

By the Committee on Appropriations; and Senator Book

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1 A bill to be entitled
2 An act relating to aging programs; transferring the
3 powers, duties, and functions of the Department of
4 Elderly Affairs relating to hospices, assisted living
5 facilities, adult family-care homes, and adult day
6 care centers to the Agency for Health Care
7 Administration; amending s. 20.41, F.S.; requiring the
8 department to provide certain documents and
9 information to the agency upon request; amending s.
10 20.42, F.S.; establishing that the agency is the lead
11 agency responsible for the regulation of hospices,
12 assisted living facilities, adult day care centers,
13 and adult family-care homes; amending ss. 400.605,
14 400.60501, 400.6095, 400.610, 429.02, 429.17, 429.23,
15 429.24, 429.255, 429.256, 429.27, 429.275, 429.31,
16 429.34, 429.41, 429.42, 429.52, 429.54, 429.63,
17 429.67, 429.71, 429.73, 429.75, 429.81, 429.917,
18 429.918, 429.929, and 765.110, F.S.; conforming
19 provisions to changes made by the act; providing an
20 effective date.

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

23
24 Section 1. All powers, duties, functions, records,
25 personnel, property, salary rate, budget authority, and
26 administrative authority of the Department of Elderly Affairs
27 relating to hospices, assisted living facilities, adult family-
28 care homes, and adult day care centers, and the administrative
29 rules in chapters 58A-2, 58A-5, 58A-6, 58A-14, and 58T-1,

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30 Florida Administrative Code, are transferred by a type two
31 transfer, as defined in s. 20.06(2), Florida Statutes, to the
32 Agency for Health Care Administration.

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

35 20.41 Department of Elderly Affairs.—There is created a
36 Department of Elderly Affairs.

37 (9) Upon request, the department shall provide the Agency
38 for Health Care Administration with any documents and
39 information needed for the agency's regulation of hospices,
40 assisted living facilities, adult family-care homes, and adult
41 day care centers.

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

44 20.42 Agency for Health Care Administration.—

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

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59 family-care homes.

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

62 400.605 Administration; forms; fees; rules; inspections;
63 fines.—

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

69 (a) The qualifications of professional and ancillary
70 personnel to ensure the provision of appropriate and adequate
71 hospice care.

72 (b) Standards and procedures for the administrative
73 management of a hospice.

74 (c) Standards for hospice services that ensure the
75 provision of quality patient care.

76 (d) Components of a patient plan of care.

77 (e) Procedures relating to the implementation of advanced
78 directives and do-not-resuscitate orders.

79 (f) Procedures for maintaining and ensuring confidentiality
80 of patient records.

81 (g) Standards for hospice care provided in freestanding
82 inpatient facilities that are not otherwise licensed medical
83 facilities and in residential care facilities such as nursing
84 homes, assisted living facilities, adult family-care homes, and
85 hospice residential units and facilities.

86 (h) Components of a comprehensive emergency management
87 plan, developed in consultation with the Department of Health~~7~~

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88 ~~the Department of Elderly Affairs,~~ and the Division of Emergency
89 Management.

90 (i) Standards and procedures relating to the establishment
91 and activities of a quality assurance and utilization review
92 committee.

93 (j) Components and procedures relating to the collection of
94 patient demographic data and other information on the provision
95 of hospice care in this state.

96 Section 5. Section 400.60501, Florida Statutes, is amended
97 to read:

98 400.60501 Outcome measures; adoption of federal quality
99 measures; public reporting; annual report.—

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

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

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

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

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

115 400.6095 Patient admission; assessment; plan of care;
116 discharge; death.—

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117 (8) The hospice care team may withhold or withdraw
118 cardiopulmonary resuscitation if presented with an order not to
119 resuscitate executed pursuant to s. 401.45. The agency
120 ~~department~~ shall adopt rules providing for the implementation of
121 such orders. Hospice staff shall not be subject to criminal
122 prosecution or civil liability, nor be considered to have
123 engaged in negligent or unprofessional conduct, for withholding
124 or withdrawing cardiopulmonary resuscitation pursuant to such an
125 order and applicable rules. The absence of an order to
126 resuscitate executed pursuant to s. 401.45 does not preclude a
127 physician from withholding or withdrawing cardiopulmonary
128 resuscitation as otherwise permitted by law.

129 Section 7. Paragraph (b) of subsection (1) of section
130 400.610, Florida Statutes, is amended to read:

131 400.610 Administration and management of a hospice.—

132 (1) A hospice shall have a clearly defined organized
133 governing body, consisting of a minimum of seven persons who are
134 representative of the general population of the community
135 served. The governing body shall have autonomous authority and
136 responsibility for the operation of the hospice and shall meet
137 at least quarterly. The governing body shall:

138 (b)1. Prepare and maintain a comprehensive emergency
139 management plan that provides for continuing hospice services in
140 the event of an emergency that is consistent with local special
141 needs plans. The plan shall include provisions for ensuring
142 continuing care to hospice patients who go to special needs
143 shelters. The plan shall include the means by which the hospice
144 provider will continue to provide staff to provide the same type
145 and quantity of services to their patients who evacuate to

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

166 2. For any hospice that operates in more than one county,
167 the Department of Health during its review shall contact state
168 and local health and medical stakeholders when necessary. The
169 Department of Health shall complete its review to ensure that
170 the plan complies with criteria in rules of the agency
171 ~~Department of Elderly Affairs~~ within 90 days after receipt of
172 the plan and shall approve the plan or advise the hospice of
173 necessary revisions. The Department of Health shall make every
174 effort to avoid imposing differing requirements on a hospice

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175 that operates in more than one county as a result of differing
176 or conflicting comprehensive plan requirements of the counties
177 in which the hospice operates.

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

180 429.02 Definitions.—When used in this part, the term:

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

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

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

197 429.17 Expiration of license; renewal; conditional
198 license.—

199 (6) The agency ~~department~~ may by rule establish renewal
200 procedures, identify forms, and specify documentation necessary
201 to administer this section and. ~~The agency, in consultation with~~
202 ~~the department,~~ may adopt rules to administer ~~the requirements~~
203 ~~of~~ part II of chapter 408.

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204 Section 10. Subsection (10) of section 429.23, Florida
205 Statutes, is amended to read:

206 429.23 Internal risk management and quality assurance
207 program; adverse incidents and reporting requirements.—

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

210 Section 11. Subsection (8) of section 429.24, Florida
211 Statutes, is amended to read:

212 429.24 Contracts.—

213 (8) The agency ~~department~~ may by rule clarify terms,
214 establish procedures, clarify refund policies and contract
215 provisions, and specify documentation as necessary to administer
216 this section.

217 Section 12. Subsections (4) and (5) of section 429.255,
218 Florida Statutes, are amended to read:

219 429.255 Use of personnel; emergency care.—

220 (4) Facility staff may withhold or withdraw cardiopulmonary
221 resuscitation or the use of an automated external defibrillator
222 if presented with an order not to resuscitate executed pursuant
223 to s. 401.45. The agency ~~department~~ shall adopt rules providing
224 for the implementation of such orders. Facility staff and
225 facilities may ~~shall~~ not be subject to criminal prosecution or
226 civil liability, nor be considered to have engaged in negligent
227 or unprofessional conduct, for withholding or withdrawing
228 cardiopulmonary resuscitation or use of an automated external
229 defibrillator pursuant to such an order and rules adopted by the
230 agency ~~department~~. The absence of an order to resuscitate
231 executed pursuant to s. 401.45 does not preclude a physician
232 from withholding or withdrawing cardiopulmonary resuscitation or

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233 use of an automated external defibrillator as otherwise
234 permitted by law.

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

238 Section 13. Subsection (6) of section 429.256, Florida
239 Statutes, is amended to read:

240 429.256 Assistance with self-administration of medication.—

241 (6) The agency ~~department~~ may by rule establish facility
242 procedures and interpret terms as necessary to implement this
243 section.

244 Section 14. Subsection (8) of section 429.27, Florida
245 Statutes, is amended to read:

246 429.27 Property and personal affairs of residents.—

247 (8) The agency ~~department~~ may by rule clarify terms and
248 specify procedures and documentation necessary to administer the
249 provisions of this section relating to the proper management of
250 residents' funds and personal property and the execution of
251 surety bonds.

252 Section 15. Subsection (4) of section 429.275, Florida
253 Statutes, is amended to read:

254 429.275 Business practice; personnel records; liability
255 insurance.—The assisted living facility shall be administered on
256 a sound financial basis that is consistent with good business
257 practices.

258 (4) The agency ~~department~~ may by rule clarify terms,
259 establish requirements for financial records, accounting
260 procedures, personnel procedures, insurance coverage, and
261 reporting procedures, and specify documentation as necessary to

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262 implement ~~the requirements of~~ this section.

263 Section 16. Subsection (2) of section 429.31, Florida
264 Statutes, is amended to read:

265 429.31 Closing of facility; notice; penalty.—

266 (2) Immediately upon the notice by the agency of the
267 voluntary or involuntary termination of such operation, the
268 agency shall monitor the transfer of residents to other
269 facilities and ensure that residents' rights are being
270 protected. The agency ~~department~~, in consultation with the
271 Department of Children and Families, shall specify procedures
272 for ensuring that all residents who receive services are
273 appropriately relocated.

274 Section 17. Subsection (1) of section 429.34, Florida
275 Statutes, is amended to read:

276 429.34 Right of entry and inspection.—

277 (1) In addition to the requirements of s. 408.811, a duly
278 designated officer or employee of the agency ~~department~~, of the
279 Department of Children and Families, of the Medicaid Fraud
280 Control Unit of the Office of the Attorney General, or of the
281 state or local fire marshal, or a representative of the State
282 Long-Term Care Ombudsman Program or a member of the state or
283 local long-term care ombudsman council has the right to enter
284 unannounced upon and into the premises of any facility licensed
285 under this part in order to determine the state of compliance
286 with this part, part II of chapter 408, and applicable rules.
287 Data collected by the State Long-Term Care Ombudsman Program,
288 local long-term care ombudsman councils, or the state or local
289 advocacy councils may be used by the agency in investigations
290 involving violations of regulatory standards. A person specified

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291 in this section who knows or has reasonable cause to suspect
292 that a vulnerable adult has been or is being abused, neglected,
293 or exploited shall immediately report such knowledge or
294 suspicion to the central abuse hotline pursuant to chapter 415.

295 Section 18. Section 429.41, Florida Statutes, is amended to
296 read:

297 429.41 Rules establishing standards.—

298 (1) It is the intent of the Legislature that rules
299 published and enforced pursuant to this section shall include
300 criteria by which a reasonable and consistent quality of
301 resident care and quality of life may be ensured and the results
302 of such resident care may be demonstrated. Such rules shall also
303 ensure a safe and sanitary environment that is residential and
304 noninstitutional in design or nature. It is further intended
305 that reasonable efforts be made to accommodate the needs and
306 preferences of residents to enhance the quality of life in a
307 facility. Uniform firesafety standards for assisted living
308 facilities shall be established by the State Fire Marshal
309 pursuant to s. 633.206. The agency, ~~in consultation with the~~
310 ~~department,~~ may adopt rules to administer ~~the requirements of~~
311 part II of chapter 408. In order to provide safe and sanitary
312 facilities and the highest quality of resident care
313 accommodating the needs and preferences of residents, the agency
314 ~~department,~~ in consultation with the ~~agency,~~ the Department of
315 Children and Families, and the Department of Health, shall adopt
316 rules, policies, and procedures to administer this part, which
317 must include reasonable and fair minimum standards in relation
318 to:

319 (a) The requirements for and maintenance of facilities, not

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320 in conflict with chapter 553, relating to plumbing, heating,
321 cooling, lighting, ventilation, living space, and other housing
322 conditions, which will ensure the health, safety, and comfort of
323 residents suitable to the size of the structure.

324 1. Firesafety evacuation capability determination.—An
325 evacuation capability evaluation for initial licensure shall be
326 conducted within 6 months after the date of licensure.

327 2. Firesafety requirements.—

328 a. The National Fire Protection Association, Life Safety
329 Code, NFPA 101 and 101A, current editions, shall be used in
330 determining the uniform firesafety code adopted by the State
331 Fire Marshal for assisted living facilities, pursuant to s.
332 633.206.

333 b. A local government or a utility may charge fees only in
334 an amount not to exceed the actual expenses incurred by the
335 local government or the utility relating to the installation and
336 maintenance of an automatic fire sprinkler system in a licensed
337 assisted living facility structure.

338 c. All licensed facilities must have an annual fire
339 inspection conducted by the local fire marshal or authority
340 having jurisdiction.

341 d. An assisted living facility that is issued a building
342 permit or certificate of occupancy before July 1, 2016, may at
343 its option and after notifying the authority having
344 jurisdiction, remain under the provisions of the 1994 and 1995
345 editions of the National Fire Protection Association, Life
346 Safety Code, NFPA 101, and NFPA 101A. The facility opting to
347 remain under such provisions may make repairs, modernizations,
348 renovations, or additions to, or rehabilitate, the facility in

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349 compliance with NFPA 101, 1994 edition, and may utilize the
350 alternative approaches to life safety in compliance with NFPA
351 101A, 1995 edition. However, a facility for which a building
352 permit or certificate of occupancy is issued before July 1,
353 2016, that undergoes Level III building alteration or
354 rehabilitation, as defined in the Florida Building Code, or
355 seeks to utilize features not authorized under the 1994 or 1995
356 editions of the Life Safety Code must thereafter comply with all
357 aspects of the uniform firesafety standards established under s.
358 633.206, and the Florida Fire Prevention Code, in effect for
359 assisted living facilities as adopted by the State Fire Marshal.

360 3. Resident elopement requirements.—Facilities are required
361 to conduct a minimum of two resident elopement prevention and
362 response drills per year. All administrators and direct care
363 staff must participate in the drills, which shall include a
364 review of procedures to address resident elopement. Facilities
365 must document the implementation of the drills and ensure that
366 the drills are conducted in a manner consistent with the
367 facility's resident elopement policies and procedures.

368 (b) The preparation and annual update of a comprehensive
369 emergency management plan. Such standards must be included in
370 the rules adopted by the agency ~~department~~ after consultation
371 with the Division of Emergency Management. At a minimum, the
372 rules must provide for plan components that address emergency
373 evacuation transportation; adequate sheltering arrangements;
374 postdisaster activities, including provision of emergency power,
375 food, and water; postdisaster transportation; supplies;
376 staffing; emergency equipment; individual identification of
377 residents and transfer of records; communication with families;

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378 and responses to family inquiries. The comprehensive emergency
379 management plan is subject to review and approval by the local
380 emergency management agency. During its review, the local
381 emergency management agency shall ensure that the following
382 agencies, at a minimum, are given the opportunity to review the
383 plan: ~~the Department of Elderly Affairs,~~ the Department of
384 Health, the Agency for Health Care Administration, and the
385 Division of Emergency Management. Also, appropriate volunteer
386 organizations must be given the opportunity to review the plan.
387 The local emergency management agency shall complete its review
388 within 60 days and either approve the plan or advise the
389 facility of necessary revisions.

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

395 (d) All sanitary conditions within the facility and its
396 surroundings which will ensure the health and comfort of
397 residents. The rules must clearly delineate the responsibilities
398 of the agency's licensure and survey staff, the county health
399 departments, and the local authority having jurisdiction over
400 firesafety and ensure that inspections are not duplicative. The
401 agency may collect fees for food service inspections conducted
402 by the county health departments and transfer such fees to the
403 Department of Health.

404 (e) License application and license renewal, transfer of
405 ownership, proper management of resident funds and personal
406 property, surety bonds, resident contracts, refund policies,

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407 financial ability to operate, and facility and staff records.

408 (f) Inspections, complaint investigations, moratoriums,
409 classification of deficiencies, levying and enforcement of
410 penalties, and use of income from fees and fines.

411 (g) The enforcement of the resident bill of rights
412 specified in s. 429.28.

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

415 1. The supervision of residents;

416 2. The provision of personal services;

417 3. The provision of, or arrangement for, social and leisure
418 activities;

419 4. The arrangement for appointments and transportation to
420 appropriate medical, dental, nursing, or mental health services,
421 as needed by residents;

422 5. The management of medication;

423 6. The nutritional needs of residents;

424 7. Resident records; and

425 8. Internal risk management and quality assurance.

426 (i) Facilities holding a limited nursing, extended
427 congregate care, or limited mental health license.

428 (j) The establishment of specific criteria to define
429 appropriateness of resident admission and continued residency in
430 a facility holding a standard, limited nursing, extended
431 congregate care, and limited mental health license.

432 (k) The use of physical or chemical restraints. The use of
433 physical restraints is limited to half-bed rails as prescribed
434 and documented by the resident's physician with the consent of
435 the resident or, if applicable, the resident's representative or

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436 designee or the resident's surrogate, guardian, or attorney in
437 fact. The use of chemical restraints is limited to prescribed
438 dosages of medications authorized by the resident's physician
439 and must be consistent with the resident's diagnosis. Residents
440 who are receiving medications that can serve as chemical
441 restraints must be evaluated by their physician at least
442 annually to assess:

- 443 1. The continued need for the medication.
- 444 2. The level of the medication in the resident's blood.
- 445 3. The need for adjustments in the prescription.

446 (1) The establishment of specific policies and procedures
447 on resident elopement. Facilities shall conduct a minimum of two
448 resident elopement drills each year. All administrators and
449 direct care staff shall participate in the drills. Facilities
450 shall document the drills.

451 (2) In adopting any rules pursuant to this part, the
452 ~~department, in conjunction with the agency,~~ shall make distinct
453 standards for facilities based upon facility size; the types of
454 care provided; the physical and mental capabilities and needs of
455 residents; the type, frequency, and amount of services and care
456 offered; and the staffing characteristics of the facility. Rules
457 developed pursuant to this section may not restrict the use of
458 shared staffing and shared programming in facilities that are
459 part of retirement communities that provide multiple levels of
460 care and otherwise meet the requirements of law and rule. If a
461 continuing care facility licensed under chapter 651 or a
462 retirement community offering multiple levels of care licenses a
463 building or part of a building designated for independent living
464 for assisted living, staffing requirements established in rule

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465 apply only to residents who receive personal, limited nursing,
466 or extended congregate care services under this part. Such
467 facilities shall retain a log listing the names and unit number
468 for residents receiving these services. The log must be
469 available to surveyors upon request. Except for uniform
470 firesafety standards, the agency ~~department~~ shall adopt by rule
471 separate and distinct standards for facilities with 16 or fewer
472 beds and for facilities with 17 or more beds. The standards for
473 facilities with 16 or fewer beds must be appropriate for a
474 noninstitutional residential environment; however, the structure
475 may not be more than two stories in height and all persons who
476 cannot exit the facility unassisted in an emergency must reside
477 on the first floor. The ~~department, in conjunction with the~~
478 ~~agency,~~ may make other distinctions among types of facilities as
479 necessary to enforce this part. Where appropriate, the agency
480 shall offer alternate solutions for complying with established
481 standards, based on distinctions made by the ~~department and the~~
482 ~~agency~~ relative to the physical characteristics of facilities
483 and the types of care offered.

484 (3) ~~The department shall submit a copy of proposed rules to~~
485 ~~the Speaker of the House of Representatives, the President of~~
486 ~~the Senate, and appropriate committees of substance for review~~
487 ~~and comment prior to the promulgation thereof.~~ Rules adopted
488 ~~promulgated~~ by the agency ~~department~~ shall encourage the
489 development of homelike facilities that ~~which~~ promote the
490 dignity, individuality, personal strengths, and decisionmaking
491 ability of residents.

492 (4) The agency, ~~in consultation with the department,~~ may
493 waive rules adopted under ~~promulgated pursuant to~~ this part ~~in~~

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494 ~~order~~ to demonstrate and evaluate innovative or cost-effective
495 congregate care alternatives that ~~which~~ enable individuals to
496 age in place. Such waivers may be granted only in instances
497 where there is reasonable assurance that the health, safety, or
498 welfare of residents will not be endangered. To apply for a
499 waiver, the licensee shall submit to the agency a written
500 description of the concept to be demonstrated, including goals,
501 objectives, and anticipated benefits; the number and types of
502 residents who will be affected, if applicable; a brief
503 description of how the demonstration will be evaluated; and any
504 other information deemed appropriate by the agency. Any facility
505 granted a waiver shall submit a report of findings to the agency
506 ~~and the department~~ within 12 months. At such time, the agency
507 may renew or revoke the waiver or pursue any regulatory or
508 statutory changes necessary to allow other facilities to adopt
509 the same practices. The agency ~~department~~ may by rule clarify
510 terms and establish waiver application procedures, criteria for
511 reviewing waiver proposals, and procedures for reporting
512 findings, as necessary to implement this subsection.

513 (5) The agency may use an abbreviated biennial standard
514 licensure inspection that consists of a review of key quality-
515 of-care standards in lieu of a full inspection in a facility
516 that has a good record of past performance. However, a full
517 inspection must be conducted in a facility that has a history of
518 class I or class II violations, uncorrected class III
519 violations, confirmed ombudsman council complaints, or confirmed
520 licensure complaints, within the previous licensure period
521 immediately preceding the inspection or if a potentially serious
522 problem is identified during the abbreviated inspection. The

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523 agency, ~~in consultation with the department,~~ shall develop the
524 key quality-of-care standards with input from the State Long-
525 Term Care Ombudsman Council and representatives of provider
526 groups for incorporation into its rules.

527 Section 19. Subsection (4) of section 429.42, Florida
528 Statutes, is amended to read:

529 429.42 Pharmacy and dietary services.—

530 (4) The agency ~~department~~ may by rule establish procedures
531 and specify documentation as necessary to implement this
532 section.

533 Section 20. Subsections (2), (3), (4), and (6) through (12)
534 of section 429.52, Florida Statutes, are amended to read:

535 429.52 Staff training and educational programs; core
536 educational requirement.—

537 (2) Administrators and other assisted living facility staff
538 must meet minimum training and education requirements
539 established by the agency ~~Department of Elderly Affairs~~ by rule.
540 This training and education is intended to assist facilities to
541 appropriately respond to the needs of residents, to maintain
542 resident care and facility standards, and to meet licensure
543 requirements.

544 (3) The agency, in conjunction with providers, ~~department~~
545 shall develop ~~establish~~ a competency test and a minimum required
546 score to indicate successful completion of the training and
547 educational requirements. ~~The competency test must be developed~~
548 ~~by the department in conjunction with the agency and providers.~~
549 The required training and education must cover at least the
550 following topics:

551 (a) State law and rules relating to assisted living

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552 facilities.

553 (b) Resident rights and identifying and reporting abuse,
554 neglect, and exploitation.

555 (c) Special needs of elderly persons, persons with mental
556 illness, and persons with developmental disabilities and how to
557 meet those needs.

558 (d) Nutrition and food service, including acceptable
559 sanitation practices for preparing, storing, and serving food.

560 (e) Medication management, recordkeeping, and proper
561 techniques for assisting residents with self-administered
562 medication.

563 (f) Firesafety requirements, including fire evacuation
564 drill procedures and other emergency procedures.

565 (g) Care of persons with Alzheimer's disease and related
566 disorders.

567 (4) A new facility administrator must complete the required
568 training and education, including the competency test, within 90
569 days after date of employment as an administrator. Failure to do
570 so is a violation of this part and subjects the violator to an
571 administrative fine as prescribed in s. 429.19. Administrators
572 licensed in accordance with part II of chapter 468 are exempt
573 from this requirement. Other licensed professionals may be
574 exempted, as determined by the agency ~~department~~ by rule.

575 (6) Staff involved with the management of medications and
576 assisting with the self-administration of medications under s.
577 429.256 must complete a minimum of 6 additional hours of
578 training provided by a registered nurse, a licensed pharmacist,
579 or agency ~~department~~ staff. The agency ~~department~~ shall
580 establish by rule the minimum requirements of this additional

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581 training.

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

585 (8) If the ~~department or the~~ agency determines that there
586 are problems in a facility which ~~that~~ could be reduced through
587 specific staff training or education beyond that already
588 required under this section, the ~~department or the~~ agency may
589 require, and provide, or cause to be provided, the training or
590 education of any personal care staff in the facility.

591 (9) The agency ~~department~~ shall adopt rules related to
592 these training requirements, the competency test, necessary
593 procedures, and competency test fees and shall adopt or contract
594 with another entity to develop a curriculum, which shall be used
595 as the minimum core training requirements. The agency ~~department~~
596 shall consult with representatives of stakeholder associations
597 and agencies in the development of the curriculum.

598 (10) The training required by this section other than the
599 preservice orientation must be conducted by persons registered
600 with the agency ~~department~~ as having the requisite experience
601 and credentials to conduct the training. A person seeking to
602 register as a trainer must provide the agency ~~department~~ with
603 proof of completion of the minimum core training education
604 requirements, successful passage of the competency test
605 established under this section, and proof of compliance with the
606 continuing education requirement in subsection (5).

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

608 (a) Provide proof of completion of a 4-year degree from an
609 accredited college or university and must have worked in a

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610 management position in an assisted living facility for 3 years
611 after being core certified;

612 (b) Have worked in a management position in an assisted
613 living facility for 5 years after being core certified and have
614 1 year of teaching experience as an educator or staff trainer
615 for persons who work in assisted living facilities or other
616 long-term care settings;

617 (c) Have been previously employed as a core trainer for the
618 agency or department; or

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

621 (12) The agency ~~department~~ shall adopt rules to establish
622 trainer registration requirements.

623 Section 21. Section 429.54, Florida Statutes, is amended to
624 read:

625 429.54 Collection of information; local subsidy.—

626 (1) To enable the agency ~~department~~ to collect the
627 information requested by the Legislature regarding the actual
628 cost of providing room, board, and personal care in facilities,
629 the agency ~~department~~ is authorized to conduct field visits and
630 audits of facilities as ~~may be~~ necessary. The owners of randomly
631 sampled facilities shall submit such reports, audits, and
632 accountings of cost as the agency ~~department~~ may require by
633 rule; provided that such reports, audits, and accountings shall
634 be the minimum necessary to implement ~~the provisions of~~ this
635 section. Any facility selected to participate in the study shall
636 cooperate with the agency ~~department~~ by providing cost of
637 operation information to interviewers.

638 (2) Local governments or organizations may contribute to

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639 the cost of care of local facility residents by further
640 subsidizing the rate of state-authorized payment to such
641 facilities. Implementation of local subsidy requires agency
642 ~~shall require departmental~~ approval and may ~~shall~~ not result in
643 reductions in the state supplement.

644 Section 22. Subsections (4) and (5) of section 429.63,
645 Florida Statutes, are amended to read:

646 429.63 Legislative intent; purpose.—

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

653 (5) Rules of the agency ~~department~~ relating to adult
654 family-care homes shall be as minimal and flexible as possible
655 to ensure the protection of residents while minimizing the
656 obstacles that could inhibit the establishment of adult family-
657 care homes.

658 Section 23. Subsections (9), (10), and (11) of section
659 429.67, Florida Statutes, are amended to read:

660 429.67 Licensure.—

661 (9) In addition to the license categories available in s.
662 408.808, the agency may issue a conditional license to a
663 provider for the purpose of bringing the adult family-care home
664 into compliance with licensure requirements. A conditional
665 license must be limited to a specific period, not exceeding 6
666 months. The agency ~~department~~ shall, by rule, establish criteria
667 for issuing conditional licenses.

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

671 ~~(11) The agency may adopt rules to administer the~~
672 ~~requirements of part II of chapter 408.~~

673 Section 24. Subsection (6) of section 429.71, Florida
674 Statutes, is amended to read:

675 429.71 Classification of deficiencies; administrative
676 fines.—

677 (6) The agency shall establish ~~department shall set forth,~~
678 by rule, notice requirements and procedures for correction of
679 deficiencies.

680 Section 25. Section 429.73, Florida Statutes, is amended to
681 read:

682 429.73 Rules and standards relating to adult family-care
683 homes.—

684 (1) The agency, ~~in consultation with the department, may~~
685 ~~adopt rules to administer the requirements of part II of chapter~~
686 ~~408. The department,~~ in consultation with the Department of
687 Health and, the Department of Children and Families, ~~and the~~
688 ~~agency shall, by rule,~~ establish by rule minimum standards to
689 ensure the health, safety, and well-being of each resident in
690 the adult family-care home pursuant to this part. The rules must
691 address:

692 (a) Requirements for the physical site of the facility and
693 facility maintenance.

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

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- 697 1. Room and board.
- 698 2. Assistance necessary to perform the activities of daily
699 living.
- 700 3. Assistance necessary to administer medication.
- 701 4. Supervision of residents.
- 702 5. Health monitoring.
- 703 6. Social and leisure activities.
- 704 (c) Standards and procedures for license application and
705 annual license renewal, advertising, proper management of each
706 resident's funds and personal property and personal affairs,
707 financial ability to operate, medication management,
708 inspections, complaint investigations, and facility, staff, and
709 resident records.
- 710 (d) Qualifications, training, standards, and
711 responsibilities for providers and staff.
- 712 (e) Compliance with chapter 419, relating to community
713 residential homes.
- 714 (f) Criteria and procedures for determining the
715 appropriateness of a resident's placement and continued
716 residency in an adult family-care home. A resident who requires
717 24-hour nursing supervision may not be retained in an adult
718 family-care home unless such resident is an enrolled hospice
719 patient and the resident's continued residency is mutually
720 agreeable to the resident and the provider.
- 721 (g) Procedures for providing notice and assuring the least
722 possible disruption of residents' lives when residents are
723 relocated, an adult family-care home is closed, or the ownership
724 of an adult family-care home is transferred.
- 725 (h) Procedures to protect the residents' rights as provided

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726 in s. 429.85.

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

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

731 (2) The agency ~~department~~ shall ~~by rule~~ provide by rule
732 minimum standards and procedures for emergencies. Pursuant to s.
733 633.206, the State Fire Marshal, in consultation with the
734 ~~department and the~~ agency, shall adopt uniform firesafety
735 standards for adult family-care homes.

736 (3) The agency ~~department~~ shall adopt rules providing for
737 the implementation of orders not to resuscitate. The provider
738 may withhold or withdraw cardiopulmonary resuscitation if
739 presented with an order not to resuscitate executed pursuant to
740 s. 401.45. The provider shall not be subject to criminal
741 prosecution or civil liability, nor be considered to have
742 engaged in negligent or unprofessional conduct, for withholding
743 or withdrawing cardiopulmonary resuscitation pursuant to such an
744 order and applicable rules.

745 Section 26. Subsections (3), (4), and (5) of section
746 429.75, Florida Statutes, are amended to read:

747 429.75 Training and education programs.—

748 (3) Providers must complete the training and education
749 program within a reasonable time determined by the agency
750 ~~department~~. Failure to complete the training and education
751 program within the time set by the agency ~~department~~ is a
752 violation of this part and subjects the provider to revocation
753 of the license.

754 (4) If the Department of Children and Families or ~~the~~

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755 agency, ~~or the department~~ determines that there are problems in
756 an adult family-care home which could be reduced through
757 specific training or education beyond that required under this
758 section, the agency may require the provider or staff to
759 complete such training or education.

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

762 Section 27. Subsection (2) of section 429.81, Florida
763 Statutes, is amended to read:

764 429.81 Residency agreements.—

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

770 Section 28. Subsection (1) of section 429.917, Florida
771 Statutes, is amended to read:

772 429.917 Patients with Alzheimer's disease or other related
773 disorders; staff training requirements; certain disclosures.—

774 (1) An adult day care center licensed under this part must
775 provide the following staff training:

776 (a) Upon beginning employment with the facility, each
777 employee must receive basic written information about
778 interacting with participants who have Alzheimer's disease or
779 dementia-related disorders.

780 (b) In addition to the information provided under paragraph
781 (a), newly hired adult day care center personnel who are
782 expected to, or whose responsibilities require them to, have
783 direct contact with participants who have Alzheimer's disease or

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784 dementia-related disorders must complete initial training of at
785 least 1 hour within the first 3 months after beginning
786 employment. The training must include an overview of dementias
787 and must provide instruction in basic skills for communicating
788 with persons who have dementia.

789 (c) In addition to the requirements of paragraphs (a) and
790 (b), an employee who will be providing direct care to a
791 participant who has Alzheimer's disease or a dementia-related
792 disorder must complete an additional 3 hours of training within
793 9 months after beginning employment. This training must include,
794 but is not limited to, the management of problem behaviors,
795 information about promoting the participant's independence in
796 activities of daily living, and instruction in skills for
797 working with families and caregivers.

798 (d) For certified nursing assistants, the required 4 hours
799 of training shall be part of the total hours of training
800 required annually.

801 (e) For a health care practitioner as defined in s.
802 456.001, continuing education hours taken as required by that
803 practitioner's licensing board shall be counted toward the total
804 of 4 hours.

805 (f) For an employee who is a licensed health care
806 practitioner as defined in s. 456.001, training that is
807 sanctioned by that practitioner's licensing board shall be
808 considered to be approved by the agency ~~Department of Elderly~~
809 ~~Affairs~~.

810 (g) The agency ~~Department of Elderly Affairs~~ or its
811 designee must approve the 1-hour and 3-hour training provided to
812 employees and direct caregivers under this section. The agency

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813 ~~department~~ must consider for approval training offered in a
814 variety of formats. The agency ~~department~~ shall keep a list of
815 current providers who are approved to provide the 1-hour and 3-
816 hour training. The agency ~~department~~ shall adopt rules to
817 establish standards for the employees who are subject to this
818 training, for the trainers, and for the training required in
819 this section.

820 (h) Upon completing any training described in this section,
821 the employee or direct caregiver shall be issued a certificate
822 that includes the name of the training provider, the topic
823 covered, and the date and signature of the training provider.
824 The certificate is evidence of completion of training in the
825 identified topic, and the employee or direct caregiver is not
826 required to repeat training in that topic if the employee or
827 direct caregiver changes employment to a different adult day
828 care center or to an assisted living facility, nursing home,
829 home health agency, or hospice. The direct caregiver must comply
830 with other applicable continuing education requirements.

831 (i) All employees ~~An employee who is hired on or after July~~
832 ~~1, 2004,~~ must complete the training required by this section.

833 Section 29. Subsections (5), (6), and (12) of section
834 429.918, Florida Statutes, are amended to read

835 429.918 Licensure designation as a specialized Alzheimer's
836 services adult day care center.—

837 (5) (a) The operator of an adult day care center having a
838 license designated under this section, and the operator's
839 designee, as applicable, ~~hired on or after July 1, 2012,~~ shall:

840 1. Have at least a bachelor's degree in health care
841 services, social services, or a related field, 1 year of staff

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842 supervisory experience in a social services or health care
843 services setting, and a minimum of 1 year of experience in
844 providing services to persons who have dementia;

845 2. Be a registered or practical nurse licensed in this
846 state, have 1 year of staff supervisory experience in a social
847 services or health care services setting, and have a minimum of
848 1 year of experience in providing services to persons who have
849 dementia; or

850 3. Have 5 years of staff supervisory experience in a social
851 services or health care services setting and a minimum of 3
852 years of experience in providing services to persons who have
853 dementia.

854 (b) The owner must sign an affidavit under penalty of
855 perjury stating that he or she has verified that the operator,
856 and the operator's designee, if any, have completed the
857 education and experience requirements of this subsection.

858 (6) (a) An adult day care center having a license designated
859 under this section must provide the following staff training and
860 supervision:

861 1. A registered nurse or licensed practical nurse must be
862 on site daily for at least 75 percent of the time that the
863 center is open to ADRD participants. Each licensed practical
864 nurse who works at the center must be supervised in accordance
865 with chapter 464.

866 2. Upon beginning employment with the center, each employee
867 must receive and review basic written information about
868 interacting with ADRD participants.

869 3. In addition to the information provided in subparagraph
870 2., every employee ~~hired on or after July 1, 2012,~~ who has

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871 direct contact with ADRD participants shall complete 4 hours of
872 dementia-specific training within 3 months after employment.

873 4. In addition to the requirements of subparagraphs 2. and
874 3., each employee ~~hired on or after July 1, 2012,~~ who provides
875 direct care to ADRD participants shall complete an additional 4
876 hours of dementia-specific training within 6 months after
877 employment.

878 (b) The agency ~~Department of Elderly Affairs~~ or its
879 designee shall approve the training required under this section.
880 The agency ~~department~~ shall adopt rules to establish standards
881 for employees who are subject to this training, for trainers,
882 and for the training required in this section.

883 (c) Upon completing any training described in this section,
884 the employee shall be issued a certificate that includes the
885 name of the training provider, the topics covered, and the date
886 and signature of the training provider. The certificate is
887 evidence of completion of training in the identified topics, and
888 the employee is not required to repeat training in those topics
889 if the employee changes employment to a different adult day care
890 center.

891 (d) Each employee ~~hired on or after July 1, 2012,~~ who
892 provides direct care to ADRD participants, must receive and
893 review an orientation plan that includes, at a minimum:

894 1. Procedures to locate an ADRD participant who has
895 wandered from the center. These procedures shall be reviewed
896 regularly with all direct care staff.

897 2. Information on the Silver Alert program in this state.

898 3. Information regarding available products or programs
899 used to identify ADRD participants or prevent them from

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900 wandering away from the center, their home, or other locations.

901 (12) The agency ~~Department of Elderly Affairs~~ may adopt
902 rules to administer this section.

903 Section 30. Section 429.929, Florida Statutes, is amended
904 to read:

905 429.929 Rules establishing standards.—

906 (1) The agency, ~~in consultation with the department, may~~
907 ~~adopt rules to administer the requirements of part II of chapter~~
908 ~~408. The Department of Elderly Affairs, in conjunction with the~~
909 ~~agency,~~ shall adopt rules to implement ~~the provisions of this~~
910 part. The rules must include reasonable and fair standards. Any
911 conflict between these standards and those that may be set forth
912 in local, county, or municipal ordinances shall be resolved in
913 favor of those having statewide effect. Such standards must
914 relate to:

915 (a) The maintenance of adult day care centers with respect
916 to plumbing, heating, lighting, ventilation, and other building
917 conditions, including adequate meeting space, to ensure the
918 health, safety, and comfort of participants and protection from
919 fire hazard. Such standards may not conflict with chapter 553
920 and must be based upon the size of the structure and the number
921 of participants.

922 (b) The number and qualifications of all personnel employed
923 by adult day care centers who have responsibilities for the care
924 of participants.

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

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

930 (e) Supportive and optional services provided by adult day
931 care centers.

932 (f) Data and information relative to participants and
933 programs of adult day care centers, including, but not limited
934 to, the physical and mental capabilities and needs of the
935 participants, the availability, frequency, and intensity of
936 basic services and of supportive and optional services provided,
937 the frequency of participation, the distances traveled by
938 participants, the hours of operation, the number of referrals to
939 other centers or elsewhere, and the incidence of illness.

940 (g) Components of a comprehensive emergency management
941 plan, developed in consultation with the Department of Health,
942 ~~the Agency for Health Care Administration,~~ and the Division of
943 Emergency Management.

944 (2) Pursuant to this part, s. 408.811, and applicable
945 rules, the agency may conduct an abbreviated biennial inspection
946 of key quality-of-care standards, in lieu of a full inspection,
947 of a center that has a record of good performance. However, the
948 agency must conduct a full inspection of a center that has had
949 one or more confirmed complaints within the licensure period
950 immediately preceding the inspection or which has a serious
951 problem identified during the abbreviated inspection. The agency
952 shall develop the key quality-of-care standards, taking into
953 consideration the comments and recommendations of ~~the Department~~
954 ~~of Elderly Affairs and of~~ provider groups. These standards shall
955 be included in rules adopted by the agency ~~Department of Elderly~~
956 ~~Affairs.~~

957 Section 31. Subsection (4) of section 765.110, Florida

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958 Statutes, is amended to read:

959 765.110 Health care facilities and providers; discipline.-

960 (4) ~~The Department of Elderly Affairs for hospices and, in~~
961 ~~consultation with the Department of Elderly Affairs, the~~
962 Department of Health, in consultation with the Department of
963 Elderly Affairs, for health care providers; the Agency for
964 Health Care Administration for hospitals, hospices, nursing
965 homes, home health agencies, and health maintenance
966 organizations; and the Department of Children and Families for
967 facilities subject to part I of chapter 394 shall adopt rules to
968 implement this ~~the provisions of the~~ section.

969 Section 32. This act shall take effect July 1, 2019.