4) of section 435.04,
1496 Florida Statutes, are amended to read:

1497 435.04 Level 2 screening standards.--

1498 (2) The security background investigations under this
1499 section must ensure that no persons subject to ~~the provisions of~~
1500 this section have been convicted ~~found guilty of, regardless of~~
1501 ~~adjudication, or entered a plea of guilty or nolo contendere or~~
1502 ~~guilty to, regardless of adjudication, to~~ any offense prohibited
1503 under any of the following ~~provisions of the Florida~~ statutes or
1504 under any similar statute of another jurisdiction:

1505 (a) Section 393.135, relating to sexual misconduct with
1506 certain developmentally disabled clients and reporting of such
1507 sexual misconduct.

1508 (b) Section 394.4593, relating to sexual misconduct with

20082216e1

1509 certain mental health patients and reporting of such sexual
1510 misconduct.

1511 (c) Section 415.111, relating to adult abuse, neglect, or
1512 exploitation of aged persons or disabled adults.

1513 (d) Section 782.04, relating to murder.

1514 (e) Section 782.07, relating to manslaughter, aggravated
1515 manslaughter of an elderly person or disabled adult, or
1516 aggravated manslaughter of a child.

1517 (f) Section 782.071, relating to vehicular homicide.

1518 (g) Section 782.09, relating to killing of an unborn quick
1519 child by injury to the mother.

1520 (h) Section 784.011, relating to assault, if the victim of
1521 the offense was a minor.

1522 (i) Section 784.021, relating to aggravated assault.

1523 (j) Section 784.03, relating to battery, if the victim of
1524 the offense was a minor.

1525 (k) Section 784.045, relating to aggravated battery.

1526 (l) Section 784.075, relating to battery on a detention or
1527 commitment facility staff.

1528 (m) Section 787.01, relating to kidnapping.

1529 (n) Section 787.02, relating to false imprisonment.

1530 (o) Section 787.04(2), relating to taking, enticing, or
1531 removing a child beyond the state limits with criminal intent
1532 pending custody proceedings.

1533 (p) Section 787.04(3), relating to carrying a child beyond
1534 the state lines with criminal intent to avoid producing a child
1535 at a custody hearing or delivering the child to the designated
1536 person.

1537 (q) Section 790.115(1), relating to exhibiting firearms or

20082216e1

1538 weapons within 1,000 feet of a school.

1539 (r) Section 790.115(2)(b), relating to possessing an

1540 electric weapon or device, destructive device, or other weapon on

1541 school property.

1542 (s) Section 794.011, relating to sexual battery.

1543 (t) Former s. 794.041, relating to prohibited acts of

1544 persons in familial or custodial authority.

1545 (u) Chapter 796, relating to prostitution.

1546 (v) Section 798.02, relating to lewd and lascivious

1547 behavior.

1548 (w) Chapter 800, relating to lewdness and indecent

1549 exposure.

1550 (x) Section 806.01, relating to arson.

1551 (y) Chapter 812, relating to theft, robbery, and related

1552 crimes, if the offense is a felony.

1553 (z) Section 817.563, relating to fraudulent sale of

1554 controlled substances, only if the offense was a felony.

1555 (aa) Section 825.102, relating to abuse, aggravated abuse,

1556 or neglect of an elderly person or disabled adult.

1557 (bb) Section 825.1025, relating to lewd or lascivious

1558 offenses committed upon or in the presence of an elderly person

1559 or disabled adult.

1560 (cc) Section 825.103, relating to exploitation of an

1561 elderly person or disabled adult, if the offense was a felony.

1562 (dd) Section 826.04, relating to incest.

1563 (ee) Section 827.03, relating to child abuse, aggravated

1564 child abuse, or neglect of a child.

1565 (ff) Section 827.04, relating to contributing to the

1566 delinquency or dependency of a child.

20082216e1

1567 (gg) Former s. 827.05, relating to negligent treatment of
1568 children.

1569 (hh) Section 827.071, relating to sexual performance by a
1570 child.

1571 (ii) Section 843.01, relating to resisting arrest with
1572 violence.

1573 (jj) Section 843.025, relating to depriving a law
1574 enforcement, correctional, or correctional probation officer
1575 means of protection or communication.

1576 (kk) Section 843.12, relating to aiding in an escape.

1577 (ll) Section 843.13, relating to aiding in the escape of
1578 juvenile inmates in correctional institutions.

1579 (mm) Chapter 847, relating to obscene literature.

1580 (nn) Section 874.05(1), relating to encouraging or
1581 recruiting another to join a criminal gang.

1582 (oo) Chapter 893, relating to drug abuse prevention and
1583 control, only if the offense was a felony or if any other person
1584 involved in the offense was a minor.

1585 (pp) Section 916.1075, relating to sexual misconduct with
1586 certain forensic clients and reporting of such sexual misconduct.

1587 (qq) Section 944.35(3), relating to inflicting cruel or
1588 inhuman treatment on an inmate resulting in great bodily harm.

1589 (rr) Section 944.46, relating to harboring, concealing, or
1590 aiding an escaped prisoner.

1591 (ss) Section 944.47, relating to introduction of contraband
1592 into a correctional facility.

1593 (tt) Section 985.701, relating to sexual misconduct in
1594 juvenile justice programs.

1595 (uu) Section 985.711, relating to contraband introduced

20082216e1

1596 into detention facilities.

1597 (4) Standards must also ensure that the person:

1598 (a) Has not been convicted of, or entered a plea of guilty
1599 or nolo contendere to, regardless of adjudication, offenses
1600 prohibited under any of the following statutes or under any
1601 similar statute of another jurisdiction, if he or she is an
1602 employee or employer ~~For employees or employers~~ licensed or
1603 registered pursuant to chapter 393, chapter 400, part II of
1604 chapter 408, or chapter 429, or an employee or employer at a
1605 mental health treatment facility as defined in s. 394.455 ~~does~~
1606 ~~not have a confirmed report of abuse, neglect, or exploitation as~~
1607 ~~defined in s. 415.102(6), which has been uncontested or upheld~~
1608 ~~under s. 415.103.~~

1609 1. Sections 409.920 and 409.9201, relating to Medicaid
1610 fraud.

1611 2. Chapter 429, relating to assisted care communities.

1612 3. Chapter 784, relating to assault, battery, and culpable
1613 negligence, if the offense is a felony.

1614 4. Section 810.02, relating to burglary, if the offense is
1615 a felony.

1616 5. Section 817.034, relating to communications fraud.

1617 6. Section 817.234, relating to fraudulent insurance
1618 claims.

1619 7. Section 817.505, relating to patient brokering.

1620 8. Section 817.568, relating to identification theft.

1621 9. Sections 817.60 and 817.61, relating to credit cards, if
1622 the offense is a felony.

1623 10. Sections 831.01, 831.02, 831.07, 831.09, 831.30, and
1624 831.31 relating to forgery, uttering, and counterfeiting.

20082216e1

1625 (b) Has not committed an act that constitutes domestic
1626 violence as defined in s. 741.28 ~~s. 741.30~~.

1627 (c) Does not have a confirmed report of abuse, neglect, or
1628 exploitation which has been uncontested or upheld under s.
1629 415.103, if the person is an employee of a developmental
1630 disabilities institution as defined in s. 393.063.

1631 Section 27. Subsection (13) of section 400.141, subsection
1632 (3) of section 408.809, subsection (2) of section 429.08, and
1633 subsection (5) of section 429.41, Florida Statutes, are repealed.

1634 Section 28. Paragraph (h) of subsection (3) of section
1635 430.80, Florida Statutes, is amended to read:

1636 430.80 Implementation of a teaching nursing home pilot
1637 project.--

1638 (3) To be designated as a teaching nursing home, a nursing
1639 home licensee must, at a minimum:

1640 (h) Maintain insurance coverage pursuant to s. 400.141(19)
1641 ~~s. 400.141(20)~~ or proof of financial responsibility in a minimum
1642 amount of \$750,000. ~~Such~~ Proof of financial responsibility may
1643 include:

1644 1. Maintaining an escrow account consisting of cash or
1645 assets eligible for deposit in accordance with s. 625.52; or

1646 2. Obtaining and maintaining, pursuant to chapter 675, an
1647 unexpired, irrevocable, nontransferable and nonassignable letter
1648 of credit issued by a ~~any~~ bank or savings association organized
1649 and existing under the laws of this state or a ~~any~~ bank or
1650 savings association organized under the laws of the United States
1651 that has its principal place of business in this state or has a
1652 branch office which is authorized to receive deposits in this
1653 state. The letter of credit shall be used to satisfy the

20082216e1

1654 obligation of the facility to the claimant upon presentment of a
1655 final judgment indicating liability and awarding damages to be
1656 paid by the facility or upon presentment of a settlement
1657 agreement signed by all parties if the ~~to the agreement when such~~
1658 final judgment or settlement is a result of a liability claim
1659 against the facility.

1660 Section 29. Subsection (13) of section 651.118, Florida
1661 Statutes, is amended to read:

1662 651.118 Agency for Health Care Administration; certificates
1663 of need; sheltered beds; community beds.--

1664 (13) Residents, ~~as defined in this chapter,~~ are not
1665 considered new admissions for the purpose of s. 400.141(14)(d) ~~s.~~
1666 ~~400.141(15)(d)~~.

1667 Section 30. The sum of \$391,768 is appropriated to the
1668 Agency for Health Care Administration from the Health Care Trust
1669 Fund for the 2008-2009 fiscal year, and 8.5 full-time equivalent
1670 positions along with an associated salary rate of 295,840 are
1671 authorized for the purpose of implementing the provisions of this
1672 act.

1673 Section 31. This act shall take effect October 1, 2008.