

1                   A bill to be entitled  
2           An act relating to nursing homes and related health  
3           care facilities; creating s. 366.042, F.S.; requiring  
4           the Florida Public Service Commission to ensure that  
5           public utilities effectively prioritize the  
6           restoration of services to certain health care  
7           facilities in the event of emergencies; amending s.  
8           366.15, F.S.; deleting a provision specifying that  
9           noncompliance with certain provisions related to  
10          medically essential electric public utility service  
11          does not form the basis for a cause of action against  
12          a public utility; deleting a provision specifying that  
13          a public utility's failure to comply with certain  
14          obligations does not constitute negligence; amending  
15          s. 400.0060, F.S.; defining the term "autonomy";  
16          amending s. 400.0063, F.S.; establishing an Office of  
17          the State Long-Term Care Ombudsman within the  
18          Department of Elderly Affairs to administer the State  
19          Long-Term Care Ombudsman Program; requiring the office  
20          to contract with or make a grant to a private  
21          nonprofit organization to manage the day-to-day  
22          operations of the program; providing that the office  
23          is not responsible for the licensing or certification  
24          of long-term care facilities and prohibiting the  
25          office from having a relationship with such

26 facilities; revising the appointment and removal  
27 processes for the state ombudsman; requiring the state  
28 ombudsman and the office's legal advocate to register  
29 as lobbyists; expanding the duties of the legal  
30 advocate to include assisting the state ombudsman with  
31 certain tasks related to the autonomy of the program;  
32 amending s. 400.0065, F.S.; providing that a purpose  
33 of the State Long-Term Care Ombudsman Program is to  
34 support, rather than to administer, the state and  
35 local councils; revising requirements for the annual  
36 report required to be prepared by the State Long-Term  
37 Care Ombudsman; amending s. 400.0067, F.S.; revising  
38 the membership of the State Long-Term Care Ombudsman  
39 Council; revising the number of consecutive terms that  
40 may be served by the chair of the state council;  
41 amending s. 400.0069, F.S.; requiring each state long-  
42 term care ombudsman district to convene a public  
43 meeting at least monthly, rather than quarterly;  
44 requiring representatives of the program, upon an  
45 affirmative vote of the state council, to comment on  
46 certain existing and proposed rules, regulations, and  
47 policies; amending s. 400.0073, F.S.; authorizing  
48 state and local councils to hold public hearings  
49 related to certain investigations; requiring the legal  
50 advocate to pursue legal remedies under certain

51 | circumstances; amending s. 400.0074, F.S.; requiring  
52 | that onsite administrative assessments include the  
53 | review of the facility's emergency management plan;  
54 | authorizing the office's legal advocate to pursue  
55 | legal remedies for certain violations; requiring,  
56 | rather than authorizing, the department to adopt rules  
57 | implementing procedures for conducting onsite  
58 | administrative assessments of long-term care  
59 | facilities; amending s. 400.0077, F.S.; specifying  
60 | that the public discussion of administrative  
61 | assessments before the council is open to the public  
62 | and subject to ch. 119 and s. 286.011, F.S.; amending  
63 | s. 400.0078, F.S.; requiring the State Long-Term Care  
64 | Ombudsman Program to create and make available a  
65 | poster that contains certain information; requiring  
66 | each long-term care facility to display the State  
67 | Long-Term Care Ombudsman Program poster; creating s.  
68 | 400.008, F.S.; providing legislative intent; requiring  
69 | the Office of the State Long-Term Care Ombudsman to  
70 | conduct unannounced quality-of-care evaluations of  
71 | certain health and long-term care facilities;  
72 | providing civil immunity from liability for certain  
73 | personnel of the office who participate in  
74 | evaluations; amending s. 400.0081, F.S.; requiring  
75 | long-term care facilities to timely provide to the

76 program, upon request, copies of records, policies, or  
77 documents needed to complete an investigation or  
78 assessment; requiring, rather than authorizing, the  
79 department, to adopt rules to establish procedures to  
80 ensure access to facilities, residents, and records;  
81 amending s. 400.0083, F.S.; revising a penalty;  
82 requiring the Office of the State Long-Term Care  
83 Ombudsman to investigate certain alleged violations;  
84 requiring the office to report to the Agency for  
85 Health Care Administration if it is determined that a  
86 violation occurred; requiring the agency to impose a  
87 fine for certain instances of interference with or  
88 retaliation against the State Long-Term Care Ombudsman  
89 program; requiring the agency to collect and transfer  
90 fines into the Quality of Long-Term Care Facility  
91 Improvement Trust Fund; requiring that the Division of  
92 Administrative Hearings conduct a hearing if a  
93 determination of a violation is contested; requiring  
94 the division to adopt rules; requiring the  
95 administrative law judge to render a decision within  
96 90 days after a hearing; requiring the Chief Inspector  
97 General to investigate any willful agency interference  
98 with the State Long-Term Care Ombudsman Program;  
99 amending s. 400.0087, F.S.; requiring the nonprofit  
100 organization responsible for the day-to-day operations

101 of the State Long-Term Care Ombudsman Program to  
102 consult with the state ombudsman in developing and  
103 submitting a budget to the department; limiting to a  
104 specified percentage the amount that the department  
105 may divert from the federal ombudsman appropriation to  
106 cover administrative costs associated with the State  
107 Long-Term Care Ombudsman Program; amending s.  
108 400.0089, F.S.; specifying the information that must  
109 be included in quarterly reports required to be made  
110 by the State Long-Term Care Ombudsman Program;  
111 requiring the State Long-Term Care Ombudsman Program  
112 to include an analysis of such information in an  
113 annual report; amending s. 400.0091, F.S.; revising  
114 the subject areas that must be addressed in the  
115 curriculum for initial and continuing education  
116 training provided to representatives of the State  
117 Long-Term Care Ombudsman Program; creating s.  
118 400.0223, F.S.; defining the term "electronic  
119 monitoring device"; requiring nursing homes to allow  
120 residents, and certain individuals on their behalf, to  
121 monitor the residents' rooms through the use of  
122 electronic monitoring devices; requiring nursing homes  
123 to require persons who conduct such monitoring to post  
124 a specific notice on the door to the residents' rooms;  
125 providing that such monitoring is voluntary and may be

126 | conducted only at the request and expense of residents  
127 | or certain individuals on their behalf; prohibiting  
128 | nursing homes from making certain inquiries of  
129 | prospective residents or of the representatives of  
130 | prospective residents; prohibiting nursing homes from  
131 | rejecting applications for residency or removing  
132 | residents because of intent to use or use of  
133 | electronic monitoring devices; requiring nursing homes  
134 | to inform residents and specified individuals of the  
135 | resident's right to conduct electronic monitoring;  
136 | requiring nursing homes to make reasonable physical  
137 | accommodations for electronic monitoring and to  
138 | provide a place for mounting and access to a power  
139 | source; authorizing nursing homes to require that  
140 | electronic monitoring be conducted in plain view;  
141 | authorizing nursing homes to require that a request to  
142 | conduct electronic monitoring be made in writing;  
143 | providing that audio or video recordings created  
144 | through the use of electronic monitoring may be  
145 | admitted into evidence in court or administrative  
146 | proceedings; providing criminal penalties for nursing  
147 | home administrators who violate specified provisions  
148 | relating to electronic monitoring; requiring prior  
149 | written consent from a resident or certain individuals  
150 | acting on the resident's behalf before a nursing home

151 employee, officer, or agent may interfere with an  
152 electronic monitoring device; providing a criminal  
153 penalty for such interference without prior written  
154 consent; imposing a civil penalty on nursing homes  
155 that violate provisions related to electronic  
156 monitoring; requiring the agency to transfer certain  
157 funds into the Quality of Long-Term Care Facility  
158 Improvement Trust Fund; repealing s. 400.0238, F.S.,  
159 relating to limitations on punitive damages; amending  
160 s. 400.0239, F.S.; conforming a cross-reference;  
161 creating s. 400.1185, F.S.; requiring licensed  
162 facilities to create internal resident safety and  
163 quality-of-care coordinator programs; specifying  
164 required components for the programs, including  
165 development and implementation of a reporting system  
166 for adverse incidents; requiring that the reporting  
167 system require employees and agents to report adverse  
168 incidents to the facility's quality-of-care  
169 coordinator within a specified timeframe; assigning  
170 responsibility for the programs to facility governing  
171 boards; requiring facilities to hire a risk manager to  
172 serve as the quality-of-care coordinator; limiting the  
173 number of internal resident safety and quality-of care  
174 programs that coordinators may be responsible for;  
175 encouraging the adoption of other approaches to

176 | reducing adverse incidents and violations of  
177 | residents' rights; requiring the agency to adopt rules  
178 | to administer the programs; requiring that programs  
179 | file all incident reports with a designated employee  
180 | of the facility, who must meet certain requirements;  
181 | providing immunity from civil liability for  
182 | individuals who file incident reports; defining the  
183 | term "adverse incident"; requiring facilities to  
184 | submit annual reports to the agency by a specified  
185 | date which must include specified information;  
186 | requiring the agency to review the information  
187 | submitted to determine whether disciplinary action is  
188 | warranted; requiring facilities to submit an incident  
189 | report to the agency within a certain timeframe after  
190 | they receive the report; requiring the agency to  
191 | determine within a certain timeframe whether certain  
192 | adverse incidents have occurred; specifying  
193 | information that must be included in the notification;  
194 | requiring the agency to require a written plan of  
195 | correction from facilities that violate the reporting  
196 | requirements; authorizing the agency to impose  
197 | specified civil penalties and administrative fines for  
198 | certain violations; requiring facilities to provide  
199 | the agency with access to certain facility records;  
200 | requiring the agency to review quality-of-care



201 programs as part of its licensure inspection process;  
202 providing that, in the absence of intentional fraud,  
203 quality-of-care coordinators may not be held  
204 financially liable for actions taken within the scope  
205 of their authority in connection with the  
206 administration of this section; requiring the agency  
207 to report to the appropriate regulatory board its  
208 reasonable belief that the conduct of an agent or  
209 employee of a licensed facility constitutes grounds  
210 for disciplinary action; requiring the agency to  
211 publish on its website an annual report card  
212 containing specific information for licensed  
213 facilities beginning on a specified date; requiring  
214 the report card to include a specified statement;  
215 amending s. 400.141, F.S.; requiring a licensed  
216 nursing home to satisfy certain financial  
217 requirements; providing that the required funds may  
218 not be used for litigation costs or attorney fees in  
219 certain circumstances; creating s. 400.1411, F.S.;

220 requiring nursing home facilities, as a condition of  
221 licensure, to demonstrate to the satisfaction of the  
222 agency and the Office of Insurance Regulation of the  
223 Financial Services Commission the financial ability to  
224 pay claims and costs arising out of the rendering of,  
225 or the failure to render, care or services; providing

226 proper means of documentation; requiring insurers,  
227 self-insurers, and risk retention groups to promptly  
228 notify the agency and the office of cancellation or  
229 nonrenewal of insurance; requiring a licensee to pay  
230 the entire amount of a judgment, award, or settlement  
231 and all accrued interest if a court issues a final  
232 judgment against the licensee, under certain  
233 circumstances; providing that certain deceptive,  
234 untrue, or fraudulent representation by any individual  
235 or entity on behalf of a facility may result in  
236 disciplinary action or a civil penalty with no  
237 aggregate limit; requiring the agency to issue a  
238 conditional license and authorizing the agency to  
239 immediately suspend a license if a facility shows a  
240 continuous pattern of violation of this section;  
241 amending s. 400.19, F.S.; requiring the agency to  
242 determine compliance with standards for electricity  
243 and emergency power sources during routine unannounced  
244 inspections of licensed nursing home facilities;  
245 amending s. 400.191, F.S.; requiring facilities that  
246 are on the Nursing Home Guide Watch List to  
247 conspicuously post a sign that meets certain  
248 requirements on each entrance to the facility for a  
249 certain period of time; requiring the agency to cite  
250 for a class I violation, place a facility on a 6-month

251 inspection cycle, and, under certain circumstances,  
252 extend the duration of a facility's inclusion on the  
253 watch list for a specified additional period of time;  
254 creating s. 400.226, F.S.; requiring licensed nursing  
255 homes to comply with certain federal rules and  
256 regulations; providing that a violation of such  
257 federal regulations is considered negligence per se;  
258 amending s. 400.23, F.S.; requiring the agency, in  
259 consultation with the Department of Health and the  
260 Department of Elderly Affairs, to adopt and enforce  
261 rules requiring a licensed nursing home facility to  
262 have adequate electrical equipment, an emergency power  
263 source, and a supply of fuel which meet specified  
264 criteria; requiring a comprehensive emergency plan to  
265 provide for the evacuation of all residents of a  
266 facility if the facility experiences a power outage  
267 and is unable to sustain adequate emergency power;  
268 requiring the agency to immediately impose a fine in a  
269 specified amount on a facility if it determines that a  
270 resident of the facility died as the result of abuse  
271 or neglect; amending s. 406.11, F.S.; requiring  
272 medical examiners to determine the cause of death when  
273 a person dies in their district in a nursing home on  
274 the federal Special Focus Facility list or on the  
275 Nursing Home Guide Watch List; amending s. 406.13,

276 F.S.; requiring a medical examiner to forward  
277 documentation to the state attorney if he or she  
278 determines that a nursing home resident died as a  
279 result of abuse, sexual abuse, or negligence;  
280 requiring the state attorney to seat a grand jury  
281 within 90 days and investigate whether criminal  
282 charges are warranted; repealing s. 429.298, F.S.,  
283 relating to limitations on punitive damages; amending  
284 s. 429.34, F.S.; requiring the agency to determine  
285 compliance with certain standards during the routine  
286 inspection of a licensed assisted living facility,  
287 including those related to construction and emergency  
288 power sources; amending s. 429.41, F.S.; requiring the  
289 Department of Elderly Affairs, in consultation with  
290 the agency, the Department of Children and Families,  
291 and the Department of Health, to adopt and enforce  
292 rules relating to electricity and requiring a licensed  
293 assisted living facility to maintain equipment  
294 sufficient to provide an emergency power source and a  
295 supply of fuel that meet specified criteria; requiring  
296 that a comprehensive emergency plan provide for the  
297 evacuation of all residents of a facility if the  
298 facility experiences a power outage and is unable to  
299 sustain emergency power as required; providing an  
300 effective date.

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

Section 1. Section 366.042, Florida Statutes, is created to read:

366.042 Power restoration priority.— The commission shall ensure that public utilities have effectively prioritized, in the event of an emergency, the restoration of services to critical medical facilities, including nursing homes licensed under part II of chapter 400 and assisted living facilities licensed under part I of chapter 429..

Section 2. Subsection (11) of section 366.15, Florida Statutes, is amended, and subsections (1) through (10) of that section are republished, to read:

366.15 Medically essential electric public utility service.—

(1) As used in this section, the term "medically essential" means the medical dependence on electric-powered equipment that must be operated continuously or as circumstances require as specified by a physician to avoid the loss of life or immediate hospitalization of the customer or another permanent resident at the residential service address.

(2) Each public utility shall designate employees who are authorized to direct an ordered continuation or restoration of medically essential electric service. A public utility shall not

326 impose upon any customer any additional deposit to continue or  
327 restore medically essential electric service.

328 (3) (a) Each public utility shall annually provide a  
329 written explanation of the certification process for medically  
330 essential electric service to each utility customer.  
331 Certification of a customer's electricity needs as medically  
332 essential requires the customer to complete forms supplied by  
333 the public utility and to submit a form completed by a physician  
334 licensed in this state pursuant to chapter 458 or chapter 459  
335 which states in medical and nonmedical terms why the electric  
336 service is medically essential. False certification of medically  
337 essential service by a physician is a violation of s.  
338 458.331(1)(h) or s. 459.015(1)(i).

339 (b) Medically essential service shall be recertified once  
340 every 12 months. The public utility shall send the certified  
341 customer by regular mail a package of recertification materials,  
342 including recertification forms, at least 30 days prior to the  
343 expiration of the customer's certification. The materials shall  
344 advise the certified customer that he or she must complete and  
345 submit the recertification forms within 30 days after the  
346 expiration of customer's existing certification. If the  
347 recertification forms are not received within this 30-day  
348 period, the public utility may terminate the customer's  
349 certification.

350 (4) Each public utility shall certify a customer's

351 electric service as medically essential if the customer  
352 completes the requirements of subsection (3).

353 (5) Notwithstanding any other provision of this section, a  
354 public utility may disconnect service to a residence whenever an  
355 emergency may threaten the health or safety of a person, the  
356 surrounding area, or the public utility's distribution system.  
357 The public utility shall act promptly to restore service as soon  
358 as feasible.

359 (6) No later than 24 hours before any scheduled  
360 disconnection of service for nonpayment of bills to a customer  
361 who requires medically essential service, a public utility shall  
362 attempt to contact the customer by telephone in order to provide  
363 notice of the scheduled disconnection. If the customer does not  
364 have a telephone number listed on the account or if the public  
365 utility cannot reach the customer or other adult resident of the  
366 premises by telephone by the specified time, the public utility  
367 shall send a representative to the customer's residence to  
368 attempt to contact the customer, no later than 4 p.m. of the day  
369 before scheduled disconnection. If contact is not made, however,  
370 the public utility may leave written notification at the  
371 residence advising the customer of the scheduled disconnection.  
372 Thereafter, the public utility may disconnect service on the  
373 specified date.

374 (7) Each public utility customer who requires medically  
375 essential service is responsible for making satisfactory

376 arrangements with the public utility to ensure payment for such  
377 service, and such arrangements must be consistent with the  
378 requirements of the utility's tariff.

379 (8) Each public utility customer who requires medically  
380 essential service is solely responsible for any backup equipment  
381 or power supply and a planned course of action in the event of a  
382 power outage or interruption of service.

383 (9) Each public utility that provides electric service to  
384 any customer who requires medically essential service shall  
385 call, contact, or otherwise advise such customer of scheduled  
386 service interruptions.

387 (10) (a) Each public utility shall provide information on  
388 sources of state or local agency funding which may provide  
389 financial assistance to the public utility's customers who  
390 require medically essential service and who notify the public  
391 utility of their need for financial assistance.

392 (b)1. Each public utility that operates a program to  
393 receive voluntary financial contributions from the public  
394 utility's customers to provide assistance to persons who are  
395 unable to pay for the public utility's services shall maintain a  
396 list of all agencies to which the public utility distributes  
397 such funds for such purposes and shall make the list available  
398 to any such person who requests the list.

399 2. Each public utility that operates such a program shall:

400 a. Maintain a system of accounting for the specific



401 amounts distributed to each such agency, and the public utility  
402 and such agencies shall maintain a system of accounting for the  
403 specific amounts distributed to persons under such respective  
404 programs.

405 b. Train its customer service representatives to assist  
406 any person who possesses a medically essential certification as  
407 provided in this section in identifying such agencies and  
408 programs.

409 ~~(11) Nothing in this act shall form the basis for any~~  
410 ~~cause of action against a public utility. Failure to comply with~~  
411 ~~any obligation created by this act does not constitute evidence~~  
412 ~~of negligence on the part of the public utility.~~

413 Section 3. Present subsections (3) through (14) of section  
414 400.0060, Florida Statutes, are redesignated as subsections (4)  
415 through (15), respectively, and a new subsection (3) is added to  
416 that section, to read:

417 400.0060 Definitions.—When used in this part, unless the  
418 context clearly dictates otherwise, the term:

419 (3) "Autonomy" means the freedom of residents from threats  
420 of interference, coercion, retaliation, or intimidation as they  
421 reside and receive care in a long-term care facility and as  
422 advocated for by the Office of the State Long-Term Care  
423 Ombudsman.

424 Section 4. Section 400.0063, Florida Statutes, is amended  
425 to read:

426 400.0063 Establishment of the State Long-Term Care  
427 Ombudsman Program; designation of ombudsman and legal advocate.—

428 (1) The Office of ~~There is created~~ the State Long-Term  
429 Care Ombudsman is established within ~~Program in~~ the Department  
430 of Elderly Affairs to administer the State Long-Term Care  
431 Ombudsman Program. The office shall enter into a contract with,  
432 or make a grant to, a private nonprofit organization to oversee  
433 the day-to-day operations of the program. The office does not  
434 have any responsibility with regard to the licensing or  
435 certification of long-term care facilities and may not have a  
436 relationship with any long-term care facilities.

437 (2) (a) The State Long-Term Care Ombudsman Program shall be  
438 headed by the State Long-Term Care Ombudsman, who shall serve on  
439 a full-time basis and shall personally, or through  
440 representatives of the program, carry out the its purposes and  
441 functions of the program in accordance with state and federal  
442 law.

443 (b) A five-member selection panel appointed by the  
444 Secretary of Elderly Affairs shall appoint the state ombudsman,  
445 who must have ~~shall be appointed by and shall serve at the~~  
446 ~~pleasure of the Secretary of Elderly Affairs. The secretary~~  
447 ~~shall appoint a person who has expertise~~ in the operation of a  
448 nonprofit organization and at least 5 years of experience in  
449 area ~~the fields of~~ long-term care resident and advocacy. The  
450 state ombudsman may be removed from office only by a two-thirds

451 vote of the state council with the consent of the secretary and  
452 the private nonprofit organization that oversees the operations  
453 of the program. The ~~to serve as~~ state ombudsman shall register  
454 as a lobbyist pursuant to s. 11.045.

455 (3) (a) The state ombudsman shall select a person who is a  
456 member in good standing of The Florida Bar to serve in the  
457 position of ~~There is created in the office the position of legal~~  
458 advocate, which is created within the office. The legal  
459 advocate, ~~who shall be selected by and~~ serve at the pleasure of  
460 the state ombudsman, shall register as a lobbyist ~~and shall be a~~  
461 ~~member in good standing of The Florida Bar.~~

462 (b) The duties of the legal advocate ~~shall~~ include, but  
463 are not ~~be~~ limited to:

464 1. Assisting the state ombudsman in carrying out the  
465 duties of the office with respect to the abuse, neglect,  
466 exploitation, or violation of rights of residents of long-term  
467 care facilities.

468 2. Assisting the representatives of the State Long-Term  
469 Care Ombudsman Program in carrying out their responsibilities  
470 under this part.

471 3. Pursuing administrative, legal, and other appropriate  
472 remedies on behalf of residents.

473 4. Serving as legal counsel to the representatives of the  
474 State Long-Term Care Ombudsman Program in any suit or other  
475 legal action that is initiated in connection with the

476 performance of the official duties of the representatives of the  
477 State Long-Term Care Ombudsman Program.

478 5. Assisting the state ombudsman in ensuring that the  
479 program is operated autonomously; without conflict of interest;  
480 and without interference, coercion, or retaliation against those  
481 associated with the operation of the program.

482 Section 5. Paragraph (f) of subsection (1) and paragraph  
483 (h) of subsection (2) of section 400.0065, Florida Statutes, are  
484 amended to read:

485 400.0065 State Long-Term Care Ombudsman Program; duties  
486 and responsibilities.—

487 (1) The purpose of the State Long-Term Care Ombudsman  
488 Program is to:

489 (f) Support ~~Administer~~ the state and local councils.

490 (2) The State Long-Term Care Ombudsman has the duty and  
491 authority to:

492 (h) Prepare an annual report describing the activities  
493 carried out by the office, the state council, the districts, and  
494 the local councils in the year for which the report is prepared.  
495 The state ombudsman shall submit the report to the secretary,  
496 the United States Assistant Secretary for Aging, the Governor,  
497 the President of the Senate, the Speaker of the House of  
498 Representatives, the Secretary of Children and Families, and the  
499 Secretary of the Agency for Health Care Administration at least  
500 30 days before the convening of the regular session of the

501 Legislature. The report must, at a minimum:

502 1. Contain and analyze data collected concerning  
503 complaints about and conditions in long-term care facilities and  
504 the disposition of such complaints.

505 2. Evaluate the problems experienced by residents.

506 3. Analyze the successes of the State Long-Term Care  
507 Ombudsman Program during the preceding year, including an  
508 assessment of how successfully the program has carried out its  
509 responsibilities under the Older Americans Act and the laws of  
510 this state.

511 4. Provide recommendations for policy, regulatory, and  
512 statutory changes designed to solve identified problems; resolve  
513 residents' complaints; improve residents' lives and quality of  
514 care; protect residents' rights, health, safety, and welfare;  
515 and remove any barriers to the optimal operation of the State  
516 Long-Term Care Ombudsman Program.

517 5. Contain recommendations from the State Long-Term Care  
518 Ombudsman Council, local councils, resident and family councils,  
519 and consumer advocacy groups regarding program functions and  
520 activities and recommendations for policy, regulatory, and  
521 statutory changes designed to protect residents' rights, health,  
522 safety, and welfare.

523 6. Contain any relevant recommendations from the  
524 representatives of the State Long-Term Care Ombudsman Program  
525 regarding program functions and activities.

526 Section 6. Subsection (3) and paragraph (c) of subsection  
 527 (4) of section 400.0067, Florida Statutes, are amended to read:  
 528 400.0067 State Long-Term Care Ombudsman Council; duties;  
 529 membership.—

530 (3) The State Long-Term Care Ombudsman Council consists of  
 531 one active certified ombudsman from each local council in each a  
 532 district and one resident, one family member of a resident, and  
 533 one consumer advocate, each appointed by the state ombudsman  
 534 ~~plus three at-large members.~~

535 ~~(a) Each local council in a district must select a~~  
 536 ~~representative of its choice to serve on the state council.~~

537 ~~(b)1. The state ombudsman shall submit to the secretary a~~  
 538 ~~list of individuals recommended for appointment to the at-large~~  
 539 ~~positions on the state council. The list may not include the~~  
 540 ~~name of any individual who is currently serving in a district.~~

541 ~~2. The secretary shall appoint three at-large members~~  
 542 ~~chosen from the list.~~

543 (4)

544 (c)1. The state council shall elect a chair to serve for a  
 545 term of 1 year. A chair may not serve more than three ~~two~~  
 546 consecutive terms.

547 2. The chair shall select a vice chair from among the  
 548 members. The vice chair shall preside over the state council in  
 549 the absence of the chair.

550 3. The chair may create additional executive positions as

551 necessary to carry out the duties of the state council. Any  
 552 person appointed to an executive position shall serve at the  
 553 pleasure of the chair, and his or her term shall expire on the  
 554 same day as the term of the chair.

555 4. A chair may be immediately removed from office before  
 556 the expiration of his or her term by a vote of two-thirds of all  
 557 state council members present at any meeting at which a quorum  
 558 is present. If a chair is removed from office before the  
 559 expiration of his or her term, a replacement chair shall be  
 560 chosen during the same meeting in the same manner as described  
 561 in this paragraph, and the term of the replacement chair shall  
 562 begin immediately. The replacement chair shall serve for the  
 563 remainder of the term and is eligible to serve two subsequent  
 564 consecutive terms.

565 Section 7. Paragraphs (b) and (c) of subsection (1) and  
 566 paragraph (d) of subsection (2) of section 400.0069, Florida  
 567 Statutes, are amended to read:

568 400.0069 Long-term care ombudsman districts; local long-  
 569 term care ombudsman councils; duties; appointment.—

570 (1)(b) The state ombudsman shall ensure that there is at  
 571 least one employee of the department certified as a long-term  
 572 care ombudsman and a least one local council operating in each  
 573 district. The state ombudsman may create additional local  
 574 councils as necessary to ensure that residents throughout the  
 575 state have meaningful ~~adequate~~ access to State Long-Term Care

576 Ombudsman Program services.

577 (c) Each district shall convene a public meeting at least  
578 monthly ~~quarterly~~.

579 (2) The duties of the representatives of the State Long-  
580 Term Care Ombudsman Program are to:

581 (d) Review and, upon an affirmative vote of the state  
582 council ~~if necessary~~, comment on all existing or proposed rules,  
583 regulations, and other governmental policies and actions  
584 relating to long-term care facilities which ~~that~~ may potentially  
585 have an effect on the health, safety, welfare, and rights of  
586 residents.

587 Section 8. Section 400.0073, Florida Statutes, is amended  
588 to read:

589 400.0073 State and local ombudsman council  
590 investigations.—

591 (1) A representative of the State Long-Term Care Ombudsman  
592 Program shall identify and investigate, within a reasonable time  
593 after a complaint is made, by or on behalf of a resident  
594 relating to actions or omissions by providers or representatives  
595 of providers of long-term care services, other public agencies,  
596 guardians, or representative payees which may adversely affect  
597 the health, safety, welfare, or rights of residents.

598 (2) Subsequent to an appeal from a local council, the  
599 state council may investigate any complaint received by the  
600 local council involving a long-term care facility or a resident.



601        (3) The state council or a local council may hold a public  
602 hearing to assist the State Long-Term Care Ombudsman Program in  
603 its investigation of a complaint.

604        ~~(4)-(3)~~ If a representative of the State Long-Term Care  
605 Ombudsman Program is not allowed to enter a long-term care  
606 facility, the administrator of the facility shall be considered  
607 to have interfered with a representative of the State Long-Term  
608 Care Ombudsman Program in the performance of official duties as  
609 described in s. 400.0083(1) and to have violated this part. The  
610 representative of the State Long-Term Care Ombudsman Program  
611 shall report a facility's refusal to allow entry to the state  
612 ombudsman or his or her designee, who shall report the incident  
613 to the agency, and the agency shall record the report and take  
614 it into consideration when determining actions allowable under  
615 s. 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
616 429.71. The legal advocate shall pursue legal remedies against a  
617 person, a long-term care facility, or another entity that  
618 violates s. 400.0083(1).

619        Section 9. Subsections (1), (4), and (5) of section  
620 400.0074, Florida Statutes, are amended to read:

621        400.0074 Local ombudsman council onsite administrative  
622 assessments.—

623        (1) A representative of the State Long-Term Care Ombudsman  
624 Program shall conduct, at least annually, an onsite  
625 administrative assessment of each nursing home, assisted living

626 facility, and adult family-care home. This administrative  
627 assessment must be comprehensive in nature, must be resident-  
628 centered, must include a review of the facility's emergency  
629 management plan, and must focus on factors affecting residents'  
630 rights, health, safety, and welfare. Each local council is  
631 encouraged to conduct a similar onsite administrative assessment  
632 of each new ~~additional~~ long-term care facility within its  
633 jurisdiction.

634 (4) An onsite administrative assessment may not be  
635 accomplished by forcible entry. However, if a representative of  
636 the State Long-Term Care Ombudsman Program is not allowed to  
637 enter a long-term care facility, the administrator of the  
638 facility shall be considered to have interfered with a  
639 representative of the State Long-Term Care Ombudsman Program in  
640 the performance of official duties as described in s.  
641 400.0083(1) and to have committed a violation of this part. The  
642 representative of the State Long-Term Care Ombudsman Program  
643 shall report the refusal by a facility to allow entry to the  
644 state ombudsman or his or her designee, who shall report the  
645 incident to the agency, and the agency shall record the report  
646 and take it into consideration when determining actions  
647 allowable under s. 400.102, s. 400.121, s. 429.14, s. 429.19, s.  
648 429.69, or s. 429.71. The legal advocate may pursue legal  
649 remedies for any violation of s. 400.0083.

650 (5) The department, in consultation with the state

651 | ombudsman, shall ~~may~~ adopt rules implementing procedures for  
652 | conducting onsite administrative assessments of long-term care  
653 | facilities.

654 |       Section 10. Subsection (3) of section 400.0077, Florida  
655 | Statutes, is amended to read:

656 |           400.0077 Confidentiality.—

657 |       (3) All other matters before the council, including the  
658 | public discussion of administrative assessments, shall be open  
659 | to the public and subject to chapter 119 and s. 286.011.

660 |       Section 11. Subsection (3) is added to section 400.0078,  
661 | Florida Statutes, and subsections (1) and (2) are republished,  
662 | to read:

663 |           400.0078 Citizen access to State Long-Term Care Ombudsman  
664 | Program services.—

665 |       (1) The office shall establish a statewide toll-free  
666 | telephone number and e-mail address for receiving complaints  
667 | concerning matters adversely affecting the health, safety,  
668 | welfare, or rights of residents.

669 |       (2) Upon admission to a long-term care facility, each  
670 | resident or representative of a resident must receive  
671 | information regarding:

672 |           (a) The purpose of the State Long-Term Care Ombudsman  
673 | Program.

674 |           (b) The statewide toll-free telephone number and e-mail  
675 | address for receiving complaints.

676 (c) Information that retaliatory action cannot be taken  
 677 against a resident for presenting grievances or for exercising  
 678 any other resident right.

679 (d) Other relevant information regarding how to contact  
 680 representatives of the State Long-Term Care Ombudsman Program.

681  
 682 Each resident or his or her representative must be furnished  
 683 additional copies of this information upon request.

684 (3) The State Long-Term Care Ombudsman program shall  
 685 create and make available a poster that includes the statewide  
 686 toll-free telephone number as described in subsection (1) and  
 687 other relevant contact information for receiving complaints or a  
 688 summary of residents' rights. Each long-term care facility shall  
 689 display a State Long-Term Care Ombudsman Program poster in  
 690 multiple, conspicuous places.

691 Section 12. Section 400.008, Florida Statutes, is created  
 692 to read:

693 400.008 Unannounced quality-of-care evaluations.-

694 (1) It is the intent of the Legislature that the  
 695 environment in long-term care facilities be conducive to the  
 696 dignity and autonomy of residents and that investigations by the  
 697 Office of the State Long-Term Care Ombudsman will safeguard the  
 698 health, safety, and welfare of residents.

699 (2) The Office of the State Long-Term Care Ombudsman shall  
 700 conduct unannounced quality-of-care evaluations of health and

701 long-term care facilities that provide services to the elderly.  
702 The office may use undercover personnel to act as patients or  
703 employees of the facility. The purpose of the evaluations is to:

704 (a) Identify and track abuse and neglect issues and  
705 potential abuse and neglect issues in facilities;

706 (b) Evaluate positive and negative aspects of facility  
707 care based on state and federal laws and regulations; and

708 (c) Observe facilities' actions to correct and resolve  
709 complaints, allegations of abuse, neglect, or exploitation.

710 (3) Any employee or contractor of the Office of the State  
711 Long-Term Care Ombudsman who participates in an evaluation is  
712 immune from liability in any civil action related to the  
713 evaluation, provided that he or she acted in good faith during  
714 the course of the evaluation.

715 Section 13. Section 400.0081, Florida Statutes, is amended  
716 to read:

717 400.0081 Access to facilities, residents, and records.—

718 (1) A long-term care facility shall provide  
719 representatives of the State Long-Term Care Ombudsman Program  
720 with access to:

721 (a) The long-term care facility and its residents.

722 (b) When ~~where~~ appropriate, medical and social records of  
723 a resident for review if:

724 1. The representative of the State Long-Term Care  
725 Ombudsman Program has the permission of the resident or the

726 | legal representative of the resident; or  
 727 |         2. The resident is unable to consent to the review and  
 728 | does not have a legal representative.  
 729 |         (c) Medical and social records of a resident as necessary  
 730 | to investigate a complaint, if:  
 731 |             1. A legal representative or guardian of the resident  
 732 | refuses to give permission;  
 733 |             2. The representative of the State Long-Term Care  
 734 | Ombudsman Program has reasonable cause to believe that the legal  
 735 | representative or guardian is not acting in the best interests  
 736 | of the resident; and  
 737 |             3. The representative of the State Long-Term Care  
 738 | Ombudsman Program obtains the approval of the state ombudsman.  
 739 |         (d) Administrative records, policies, and documents to  
 740 | which residents or the general public have access.  
 741 |         (e) Upon request, copies of all licensing and  
 742 | certification records maintained by the state with respect to a  
 743 | long-term care facility.  
 744 |         (2) Copies of records, policies, or documents needed to  
 745 | complete an investigation or assessment must be timely provided  
 746 | by the facility upon request and at no expense to the program.  
 747 |         (3)~~(2)~~ The department, in consultation with the state  
 748 | ombudsman, shall ~~may~~ adopt rules to establish procedures to  
 749 | ensure access to facilities, residents, and records as described  
 750 | in this section.

751 Section 14. Section 400.0083, Florida Statutes, is amended  
 752 to read:

753 400.0083 Interference ~~by a person, facility, or entity;~~  
 754 retaliation prohibited; criminal penalties; administrative  
 755 finances; interference by agency.—

756 (1) A person, long-term care facility, or other entity may  
 757 not willfully interfere with a representative of the State Long-  
 758 Term Care Ombudsman Program in the performance of his or her  
 759 official duties.

760 (2) A person, long-term care facility, or other entity may  
 761 not knowingly or willfully take action or retaliate against any  
 762 resident, employee, or other person for filing a complaint with,  
 763 providing information to, or otherwise cooperating with any  
 764 representative of the State Long-Term Care Ombudsman Program.

765 (3) A person, long-term care facility, or other entity  
 766 that violates this section:

767 (a) Is liable for damages and equitable relief as  
 768 determined by law.

769 (b) Commits a misdemeanor of the first ~~second~~ degree,  
 770 punishable as provided in s. 775.083.

771 (4) The Office of the State Long-Term Care Ombudsman shall  
 772 investigate each alleged violation of subsections (1) and (2) to  
 773 determine if a violation occurred. If the office determines that  
 774 a violation occurred, it must report the determination to the  
 775 agency. The agency shall impose a civil penalty of up to \$5,000

776 per occurrence on a person, long-term care facility, or other  
777 entity that the office finds in violation of subsection (1) and  
778 a civil penalty of up to \$10,000 per occurrence on a person,  
779 long-term care facility, or other entity that the office finds  
780 in violation of subsection (2). The agency shall transfer funds  
781 collected pursuant to this subsection into the Quality of Long-  
782 Term Care Facility Improvement Trust Fund established under s.  
783 400.0239. The Division of Administrative Hearings shall conduct  
784 a hearing if a determination of a violation is contested. The  
785 division shall establish by rule procedures for hearing  
786 requests. A decision must be rendered by the administrative law  
787 judge within 90 days after the hearing.

788 (5) The Chief Inspector General shall investigate any  
789 willful agency interference with the activities of the State  
790 Long-Term Care Ombudsman Program in the performance of its  
791 official duties.

792 Section 15. Subsections (1), (3), and (4) of section  
793 400.0087, Florida Statutes, are amended to read:

794 400.0087 Department oversight; funding.—

795 (1) The department shall perform its duties ~~meet the costs~~  
796 associated with the State Long-Term Care Ombudsman Program from  
797 funds appropriated for that purpose ~~to it~~.

798 (a) The nonprofit organization responsible for the day-to-  
799 day operations of the program, in consultation with the state  
800 ombudsman, shall develop and submit a budget to the department



801 which must ~~shall~~ include the costs associated with  
802 administrative support of the State Long-Term Care Ombudsman  
803 Program ~~when developing its budget requests for consideration by~~  
804 ~~the Governor and submittal to the Legislature.~~

805 (b) The department may divert from the federal ombudsman  
806 appropriation an amount equal to the department's administrative  
807 cost ratio, which may not exceed 5 percent, to cover the costs  
808 associated with administering the State Long-Term Care Ombudsman  
809 Program. The remaining allotment from the Older Americans Act  
810 program shall be expended on direct ombudsman activities.

811 (3) The department is responsible for ensuring that the  
812 State Long-Term Care Ombudsman Program:

813 (a) Has the objectivity and autonomy ~~independence~~ required  
814 to qualify it for funding under the federal Older Americans Act.

815 (b) Provides information to public and private agencies,  
816 legislators, and others.

817 (c) Provides appropriate training to representatives of  
818 the State Long-Term Care Ombudsman Program.

819 (d) Coordinates ombudsman services with Disability Rights  
820 Florida, the Advocacy Center for Persons with Disabilities and  
821 with providers of legal services to residents of long-term care  
822 facilities in compliance with state and federal laws.

823 (4) The department shall also:

824 (a) Receive and disburse state and federal funds for  
825 purposes that the state ombudsman has formulated in accordance

826 with the Older Americans Act.

827 (b) Whenever the state ombudsman deems necessary, act as  
828 liaison between agencies and branches of the federal and state  
829 governments and the State Long-Term Care Ombudsman Program.

830 Section 16. Section 400.0089, Florida Statutes, is amended  
831 to read:

832 400.0089 Complaint data reports.—

833 (1) The State Long-Term Care Ombudsman Program shall  
834 maintain a statewide uniform reporting system to collect and  
835 analyze data relating to complaints and conditions in long-term  
836 care facilities and to residents for the purpose of identifying  
837 and resolving complaints.

838 (2) Information pertaining to the number and types of  
839 complaints received by the State Long-Term Care Ombudsman  
840 Program must ~~shall~~ be published quarterly and made readily  
841 available and must ~~shall~~ include all of the following:

842 (a) The license number, name, address, and county of each  
843 facility that is the subject of a complaint.

844 (b) The case number and dates that each investigation was  
845 opened and closed.

846 (c) The identified complaint codes for each case.

847 (d) The National Ombudsman Reporting System description  
848 for each case.

849 (e) The disposition of each case, specified by complaint  
850 code.

851           (3) The State Long-Term Care Ombudsman Program shall  
852 include an analysis of such information in the annual report  
853 required under s. 400.0065.

854           Section 17. Subsection (2) of section 400.0091, Florida  
855 Statutes, is amended to read:

856           400.0091 Training.—The state ombudsman shall ensure that  
857 appropriate training is provided to all representatives of the  
858 State Long-Term Care Ombudsman Program.

859           (2) The state ombudsman shall approve the curriculum for  
860 the initial and continuing education training, which must, at a  
861 minimum, address:

862           (a) Resident confidentiality.

863           (b) Guardianships and powers of attorney.

864           (c) Medication administration.

865           (d) Care and medication of residents with dementia and  
866 Alzheimer's disease.

867           (e) Accounting for residents' funds.

868           (f) Discharge rights and responsibilities.

869           (g) Cultural sensitivity.

870           (h) Person-centered care initiatives.

871           (i) Abuse and neglect of residents.

872           (j)~~(h)~~ Any other topic related to residency in a long-term  
873 care facility.

874           Section 18. Section 400.0223, Florida Statutes, is created  
875 to read:

876 400.0223 Resident use of electronic monitoring devices in  
 877 nursing homes.—

878 (1) As used in this section, the term "electronic  
 879 monitoring device" includes both of the following:

880 (a) Video surveillance cameras installed in the room of a  
 881 resident.

882 (b) Audio devices installed in the room of a resident  
 883 designed to acquire communications or other sounds occurring in  
 884 the room.

885 (2) A nursing home shall allow a resident; the resident's  
 886 surrogate; the resident's guardian; or, at the resident's  
 887 request, the resident's personal representative to monitor the  
 888 resident's room through the use of electronic monitoring  
 889 devices.

890 (3) The nursing home shall require the person who conducts  
 891 electronic monitoring to post a notice on the door to the  
 892 resident's room stating that the room is being monitored by an  
 893 electronic monitoring device.

894 (4) Electronic monitoring conducted under this section is  
 895 voluntary and may be conducted only at the request and expense  
 896 of the resident, the resident's surrogate, the resident's  
 897 guardian, or the resident's personal representative. To the  
 898 extent possible, such monitoring must protect the privacy rights  
 899 of other residents and visitors to the nursing home.

900 (5) (a) A nursing home may not inquire of a prospective

901 resident or the representative of a prospective resident who is  
902 applying to reside at the facility regarding the resident's  
903 intentions to use an electronic monitoring and may not refuse an  
904 application for residency or remove a resident from the nursing  
905 home on the basis of intent to use or use of an electronic  
906 monitoring device.

907 (b) A nursing home shall inform a resident, the resident's  
908 surrogate, the resident's guardian, or the personal  
909 representative of the resident of the resident's right to  
910 conduct electronic monitoring.

911 (6) A nursing home shall make reasonable physical  
912 accommodations to facilitate electronic monitoring and shall  
913 provide a reasonably secure place to mount a video surveillance  
914 camera or other electronic monitoring device and access to a  
915 power source for the camera or device.

916 (7) If electronic monitoring is conducted on behalf of a  
917 resident, the nursing home may require the resident, the  
918 resident's surrogate, the resident's guardian, or the resident's  
919 personal representative to conduct the electronic monitoring in  
920 plain view.

921 (8) A nursing home may require that a request to conduct  
922 electronic monitoring be made in writing.

923 (9) Subject to applicable rules of evidence and procedure,  
924 an audio or video recording created through the use of  
925 electronic monitoring conducted under this section may be

926 admitted into evidence in any court or administrative  
927 proceeding.

928 (10) An administrator of a nursing home who knowingly  
929 refuses to allow a resident; the resident's surrogate; the  
930 resident's guardian; or, at the request of the resident, the  
931 resident's personal representative to monitor the room of the  
932 resident in accordance with this section through the use of an  
933 electronic monitoring device commits a misdemeanor of the second  
934 degree, punishable under s. 775.082 or s. 775.083.

935 (11) An administrator of a nursing home who knowingly  
936 refuses to admit a person to residency or knowingly allows the  
937 removal of a resident from the nursing home because of a request  
938 to conduct electronic monitoring under this section commits a  
939 misdemeanor of the second degree, punishable under s. 775.082 or  
940 s. 775.083.

941 (12) (a) An employee, officer, or other agent of a nursing  
942 home may not intentionally hamper, obstruct, tamper with, or  
943 destroy an electronic monitoring device installed in a  
944 resident's room in accordance with this section, or a tape or  
945 recording made by such a device, unless he or she first obtains  
946 the written consent of the resident, the resident's surrogate,  
947 the resident's guardian, or the resident's personal  
948 representative on a form provided by the agency. Such consent  
949 form must be signed by the resident or the person representing  
950 the resident who made the request and one other witness.

951        (b) In the absence of such written consent, an employee,  
952 officer, or other agent of a nursing home who intentionally  
953 hampers, obstructs, tampers with, or destroys an electronic  
954 monitoring device installed in a resident's room in accordance  
955 with this section, or a tape or recording made by such a device,  
956 commits a misdemeanor of the first degree, punishable under s.  
957 775.082 or s. 775.083.

958        (13) The agency shall impose a civil penalty not to exceed  
959 \$500 per violation per day on a licensee who operates a nursing  
960 home found to be in violation of this section. The agency shall  
961 transfer funds collected pursuant to this subsection into the  
962 Quality of Long-Term Care Facility Improvement Trust Fund  
963 established under s. 400.0239.

964        Section 19. Section 400.0238, Florida Statutes, is  
965 repealed.

966        Section 20. Subsection (1) of section 400.0239, Florida  
967 Statutes, is amended to read:

968        400.0239 Quality of Long-Term Care Facility Improvement  
969 Trust Fund.—

970        (1) There is created within the Agency for Health Care  
971 Administration a Quality of Long-Term Care Facility Improvement  
972 Trust Fund to support activities and programs directly related  
973 to improvement of the care of nursing home and assisted living  
974 facility residents. The trust fund shall be funded through  
975 proceeds generated pursuant to ss. 400.0083 and 400.0223 ~~ss.~~

976 ~~400.0238 and 429.298~~, through funds specifically appropriated by  
977 the Legislature, through gifts, endowments, and other charitable  
978 contributions allowed under federal and state law, and through  
979 federal nursing home civil monetary penalties collected by the  
980 Centers for Medicare and Medicaid Services and returned to the  
981 state. These funds must be utilized in accordance with federal  
982 requirements.

983 Section 21. Section 400.1185, Florida Statutes, is created  
984 to read:

985 400.1185 Internal resident safety and quality-of-care  
986 coordinator program.—

987 (1) Each licensed facility shall establish an internal  
988 resident safety and quality-of-care coordinator program that  
989 includes all of the following:

990 (a) An analysis of the frequency and causes of violations  
991 of residents' rights and adverse incidents.

992 (b) An analysis of resident and family member grievances  
993 that relate to resident safety and quality of care.

994 (c) The development and implementation of measures to  
995 promote autonomy within the facility, to enhance the quality of  
996 life and the safety of residents, and to decrease the frequency  
997 of violations of residents' rights and of adverse incidents.

998 (d) Safety and risk prevention education and the training  
999 of all nonphysician personnel who provide resident care, which  
1000 must be included as part of the initial orientation of such



1001 personnel. Such personnel shall complete at least 5 additional  
1002 hours of education and training annually.

1003 (e) The development and implementation of a reporting  
1004 system that requires all employees and agents of the licensed  
1005 facility to report adverse incidents to the quality-of-care  
1006 coordinator, as described in subsection (2), or to his or her  
1007 designee, within 3 business days after the adverse incident  
1008 occurs.

1009 (2) The internal resident safety and quality-of-care  
1010 coordinator programs are the responsibility of the governing  
1011 board of each facility. Each facility shall hire a risk manager  
1012 who shall act as the quality-of-care coordinator and be  
1013 responsible for implementation and oversight of the facility's  
1014 internal resident safety and quality-of-care coordinator  
1015 program. The risk manager may not be made responsible for  
1016 internal resident safety and quality-of-care coordinator  
1017 programs in more than four facilities licensed under this  
1018 chapter.

1019 (3) In addition to the programs created under this  
1020 section, the development of other innovative approaches is  
1021 encouraged to reduce the frequency and severity of adverse  
1022 incidents and of violations of residents' rights.

1023 (4) The agency shall adopt rules to administer the  
1024 internal resident safety and quality-of-care coordinator  
1025 programs. Each program must file any collected incident reports

1026 with an employee designated by the facility, who must be  
1027 proficient in resident safety techniques and must have access to  
1028 all resident care and safety records of the facility, including  
1029 internal and state-required incident reports. An individual who  
1030 files an incident report is not subject to civil suit by virtue  
1031 of filing the incident report. For purposes of this section, the  
1032 term "adverse incident" means a situation that facility  
1033 personnel were in control of and that appropriate safety  
1034 measures could have prevented which results in any of the  
1035 following:

- 1036 (a) Death.  
1037 (b) Brain or spinal damage.  
1038 (c) Permanent disfigurement.  
1039 (d) A fracture or dislocation of bones or joints.  
1040 (e) A resulting limitation of neurological, physical, or  
1041 sensory function.  
1042 (f) Sexual abuse of a resident.  
1043 (g) Assault or battery of a resident.  
1044 (h) Any condition resulting from an adverse incident which  
1045 requires the transfer of a resident to a unit, within or outside  
1046 of the facility, to provide a more acute level of care.

1047 (5) (a) By January 31 of each year, each licensed facility  
1048 shall submit a report to the agency summarizing incident reports  
1049 filed during the previous calendar year. The report must  
1050 include:

- 1051        1. The total number of adverse incidents.
- 1052        2. A listing, by category, of the causes of each injury or  
1053 death, and the number of incidents occurring within each  
1054 category.
- 1055        3. A code number using the facility staff's licensure  
1056 number and a separate code number identifying all other  
1057 individuals directly involved in adverse incidents to residents,  
1058 the relationship of the individual to the licensed facility, and  
1059 the number of incidents in which each individual has been  
1060 directly involved. Each licensed facility shall maintain names  
1061 of the health care professionals and individuals identified by  
1062 code numbers for purposes of this section.
- 1063        4. A description of all claims filed against the licensed  
1064 facility for a violation of the residents' rights, as specified  
1065 in s. 400.022, including the total number of pending and closed  
1066 claims, the names of the individuals involved in each claim, and  
1067 the nature of the incident that led to each claim, and the  
1068 status and disposition of each claim. Each report must provide  
1069 an updated status for any claims identified as being unresolved  
1070 or pending in the prior year report.
- 1071        5. The number and nature of disciplinary actions taken  
1072 against agents or employees of the facility related to patient  
1073 care and safety.
- 1074        (b) The agency shall review the information submitted  
1075 pursuant to paragraph (a) and determine if any reported

1076 incidents may subject a facility or an employee or agent of a  
1077 facility to disciplinary action.

1078 (c) The report submitted to the agency must also provide  
1079 the name and license number of the quality-of-care coordinator  
1080 of the licensed facility, a copy of the facility's policies and  
1081 procedures that govern the actions taken by the facility and its  
1082 quality-of-care coordinator to reduce the risk of injuries and  
1083 deaths and violations of residents' rights, and the results of  
1084 such actions.

1085 (6)(a) The licensed facility shall submit an adverse  
1086 incident report to the agency no later than 1 business day after  
1087 the quality-of-care coordinator or his or her designee has  
1088 received the report through the system implemented pursuant to  
1089 paragraph (1)(e). The report may be submitted to the agency  
1090 through e-mail, facsimile, or overnight mail delivery. The  
1091 facility must submit the following information with the report:

- 1092 1. The identity of the affected resident;
- 1093 2. The type of adverse incident;
- 1094 3. Information on any investigation into the incident  
1095 conducted by the facility; and
- 1096 4. An assessment as to whether the events causing or  
1097 resulting in the adverse incident represent a potential risk to  
1098 other residents.

1099 (b) After receiving the report, the agency must determine  
1100 by the end of the next business day if any of the following

1101 adverse incidents has occurred, whether arising from events that  
1102 occurred in the licensed facility or from events that occurred  
1103 before the resident's admission in the licensed facility:

- 1104 1. The death of a resident;
- 1105 2. Brain or spinal damage to a resident;
- 1106 3. Sexual abuse of a resident; or
- 1107 4. The assault or battery of a resident.

1108 (7) The agency shall require a written plan of correction  
1109 from a facility that violates this section. For a single  
1110 incident or a series of isolated incidents that are nonwillful  
1111 violations of the reporting requirements of this section, the  
1112 agency shall first demand that the facility take corrective  
1113 action. If the facility does not demonstrate completion of the  
1114 corrective action within the timeframe allowed by the agency or  
1115 demonstrates a pattern of nonwillful violations of this section,  
1116 the agency may impose a civil penalty not to exceed \$5,000 for  
1117 each violation of the reporting requirements of this section.  
1118 The civil penalty for repeated nonwillful violations may not  
1119 exceed \$10,000 for each violation. The administrative fine for  
1120 each intentional and willful violation may not exceed \$25,000  
1121 per violation per day.

1122 (8) The agency must be given access to facility records  
1123 needed in the administration of this section.

1124 (9) The agency shall review, as part of its licensure  
1125 inspection process, the internal resident safety and quality-of-

1126 care coordinator program at each licensed facility subject to  
1127 this section to determine whether it complies with this section,  
1128 is being conducted in a manner designed to reduce adverse  
1129 incidents and violations of residents' rights, and is  
1130 appropriately reporting incidents under subsections (4) through  
1131 (6).

1132 (10) There shall be no monetary liability on the part of,  
1133 and no cause of action for damages shall arise against, any  
1134 quality-of-care coordinator for the implementation and oversight  
1135 of an internal resident safety and quality-of-care coordinator  
1136 program for any act or proceeding undertaken or performed within  
1137 the scope of the functions of the program so long as the  
1138 quality-of-care coordinator acts without intentional fraud.

1139 (11) If the agency, through its receipt of the annual  
1140 reports required in subsection (5) or through any investigation,  
1141 has a reasonable belief that the conduct of an agent or employee  
1142 of a licensed facility constitutes grounds for disciplinary  
1143 action by the appropriate regulatory board, the agency must  
1144 report its findings to that board.

1145 (12) Beginning on July 1, 2019, and by each July 1  
1146 thereafter, the agency shall publish on its website a report  
1147 card summarizing the information contained in the annual reports  
1148 submitted by licensed facilities pursuant to subsection (5) and  
1149 disciplinary actions reported to the agency. The report card  
1150 must be organized by county and, for each licensed facility in

1151 the state, must include an itemized list that provides the  
1152 following information:

1153 (a) The name and address of the facility.

1154 (b) If the facility is structured as a private for-profit,  
1155 not-for-profit, or public company.

1156 (c) The total number of beds in the facility.

1157 (d) A description of the categories of services provided  
1158 by the facility.

1159 (e) The percentage of adverse incidents per total number  
1160 of residents in the facility, by category of reported incident.

1161 (f) The number of claims filed for violations of the  
1162 resident's rights under s. 400.022, by category of violation.

1163 (g) A listing, by category, of the actions or inactions  
1164 giving rise to the adverse incidents and claims filed for a  
1165 violation of the resident's rights and the number in each  
1166 category.

1167 (h) Disciplinary actions taken against a facility or  
1168 agents or employees of that facility.

1169 (i) The following statement:

1170  
1171 "This report card is just one measure of the quality  
1172 of a facility. You may want to obtain and consider  
1173 other information to determine whether this facility  
1174 is right for you or your loved ones. This report card  
1175 is not adjusted to reflect the size of the facility or

1176 the severity or complexity of the custodial and health  
 1177 care needs of the residents it serves, and, therefore,  
 1178 some facilities may appear to have more frequent  
 1179 adverse incidents and claims involving violations of  
 1180 residents' rights than others."

1181  
 1182 The first report card issued pursuant to this subsection may be  
 1183 based on a partial year of data, if necessary.

1184 Section 22. Paragraph (q) of subsection (1) of section  
 1185 400.141, Florida Statutes, is amended to read:

1186 400.141 Administration and management of nursing home  
 1187 facilities.—

1188 (1) Every licensed facility shall comply with all  
 1189 applicable standards and rules of the agency and shall:

1190 (q) Satisfy the financial requirements in s. 400.1411,  
 1191 which may not be used for litigation costs or attorney fees for  
 1192 the defense of any claim against a nursing home facility  
 1193 pursuant to common law or s. 400.023 or s. 400.0233 ~~Maintain~~  
 1194 ~~general and professional liability insurance coverage that is in~~  
 1195 ~~force at all times.~~ In lieu of satisfying the financial  
 1196 requirements in s. 400.1411 ~~such coverage~~, a state-designated  
 1197 teaching nursing home and its affiliated assisted living  
 1198 facilities created under s. 430.80 may demonstrate proof of  
 1199 financial responsibility as provided in s. 430.80(3)(g).

1200 Section 23. Section 400.1411, Florida Statutes, is created



1201 to read:

1202 400.1411 Financial requirements.—

1203 (1) As a condition of licensure, a nursing home facility  
1204 must at all times demonstrate to the satisfaction of the agency  
1205 and the Office of Insurance Regulation of the Financial Services  
1206 Commission the financial ability to pay claims, and costs  
1207 ancillary thereto, arising out of the rendering of, or the  
1208 failure to render, care or services, by doing one of the  
1209 following:

1210 (a) Establishing and maintaining an escrow account  
1211 consisting of cash or assets eligible for deposit in accordance  
1212 with s. 625.52 in the per claim amounts specified in paragraph  
1213 (b).

1214 (b) Obtaining and maintaining general and professional  
1215 liability coverage in an amount not less than \$1 million per  
1216 claim, with a minimum annual aggregate of not less than \$3  
1217 million, from an authorized insurer as defined in s. 624.09,  
1218 from an eligible surplus lines insurer as defined in s.  
1219 626.914(2), or from a Florida-domiciled risk retention group as  
1220 defined in s. 627.942(9).

1221 (c) Obtaining and maintaining an unexpired, irrevocable  
1222 letter of credit, established pursuant to chapter 675, in an  
1223 amount not less than \$1 million per claim, with a minimum  
1224 aggregate availability of credit not less than \$3 million. The  
1225 letter of credit must be payable to the nursing home facility as

1226 beneficiary upon presentment of a final judgment indicating  
1227 liability and awarding damages to be paid by the nursing home  
1228 facility or upon presentment of a settlement agreement signed by  
1229 all parties to such agreement when such final judgment or  
1230 settlement is a result of a claim arising out of the rendering  
1231 of, or the failure to render, care and services. The letter of  
1232 credit must be nonassignable and nontransferable. The letter of  
1233 credit must be issued by any bank or savings association  
1234 organized and existing under the laws of this state or under the  
1235 laws of the United States which has its principal place of  
1236 business in this state or has a branch office authorized under  
1237 the laws of this state or of the United States to receive  
1238 deposits in this state.

1239 (2) Each insurer, self-insurer, or risk retention group  
1240 must promptly notify the agency and the office of cancellation  
1241 or nonrenewal of insurance required by this section.

1242 (3) Upon the entry by a Florida court of an adverse final  
1243 judgment against a licensee as defined in s. 400.023(2) which  
1244 arises from an award pursuant to s. 400.023, including an  
1245 arbitration award, for a claim of negligence or a violation of  
1246 residents' rights, in contract or tort, or from noncompliance  
1247 with the terms of a settlement agreement as determined by a  
1248 court or arbitration panel which arises from a claim pursuant to  
1249 s. 400.023, the licensee shall pay the plaintiff the entire  
1250 amount of the judgment, award, or settlement and all accrued

1251 interest pursuant to s. 400.024.

1252 (4) Any deceptive, untrue, or fraudulent representation or  
1253 violation of this section by any individual or entity on behalf  
1254 of the facility may result in disciplinary action pursuant to s.  
1255 400.121 with no aggregate limit. If a nursing home shows a  
1256 continuous pattern of violation of this section, the agency must  
1257 issue a conditional license and may immediately suspend the  
1258 license.

1259 Section 24. Subsection (3) of section 400.19, Florida  
1260 Statutes, is amended to read:

1261 400.19 Right of entry and inspection.—

1262 (3) Every 15 months, the agency shall ~~every 15 months~~  
1263 conduct at least one unannounced inspection to determine  
1264 compliance by the licensee with the laws of this state and  
1265 administrative rules that govern statutes, and with rules  
1266 ~~promulgated under the provisions of those statutes, governing~~  
1267 minimum standards of construction, electricity, and emergency  
1268 power sources; quality and adequacy of care;7 and rights of  
1269 residents. ~~The survey shall be conducted every 6 months for the~~  
1270 ~~next 2-year period~~ If a the facility has been cited for a class  
1271 I deficiency or, ~~has been cited~~ for two or more class II  
1272 deficiencies arising from separate surveys or investigations  
1273 within a 60-day period~~7~~ or has had three or more substantiated  
1274 complaints within a 6-month period, each resulting in at least  
1275 one class I or class II deficiency, the agency shall conduct

1276 unannounced inspections at six-month intervals over the course  
 1277 of the next 2-year period. In addition to any other fees or  
 1278 fines in this part, the agency shall assess a fine for each  
 1279 facility that is subject to the 6-month survey cycle. The fine  
 1280 for the 2-year period is ~~shall be~~ \$6,000, one-half to be paid at  
 1281 the completion of each survey. The agency may adjust this fine  
 1282 by the change in the Consumer Price Index, based on the 12  
 1283 months immediately preceding the increase, to cover the cost of  
 1284 the additional surveys. The agency shall verify through  
 1285 subsequent inspection that any deficiency identified during  
 1286 inspection is corrected. However, the agency may verify the  
 1287 correction of a class III or class IV deficiency unrelated to  
 1288 resident rights or resident care without reinspecting the  
 1289 facility if adequate written documentation has been received  
 1290 from the facility, ~~7~~ which provides assurance that the deficiency  
 1291 has been corrected. The giving or causing to be given of advance  
 1292 notice of such unannounced inspections by an employee of the  
 1293 agency to any unauthorized person constitutes grounds ~~shall~~  
 1294 ~~constitute cause~~ for the suspension of such person, pursuant to  
 1295 chapter 110, for not fewer than 5 working days ~~according to the~~  
 1296 ~~provisions of chapter 110.~~

1297 Section 25. Subsection (3) of section 400.191, Florida  
 1298 Statutes, is amended, to read:

1299 400.191 Availability, distribution, and posting of reports  
 1300 and records.—

1301           (3) Each nursing home facility licensee shall maintain as  
1302 public information, available upon request, records of all cost  
1303 and inspection reports pertaining to that facility which ~~that~~  
1304 have been filed with, or issued by, any governmental agency.  
1305 Copies of the reports shall be retained in the records for not  
1306 less than 5 years following the date the reports are filed or  
1307 issued.

1308           (a) The agency shall publish in the Nursing Home Guide a  
1309 "Nursing Home Guide Watch List" to assist consumers in  
1310 evaluating the quality of nursing home care in Florida. The  
1311 watch list must identify each facility that met the criteria for  
1312 a conditional licensure status and each facility that is  
1313 operating under bankruptcy protection. The watch list must  
1314 include, but need ~~is~~ not be limited to, the facility's name,  
1315 address, and ownership; the county in which the facility  
1316 operates; the license expiration date; the number of licensed  
1317 beds; a description of the deficiency causing the facility to be  
1318 placed on the list; any corrective action taken; and the  
1319 cumulative number of days and percentage of days the facility  
1320 had a conditional license in the past 30 months. The watch list  
1321 must include a brief description regarding how to choose a  
1322 nursing home, the categories of licensure, the agency's  
1323 inspection process, an explanation of terms used in the watch  
1324 list, and the addresses and phone numbers of the agency's health  
1325 quality assurance field offices.

1326 (b) Upon publication of each Nursing Home Guide, the  
1327 agency shall ~~must~~ post a copy of the guide on its website by the  
1328 15th calendar day of the second month following the end of the  
1329 calendar quarter. Each nursing home licensee must retrieve the  
1330 most recent version of the Nursing Home Guide from the agency's  
1331 website.

1332 (c)1. A facility on the watch list must conspicuously post  
1333 a sign on each entrance to the facility. The lettering must be  
1334 red, in at least 48-point type, and printed on white card stock.  
1335 The sign must read as follows:

1336  
1337 "NOTICE: THIS FACILITY IS ON FLORIDA'S NURSING HOME GUIDE WATCH  
1338 LIST."

1339  
1340 2. Signs must remain posted for the duration of the 30-  
1341 month watch list period. If the agency determines that a  
1342 facility is in violation of this section, the agency must cite  
1343 the facility for a class I violation, place the facility on a 6-  
1344 month inspection cycle, and extend the duration of a facility's  
1345 inclusion on the watch list for an additional 30 months.

1346 Section 26. Section 400.226, Florida Statutes, is created  
1347 to read:

1348 400.226 Mandatory compliance with federal requirements.-  
1349 Licensed nursing homes shall comply with the requirements of 42  
1350 C.F.R. 483, which are incorporated herein by reference. A

1351 violation of the residents' rights established under this  
 1352 section is considered negligence per se.

1353 Section 27. Paragraphs (d) and (g) of subsection (2) and  
 1354 paragraph (a) of subsection (8) of section 400.23, Florida  
 1355 Statutes, are amended to read:

1356 400.23 Rules; evaluation and deficiencies; licensure  
 1357 status.—

1358 (2) Pursuant to the intention of the Legislature, the  
 1359 agency, in consultation with the Department of Health and the  
 1360 Department of Elderly Affairs, shall adopt and enforce rules to  
 1361 implement this part and part II of chapter 408, which shall  
 1362 include reasonable and fair criteria in relation to:

1363 (d) The equipment essential to the health and welfare of  
 1364 the residents, including equipment sufficient to provide  
 1365 adequate day-to-day electricity, a fully operational emergency  
 1366 power source, and a supply of fuel sufficient to sustain the  
 1367 emergency power source for at least 96 hours during a power  
 1368 outage. The emergency power source must provide enough  
 1369 electricity to consistently maintain an air temperature between  
 1370 71 and 81° F in the facility.

1371 (g) The preparation and annual update of a comprehensive  
 1372 emergency management plan. The agency shall adopt rules  
 1373 establishing minimum criteria for the plan after consultation  
 1374 with the Division of Emergency Management. At a minimum, the  
 1375 rules must provide for plan components that address emergency

1376 evacuation transportation; adequate sheltering arrangements;  
1377 postdisaster activities, including emergency power, food, and  
1378 water; postdisaster transportation; supplies; staffing;  
1379 emergency equipment; individual identification of residents and  
1380 transfer of records; and responding to family inquiries. The  
1381 plan must provide for the evacuation of all residents in the  
1382 event that the facility experiences a power outage and is unable  
1383 to sustain adequate emergency power as required in paragraph  
1384 (d). The comprehensive emergency management plan is subject to  
1385 review and approval by the local emergency management agency.  
1386 During its review, the local emergency management agency shall  
1387 ensure that the following agencies, at a minimum, are given the  
1388 opportunity to review the plan: the Department of Elderly  
1389 Affairs, the Department of Health, the Agency for Health Care  
1390 Administration, and the Division of Emergency Management. Also,  
1391 appropriate volunteer organizations must be given the  
1392 opportunity to review the plan. The local emergency management  
1393 agency shall complete its review within 60 days and either  
1394 approve the plan or advise the facility of necessary revisions.

1395 (8) The agency shall adopt rules pursuant to this part and  
1396 part II of chapter 408 to provide that, when the criteria  
1397 established under subsection (2) are not met, such deficiencies  
1398 shall be classified according to the nature and the scope of the  
1399 deficiency. The scope shall be cited as isolated, patterned, or  
1400 widespread. An isolated deficiency is a deficiency affecting one



1401 or a very limited number of residents, or involving one or a  
1402 very limited number of staff, or a situation that occurred only  
1403 occasionally or in a very limited number of locations. A  
1404 patterned deficiency is a deficiency where more than a very  
1405 limited number of residents are affected, or more than a very  
1406 limited number of staff are involved, or the situation has  
1407 occurred in several locations, or the same resident or residents  
1408 have been affected by repeated occurrences of the same deficient  
1409 practice but the effect of the deficient practice is not found  
1410 to be pervasive throughout the facility. A widespread deficiency  
1411 is a deficiency in which the problems causing the deficiency are  
1412 pervasive in the facility or represent systemic failure that has  
1413 affected or has the potential to affect a large portion of the  
1414 facility's residents. The agency shall indicate the  
1415 classification on the face of the notice of deficiencies as  
1416 follows:

1417 (a) A class I deficiency is a deficiency that the agency  
1418 determines presents a situation in which immediate corrective  
1419 action is necessary because the facility's noncompliance has  
1420 caused, or is likely to cause, serious injury, harm, impairment,  
1421 or death to a resident receiving care in a facility. The  
1422 condition or practice constituting a class I violation shall be  
1423 abated or eliminated immediately, unless a fixed period of time,  
1424 as determined by the agency, is required for correction. A class  
1425 I deficiency is subject to a civil penalty of \$10,000 for an

1426 isolated deficiency, \$12,500 for a patterned deficiency, and  
 1427 \$15,000 for a widespread deficiency. If the agency determines  
 1428 that a resident died as the result of abuse or neglect, it shall  
 1429 immediately impose a \$1 million civil penalty on the facility  
 1430 for the deficiency. The fine amount shall be doubled for each  
 1431 deficiency if the facility was previously cited for one or more  
 1432 class I or class II deficiencies during the last licensure  
 1433 inspection or any inspection or complaint investigation since  
 1434 the last licensure inspection. A fine must be levied  
 1435 notwithstanding the correction of the deficiency.

1436 Section 28. Paragraph (a) of subsection (1) of section  
 1437 406.11, Florida Statutes, is amended to read:

1438 406.11 Examinations, investigations, and autopsies.—

1439 (1) In any of the following circumstances involving the  
 1440 death of a human being, the medical examiner of the district in  
 1441 which the death occurred or the body was found shall determine  
 1442 the cause of death and shall, for that purpose, make or have  
 1443 performed such examinations, investigations, and autopsies as he  
 1444 or she shall deem necessary or as shall be requested by the  
 1445 state attorney:

1446 (a) When any person dies in the state:

- 1447 1. Of criminal violence.
- 1448 2. By accident.
- 1449 3. By suicide.
- 1450 4. Suddenly, when in apparent good health.

- 1451           5. Unattended by a practicing physician or other  
 1452 recognized practitioner.
- 1453           6. In any prison or penal institution.
- 1454           7. In any nursing home on the federal Special Focus  
 1455 Facility list or on the Nursing Home Guide Watch List as  
 1456 described in s. 400.191(3)(a).
- 1457           ~~8.7.~~ In police custody.
- 1458           ~~9.8.~~ In any suspicious or unusual circumstance.
- 1459           ~~10.9.~~ By criminal abortion.
- 1460           ~~11.10.~~ By poison.
- 1461           ~~12.11.~~ By disease constituting a threat to public health.
- 1462           ~~13.12.~~ By disease, injury, or toxic agent resulting from  
 1463 employment.

1464           Section 29. Section 406.13, Florida Statutes, is amended  
 1465 to read:

1466           406.13 Examiner's report; maintenance of records.—Upon  
 1467 receipt of such notification pursuant to s. 406.12, the district  
 1468 medical examiner or her or his associate shall examine or  
 1469 otherwise take charge of the dead body and shall notify the  
 1470 appropriate law enforcement agency pursuant to s. 406.145. When  
 1471 the cause of death has been established within reasonable  
 1472 medical certainty by the district medical examiner or her or his  
 1473 associate, she or he shall so report or make available to the  
 1474 state attorney, in writing, her or his determination as to the  
 1475 cause of said death. If it is determined that a nursing home

1476 resident died as the result of abuse, sexual abuse, or  
1477 negligence, the medical examiner must notify and forward all  
1478 documentation in support of the determination to the state  
1479 attorney. Upon receipt of such notification, the state attorney  
1480 shall seat a grand jury within 90 days and investigate whether  
1481 the filing of criminal charges is warranted. Duplicate copies of  
1482 records and the detailed findings of autopsy and laboratory  
1483 investigations shall be maintained by the district medical  
1484 examiner. Any evidence or specimen coming into the possession of  
1485 said medical examiner in connection with any investigation or  
1486 autopsy may be retained by the medical examiner or be delivered  
1487 to one of the law enforcement officers assigned to the  
1488 investigation of the death.

1489 Section 30. Section 429.298, Florida Statutes, is  
1490 repealed.

1491 Section 31. Subsection (2) of section 429.34, Florida  
1492 Statutes, is amended to read:

1493 429.34 Right of entry and inspection.—

1494 (2) The agency shall inspect each licensed assisted living  
1495 facility at least once every 24 months to determine compliance  
1496 by the licensee with this chapter and related rules governing  
1497 minimum standards of construction, electricity, and emergency  
1498 power sources; quality and adequacy of care; and resident  
1499 rights. If an assisted living facility is cited for a class I  
1500 violation or three or more class II violations arising from

1501 separate surveys within a 60-day period or due to unrelated  
1502 circumstances during the same survey, the agency must conduct an  
1503 additional licensure inspection within 6 months.

1504 Section 32. Paragraphs (a) and (b) of subsection (1) of  
1505 section 429.41, Florida Statutes, are amended to read:

1506 429.41 Rules establishing standards.—

1507 (1) It is the intent of the Legislature that rules  
1508 published and enforced pursuant to this section shall include  
1509 criteria by which a reasonable and consistent quality of  
1510 resident care and quality of life may be ensured and the results  
1511 of such resident care may be demonstrated. Such rules shall also  
1512 ensure a safe and sanitary environment that is residential and  
1513 noninstitutional in design or nature. It is further intended  
1514 that reasonable efforts be made to accommodate the needs and  
1515 preferences of residents to enhance the quality of life in a  
1516 facility. Uniform firesafety standards for assisted living  
1517 facilities shall be established by the State Fire Marshal  
1518 pursuant to s. 633.206. The agency, in consultation with the  
1519 department, may adopt rules to administer the requirements of  
1520 part II of chapter 408. In order to provide safe and sanitary  
1521 facilities and the highest quality of resident care  
1522 accommodating the needs and preferences of residents, the  
1523 department, in consultation with the agency, the Department of  
1524 Children and Families, and the Department of Health, shall adopt  
1525 rules, policies, and procedures to administer this part, which

1526 | must include reasonable and fair minimum standards in relation  
 1527 | to:

1528 |       (a) The requirements for and maintenance of facilities,  
 1529 | not in conflict with chapter 553, relating to electricity,  
 1530 | plumbing, heating, cooling, lighting, ventilation, living space,  
 1531 | and other housing conditions, which will ensure the health,  
 1532 | safety, and comfort of residents suitable to the size of the  
 1533 | structure.

1534 |       1. Firesafety evacuation capability determination.—An  
 1535 | evacuation capability evaluation for initial licensure shall be  
 1536 | conducted within 6 months after the date of licensure.

1537 |       2. Firesafety requirements.—

1538 |       a. The National Fire Protection Association, Life Safety  
 1539 | Code, NFPA 101 and 101A, current editions, shall be used in  
 1540 | determining the uniform firesafety code adopted by the State  
 1541 | Fire Marshal for assisted living facilities, pursuant to s.  
 1542 | 633.206.

1543 |       b. A local government or a utility may charge fees only in  
 1544 | an amount not to exceed the actual expenses incurred by the  
 1545 | local government or the utility relating to the installation and  
 1546 | maintenance of an automatic fire sprinkler system in a licensed  
 1547 | assisted living facility structure.

1548 |       c. All licensed facilities must have an annual fire  
 1549 | inspection conducted by the local fire marshal or authority  
 1550 | having jurisdiction.

1551 d. An assisted living facility that is issued a building  
1552 permit or certificate of occupancy before July 1, 2016, may at  
1553 its option and after notifying the authority having  
1554 jurisdiction, remain under the provisions of the 1994 and 1995  
1555 editions of the National Fire Protection Association, Life  
1556 Safety Code, NFPA 101, and NFPA 101A. The facility opting to  
1557 remain under such provisions may make repairs, modernizations,  
1558 renovations, or additions to, or rehabilitate, the facility in  
1559 compliance with NFPA 101, 1994 edition, and may utilize the  
1560 alternative approaches to life safety in compliance with NFPA  
1561 101A, 1995 edition. However, a facility for which a building  
1562 permit or certificate of occupancy is issued before July 1,  
1563 2016, that undergoes Level III building alteration or  
1564 rehabilitation, as defined in the Florida Building Code, or  
1565 seeks to utilize features not authorized under the 1994 or 1995  
1566 editions of the Life Safety Code must thereafter comply with all  
1567 aspects of the uniform firesafety standards established under s.  
1568 633.206, and the Florida Fire Prevention Code, in effect for  
1569 assisted living facilities as adopted by the State Fire Marshal.

1570 3. Resident elopement requirements.—Facilities are  
1571 required to conduct a minimum of two resident elopement  
1572 prevention and response drills per year. All administrators and  
1573 direct care staff must participate in the drills which shall  
1574 include a review of procedures to address resident elopement.  
1575 Facilities must document the implementation of the drills and

1576 ensure that the drills are conducted in a manner consistent with  
1577 the facility's resident elopement policies and procedures.

1578 4. Emergency power sources for use during power outages.-  
1579 Facilities are required maintain a fully operational emergency  
1580 power source and a supply of fuel sufficient to sustain the  
1581 emergency power source for at least 96 hours during a power  
1582 outage. The emergency power source must provide enough  
1583 electricity to consistently maintain an air temperature between  
1584 71 and 81° F in the facility.

1585 (b) The preparation and annual update of a comprehensive  
1586 emergency management plan. Such standards must be included in  
1587 the rules adopted by the department after consultation with the  
1588 Division of Emergency Management. At a minimum, the rules must  
1589 provide for plan components that address emergency evacuation  
1590 transportation; adequate sheltering arrangements; postdisaster  
1591 activities, including provision of emergency power, food, and  
1592 water; postdisaster transportation; supplies; staffing;  
1593 emergency equipment; individual identification of residents and  
1594 transfer of records; communication with families; and responses  
1595 to family inquiries. The comprehensive emergency management plan  
1596 must provide for the evacuation of all residents of a facility  
1597 if the facility experiences a power outage and is unable to  
1598 sustain emergency power, as required in subparagraph (a)4. The  
1599 comprehensive emergency management plan is subject to review and  
1600 approval by the local emergency management agency. During its



1601 review, the local emergency management agency shall ensure that  
1602 the following agencies, at a minimum, are given the opportunity  
1603 to review the plan: the Department of Elderly Affairs, the  
1604 Department of Health, the Agency for Health Care Administration,  
1605 and the Division of Emergency Management. Also, appropriate  
1606 volunteer organizations must be given the opportunity to review  
1607 the plan. The local emergency management agency shall complete  
1608 its review within 60 days and either approve the plan or advise  
1609 the facility of necessary revisions.

1610 Section 33. This act shall take effect July 1, 2018.