

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 family-care homes,
 13 and adult day care centers; amending ss. 400.605,
 14 400.60501, 400.6095, 400.610, 429.02, 429.17, 429.19,
 15 429.23, 429.24, 429.255, 429.256, 429.27, 429.275,
 16 429.31, 429.34, 429.41, 429.42, 429.52, 429.54,
 17 429.63, 429.67, 429.71, 429.73, 429.75, 429.81,
 18 429.929, and 765.110, F.S.; conforming provisions to
 19 changes made by the act; providing an effective date.
 20

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

22
 23 Section 1. All powers, duties, functions, records,
 24 personnel, property, salary rate, budget authority, and
 25 administrative authority of the Department of Elderly Affairs

26 relating to hospices, assisted living facilities, adult family-
27 care homes, and adult day care centers, and the administrative
28 rules in chapters 58A-2, 58A-5, 58A-6, and 58A-14, Florida
29 Administrative Code, are transferred by a type two transfer, as
30 defined in s. 20.06(2), Florida Statutes, to the Agency for
31 Health Care Administration.

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

34 20.41 Department of Elderly Affairs.—There is created a
35 Department of Elderly Affairs.

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

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

43 20.42 Agency for Health Care Administration.—

44 (3) The department shall be the chief health policy and
45 planning entity for the state. The department is responsible for
46 health facility licensure, inspection, and regulatory
47 enforcement; investigation of consumer complaints related to
48 health care facilities and managed care plans; the
49 implementation of the certificate of need program; the operation
50 of the Florida Center for Health Information and Transparency;

51 the administration of the Medicaid program; the administration
52 of the contracts with the Florida Healthy Kids Corporation; the
53 certification of health maintenance organizations and prepaid
54 health clinics as set forth in part III of chapter 641; and any
55 other duties prescribed by statute or agreement. The department
56 is the lead agency responsible for the regulation of hospices,
57 assisted living facilities, adult family-care homes, and adult
58 day care centers.

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

61 400.605 Administration; forms; fees; rules; inspections;
62 fines.—

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

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

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

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

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

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

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

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

85 (h) Components of a comprehensive emergency management
 86 plan, developed in consultation with the Department of Health,
 87 ~~the Department of Elderly Affairs,~~ and the Division of Emergency
 88 Management.

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

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

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

97 400.60501 Outcome measures; adoption of federal quality
 98 measures; public reporting; annual report.-

99 (1) No later than December 31, 2019, ~~the department, in~~
 100 ~~conjunction with~~ the agency, shall adopt the national hospice

101 outcome measures and survey data in 42 C.F.R. part 418 to
102 determine the quality and effectiveness of hospice care for
103 hospices licensed in the state.

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

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

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

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

114 400.6095 Patient admission; assessment; plan of care;
115 discharge; death.—

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

126 physician from withholding or withdrawing cardiopulmonary
127 resuscitation as otherwise permitted by law.

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

130 400.610 Administration and management of a hospice.—

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

137 (b)1. Prepare and maintain a comprehensive emergency
138 management plan that provides for continuing hospice services in
139 the event of an emergency that is consistent with local special
140 needs plans. The plan shall include provisions for ensuring
141 continuing care to hospice patients who go to special needs
142 shelters. The plan shall include the means by which the hospice
143 provider will continue to provide staff to provide the same type
144 and quantity of services to their patients who evacuate to
145 special needs shelters which were being provided to those
146 patients prior to evacuation. The plan is subject to review and
147 approval by the county health department, except as provided in
148 subparagraph 2. During its review, the county health department
149 shall contact state and local health and medical stakeholders
150 when necessary. The county health department shall complete its

151 review to ensure that the plan complies with criteria in rules
152 of the agency ~~Department of Elderly Affairs~~ within 90 days after
153 receipt of the plan and shall either approve the plan or advise
154 the hospice of necessary revisions. Hospice providers may
155 establish links to local emergency operations centers to
156 determine a mechanism by which to approach specific areas within
157 a disaster area in order for the provider to reach its clients.
158 A hospice shall demonstrate a good faith effort to comply with
159 the requirements of this paragraph by documenting attempts of
160 staff to follow procedures as outlined in the hospice's
161 comprehensive emergency management plan and to provide
162 continuing care for those hospice clients who have been
163 identified as needing alternative caregiver services in the
164 event of an emergency.

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

176 | in which the hospice operates.

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

179 | 429.02 Definitions.—When used in this part, the term:

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

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

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

196 | 429.17 Expiration of license; renewal; conditional
197 | license.—

198 | (6) The agency ~~department~~ may by rule establish renewal
199 | procedures, identify forms, and specify documentation necessary
200 | to administer this section and. ~~The agency, in consultation with~~

HB 7019

2019

201 ~~the department,~~ may adopt rules to administer ~~the requirements~~
202 ~~of~~ part II of chapter 408.

203 Section 10. Subsection (9) of section 429.19, Florida
204 Statutes, is amended to read:

205 429.19 Violations; imposition of administrative fines;
206 grounds.—

207 (9) The agency shall develop and disseminate an annual
208 list of all facilities sanctioned or fined for violations of
209 state standards, the number and class of violations involved,
210 the penalties imposed, and the current status of cases. The list
211 shall be disseminated, at no charge, to the Department of
212 Elderly Affairs, the Department of Health, the Department of
213 Children and Families, the Agency for Persons with Disabilities,
214 the area agencies on aging, the Florida Statewide Advocacy
215 Council, the State Long-Term Care Ombudsman Program, and state
216 and local ombudsman councils. The Department of Children and
217 Families shall disseminate the list to service providers under
218 contract with ~~to~~ the department who are responsible for
219 referring persons to a facility for residency. The agency may
220 charge a fee commensurate with the cost of printing and postage
221 to other interested parties requesting a copy of this list. This
222 information may be provided electronically or through the
223 agency's Internet site.

224 Section 11. Subsection (10) of section 429.23, Florida
225 Statutes, is amended to read:

226 429.23 Internal risk management and quality assurance
 227 program; adverse incidents and reporting requirements.—

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

230 Section 12. Subsection (8) of section 429.24, Florida
 231 Statutes, is amended to read:

232 429.24 Contracts.—

233 (8) The agency ~~department~~ may by rule clarify terms,
 234 establish procedures, clarify refund policies and contract
 235 provisions, and specify documentation as necessary to administer
 236 this section.

237 Section 13. Subsections (4) and (5) of section 429.255,
 238 Florida Statutes, are amended to read:

239 429.255 Use of personnel; emergency care.—

240 (4) Facility staff may withhold or withdraw
 241 cardiopulmonary resuscitation or the use of an automated
 242 external defibrillator if presented with an order not to
 243 resuscitate executed pursuant to s. 401.45. The agency
 244 ~~department~~ shall adopt rules providing for the implementation of
 245 such orders. Facility staff and facilities may ~~shall~~ not be
 246 subject to criminal prosecution or civil liability, nor be
 247 considered to have engaged in negligent or unprofessional
 248 conduct, for withholding or withdrawing cardiopulmonary
 249 resuscitation or use of an automated external defibrillator
 250 pursuant to such an order and rules adopted by the agency

251 ~~department~~. The absence of an order to resuscitate executed
 252 pursuant to s. 401.45 does not preclude a physician from
 253 withholding or withdrawing cardiopulmonary resuscitation or use
 254 of an automated external defibrillator as otherwise permitted by
 255 law.

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

259 Section 14. Subsection (6) of section 429.256, Florida
 260 Statutes, is amended to read:

261 429.256 Assistance with self-administration of
 262 medication.—

263 (6) The agency ~~department~~ may by rule establish facility
 264 procedures and interpret terms as necessary to implement this
 265 section.

266 Section 15. Subsection (8) of section 429.27, Florida
 267 Statutes, is amended to read:

268 429.27 Property and personal affairs of residents.—

269 (8) The agency ~~department~~ may by rule clarify terms and
 270 specify procedures and documentation necessary to administer the
 271 provisions of this section relating to the proper management of
 272 residents' funds and personal property and the execution of
 273 surety bonds.

274 Section 16. Subsection (4) of section 429.275, Florida
 275 Statutes, is amended to read:

276 429.275 Business practice; personnel records; liability
277 insurance.—The assisted living facility shall be administered on
278 a sound financial basis that is consistent with good business
279 practices.

280 (4) The agency ~~department~~ may by rule clarify terms,
281 establish requirements for financial records, accounting
282 procedures, personnel procedures, insurance coverage, and
283 reporting procedures, and specify documentation as necessary to
284 implement ~~the requirements of~~ this section.

285 Section 17. Subsection (2) of section 429.31, Florida
286 Statutes, is amended to read:

287 429.31 Closing of facility; notice; penalty.—

288 (2) Immediately upon the notice by the agency of the
289 voluntary or involuntary termination of such operation, the
290 agency shall monitor the transfer of residents to other
291 facilities and ensure that residents' rights are being
292 protected. The agency ~~department~~, in consultation with the
293 Department of Children and Families, shall specify procedures
294 for ensuring that all residents who receive services are
295 appropriately relocated.

296 Section 18. Subsection (1) of section 429.34, Florida
297 Statutes, is amended to read:

298 429.34 Right of entry and inspection.—

299 (1) In addition to the requirements of s. 408.811, a duly
300 designated officer or employee of the agency ~~department~~, of the

301 Department of Children and Families, of the Medicaid Fraud
 302 Control Unit of the Office of the Attorney General, or of the
 303 state or local fire marshal, or a representative of the State
 304 Long-Term Care Ombudsman Program or a member of the state or
 305 local long-term care ombudsman council has the right to enter
 306 unannounced upon and into the premises of any facility licensed
 307 under this part in order to determine the state of compliance
 308 with this part, part II of chapter 408, and applicable rules.
 309 Data collected by the State Long-Term Care Ombudsman Program,
 310 local long-term care ombudsman councils, or the state or local
 311 advocacy councils may be used by the agency in investigations
 312 involving violations of regulatory standards. A person specified
 313 in this section who knows or has reasonable cause to suspect
 314 that a vulnerable adult has been or is being abused, neglected,
 315 or exploited shall immediately report such knowledge or
 316 suspicion to the central abuse hotline pursuant to chapter 415.

317 Section 19. Section 429.41, Florida Statutes, is amended
 318 to read:

319 429.41 Rules establishing standards.—

320 (1) It is the intent of the Legislature that rules
 321 published and enforced pursuant to this section shall include
 322 criteria by which a reasonable and consistent quality of
 323 resident care and quality of life may be ensured and the results
 324 of such resident care may be demonstrated. Such rules shall also
 325 ensure a safe and sanitary environment that is residential and

326 noninstitutional in design or nature. It is further intended
327 that reasonable efforts be made to accommodate the needs and
328 preferences of residents to enhance the quality of life in a
329 facility. Uniform firesafety standards for assisted living
330 facilities shall be established by the State Fire Marshal
331 pursuant to s. 633.206. The agency, ~~in consultation with the~~
332 ~~department,~~ may adopt rules to administer ~~the requirements of~~
333 part II of chapter 408. In order to provide safe and sanitary
334 facilities and the highest quality of resident care
335 accommodating the needs and preferences of residents, the agency
336 ~~department,~~ in consultation with the ~~agency,~~ the Department of
337 Children and Families, and the Department of Health, shall adopt
338 rules, policies, and procedures to administer this part, which
339 must include reasonable and fair minimum standards in relation
340 to:

341 (a) The requirements for and maintenance of facilities,
342 not in conflict with chapter 553, relating to plumbing, heating,
343 cooling, lighting, ventilation, living space, and other housing
344 conditions, which will ensure the health, safety, and comfort of
345 residents suitable to the size of the structure.

346 1. Firesafety evacuation capability determination.—An
347 evacuation capability evaluation for initial licensure shall be
348 conducted within 6 months after the date of licensure.

349 2. Firesafety requirements.—

350 a. The National Fire Protection Association, Life Safety

351 Code, NFPA 101 and 101A, current editions, shall be used in
352 determining the uniform firesafety code adopted by the State
353 Fire Marshal for assisted living facilities, pursuant to s.
354 633.206.

355 b. A local government or a utility may charge fees only in
356 an amount not to exceed the actual expenses incurred by the
357 local government or the utility relating to the installation and
358 maintenance of an automatic fire sprinkler system in a licensed
359 assisted living facility structure.

360 c. All licensed facilities must have an annual fire
361 inspection conducted by the local fire marshal or authority
362 having jurisdiction.

363 d. An assisted living facility that is issued a building
364 permit or certificate of occupancy before July 1, 2016, may at
365 its option and after notifying the authority having
366 jurisdiction, remain under the provisions of the 1994 and 1995
367 editions of the National Fire Protection Association, Life
368 Safety Code, NFPA 101, and NFPA 101A. The facility opting to
369 remain under such provisions may make repairs, modernizations,
370 renovations, or additions to, or rehabilitate, the facility in
371 compliance with NFPA 101, 1994 edition, and may utilize the
372 alternative approaches to life safety in compliance with NFPA
373 101A, 1995 edition. However, a facility for which a building
374 permit or certificate of occupancy is issued before July 1,
375 2016, that undergoes Level III building alteration or

376 rehabilitation, as defined in the Florida Building Code, or
377 seeks to utilize features not authorized under the 1994 or 1995
378 editions of the Life Safety Code must thereafter comply with all
379 aspects of the uniform firesafety standards established under s.
380 633.206, and the Florida Fire Prevention Code, in effect for
381 assisted living facilities as adopted by the State Fire Marshal.

382 3. Resident elopement requirements.—Facilities are
383 required to conduct a minimum of two resident elopement
384 prevention and response drills per year. All administrators and
385 direct care staff must participate in the drills, which shall
386 include a review of procedures to address resident elopement.
387 Facilities must document the implementation of the drills and
388 ensure that the drills are conducted in a manner consistent with
389 the facility's resident elopement policies and procedures.

390 (b) The preparation and annual update of a comprehensive
391 emergency management plan. Such standards must be included in
392 the rules adopted by the agency ~~department~~ after consultation
393 with the Division of Emergency Management. At a minimum, the
394 rules must provide for plan components that address emergency
395 evacuation transportation; adequate sheltering arrangements;
396 postdisaster activities, including provision of emergency power,
397 food, and water; postdisaster transportation; supplies;
398 staffing; emergency equipment; individual identification of
399 residents and transfer of records; communication with families;
400 and responses to family inquiries. The comprehensive emergency

401 management plan is subject to review and approval by the local
402 emergency management agency. During its review, the local
403 emergency management agency shall ensure that the following
404 agencies, at a minimum, are given the opportunity to review the
405 plan: ~~the Department of Elderly Affairs,~~ the Department of
406 Health, the Agency for Health Care Administration, and the
407 Division of Emergency Management. Also, appropriate volunteer
408 organizations must be given the opportunity to review the plan.
409 The local emergency management agency shall complete its review
410 within 60 days and either approve the plan or advise the
411 facility of necessary revisions.

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

417 (d) All sanitary conditions within the facility and its
418 surroundings which will ensure the health and comfort of
419 residents. The rules must clearly delineate the responsibilities
420 of the agency's licensure and survey staff, the county health
421 departments, and the local authority having jurisdiction over
422 firesafety and ensure that inspections are not duplicative. The
423 agency may collect fees for food service inspections conducted
424 by the county health departments and transfer such fees to the
425 Department of Health.

426 (e) License application and license renewal, transfer of
 427 ownership, proper management of resident funds and personal
 428 property, surety bonds, resident contracts, refund policies,
 429 financial ability to operate, and facility and staff records.

430 (f) Inspections, complaint investigations, moratoriums,
 431 classification of deficiencies, levying and enforcement of
 432 penalties, and use of income from fees and fines.

433 (g) The enforcement of the resident bill of rights
 434 specified in s. 429.28.

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

- 437 1. The supervision of residents;
- 438 2. The provision of personal services;
- 439 3. The provision of, or arrangement for, social and
 440 leisure activities;
- 441 4. The arrangement for appointments and transportation to
 442 appropriate medical, dental, nursing, or mental health services,
 443 as needed by residents;
- 444 5. The management of medication;
- 445 6. The nutritional needs of residents;
- 446 7. Resident records; and
- 447 8. Internal risk management and quality assurance.

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

450 (j) The establishment of specific criteria to define

451 appropriateness of resident admission and continued residency in
452 a facility holding a standard, limited nursing, extended
453 congregate care, and limited mental health license.

454 (k) The use of physical or chemical restraints. The use of
455 physical restraints is limited to half-bed rails as prescribed
456 and documented by the resident's physician with the consent of
457 the resident or, if applicable, the resident's representative or
458 designee or the resident's surrogate, guardian, or attorney in
459 fact. The use of chemical restraints is limited to prescribed
460 dosages of medications authorized by the resident's physician
461 and must be consistent with the resident's diagnosis. Residents
462 who are receiving medications that can serve as chemical
463 restraints must be evaluated by their physician at least
464 annually to assess:

- 465 1. The continued need for the medication.
- 466 2. The level of the medication in the resident's blood.
- 467 3. The need for adjustments in the prescription.

468 (1) The establishment of specific policies and procedures
469 on resident elopement. Facilities shall conduct a minimum of two
470 resident elopement drills each year. All administrators and
471 direct care staff shall participate in the drills. Facilities
472 shall document the drills.

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

476 care provided; the physical and mental capabilities and needs of
477 residents; the type, frequency, and amount of services and care
478 offered; and the staffing characteristics of the facility. Rules
479 developed pursuant to this section may not restrict the use of
480 shared staffing and shared programming in facilities that are
481 part of retirement communities that provide multiple levels of
482 care and otherwise meet the requirements of law and rule. If a
483 continuing care facility licensed under chapter 651 or a
484 retirement community offering multiple levels of care licenses a
485 building or part of a building designated for independent living
486 for assisted living, staffing requirements established in rule
487 apply only to residents who receive personal, limited nursing,
488 or extended congregate care services under this part. Such
489 facilities shall retain a log listing the names and unit number
490 for residents receiving these services. The log must be
491 available to surveyors upon request. Except for uniform
492 firesafety standards, the agency ~~department~~ shall adopt by rule
493 separate and distinct standards for facilities with 16 or fewer
494 beds and for facilities with 17 or more beds. The standards for
495 facilities with 16 or fewer beds must be appropriate for a
496 noninstitutional residential environment; however, the structure
497 may not be more than two stories in height and all persons who
498 cannot exit the facility unassisted in an emergency must reside
499 on the first floor. The ~~department, in conjunction with the~~
500 ~~agency,~~ may make other distinctions among types of facilities as

501 necessary to enforce this part. Where appropriate, the agency
502 shall offer alternate solutions for complying with established
503 standards, based on distinctions made by the ~~department and the~~
504 agency relative to the physical characteristics of facilities
505 and the types of care offered.

506 ~~(3) The department shall submit a copy of proposed rules~~
507 ~~to the Speaker of the House of Representatives, the President of~~
508 ~~the Senate, and appropriate committees of substance for review~~
509 ~~and comment prior to the promulgation thereof. Rules promulgated~~
510 ~~by the department shall encourage the development of homelike~~
511 ~~facilities which promote the dignity, individuality, personal~~
512 ~~strengths, and decisionmaking ability of residents.~~

513 (3)(4) The agency, ~~in consultation with the department,~~
514 may waive rules adopted under ~~promulgated pursuant to~~ this part
515 ~~in order~~ to demonstrate and evaluate innovative or cost-
516 effective congregate care alternatives that ~~which~~ enable
517 individuals to age in place. Such waivers may be granted only in
518 instances where there is reasonable assurance that the health,
519 safety, or welfare of residents will not be endangered. To apply
520 for a waiver, the licensee shall submit to the agency a written
521 description of the concept to be demonstrated, including goals,
522 objectives, and anticipated benefits; the number and types of
523 residents who will be affected, if applicable; a brief
524 description of how the demonstration will be evaluated; and any
525 other information deemed appropriate by the agency. Any facility

526 granted a waiver shall submit a report of findings to the agency
527 ~~and the department~~ within 12 months. At such time, the agency
528 may renew or revoke the waiver or pursue any regulatory or
529 statutory changes necessary to allow other facilities to adopt
530 the same practices. The agency ~~department~~ may by rule clarify
531 terms and establish waiver application procedures, criteria for
532 reviewing waiver proposals, and procedures for reporting
533 findings, as necessary to implement this subsection.

534 (4) ~~(5)~~ The agency may use an abbreviated biennial standard
535 licensure inspection that consists of a review of key quality-
536 of-care standards in lieu of a full inspection in a facility
537 that has a good record of past performance. However, a full
538 inspection must be conducted in a facility that has a history of
539 class I or class II violations, uncorrected class III
540 violations, confirmed ombudsman council complaints, or confirmed
541 licensure complaints, within the previous licensure period
542 immediately preceding the inspection or if a potentially serious
543 problem is identified during the abbreviated inspection. The
544 agency, ~~in consultation with the department,~~ shall develop the
545 key quality-of-care standards with input from the State Long-
546 Term Care Ombudsman Council and representatives of provider
547 groups for incorporation into its rules.

548 Section 20. Subsection (4) of section 429.42, Florida
549 Statutes, is amended to read:

550 429.42 Pharmacy and dietary services.—

HB 7019

2019

551 (4) The agency ~~department~~ may by rule establish procedures
552 and specify documentation as necessary to implement this
553 section.

554 Section 21. Subsections (2), (3), (4), and (6) through
555 (12) of section 429.52, Florida Statutes, are amended to read:
556 429.52 Staff training and educational programs; core
557 educational requirement.—

558 (2) Administrators and other assisted living facility
559 staff must meet minimum training and education requirements
560 established by the agency ~~Department of Elderly Affairs~~ by rule.
561 This training and education is intended to assist facilities to
562 appropriately respond to the needs of residents, to maintain
563 resident care and facility standards, and to meet licensure
564 requirements.

565 (3) The agency, in conjunction with providers, ~~department~~
566 shall develop ~~establish~~ a competency test and a minimum required
567 score to indicate successful completion of the training and
568 educational requirements. ~~The competency test must be developed~~
569 ~~by the department in conjunction with the agency and providers.~~
570 The required training and education must cover at least the
571 following topics:

572 (a) State law and rules relating to assisted living
573 facilities.

574 (b) Resident rights and identifying and reporting abuse,
575 neglect, and exploitation.

576 (c) Special needs of elderly persons, persons with mental
577 illness, and persons with developmental disabilities and how to
578 meet those needs.

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

581 (e) Medication management, recordkeeping, and proper
582 techniques for assisting residents with self-administered
583 medication.

584 (f) Firesafety requirements, including fire evacuation
585 drill procedures and other emergency procedures.

586 (g) Care of persons with Alzheimer's disease and related
587 disorders.

588 (4) A new facility administrator must complete the
589 required training and education, including the competency test,
590 within 90 days after date of employment as an administrator.
591 Failure to do so is a violation of this part and subjects the
592 violator to an administrative fine as prescribed in s. 429.19.
593 Administrators licensed in accordance with part II of chapter
594 468 are exempt from this requirement. Other licensed
595 professionals may be exempted, as determined by the agency
596 ~~department~~ by rule.

597 (6) Staff involved with the management of medications and
598 assisting with the self-administration of medications under s.
599 429.256 must complete a minimum of 6 additional hours of
600 training provided by a registered nurse, a licensed pharmacist,

601 or agency ~~department~~ staff. The agency ~~department~~ shall
602 establish by rule the minimum requirements of this additional
603 training.

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

607 (8) If the ~~department or the~~ agency determines that there
608 are problems in a facility which ~~that~~ could be reduced through
609 specific staff training or education beyond that already
610 required under this section, the ~~department or the~~ agency may
611 require, and provide, or cause to be provided, the training or
612 education of any personal care staff in the facility.

613 (9) The agency ~~department~~ shall adopt rules related to
614 these training requirements, the competency test, necessary
615 procedures, and competency test fees and shall adopt or contract
616 with another entity to develop a curriculum, which shall be used
617 as the minimum core training requirements. The agency ~~department~~
618 shall consult with representatives of stakeholder associations
619 and agencies in the development of the curriculum.

620 (10) The training required by this section other than the
621 preservice orientation must be conducted by persons registered
622 with the agency ~~department~~ as having the requisite experience
623 and credentials to conduct the training. A person seeking to
624 register as a trainer must provide the agency ~~department~~ with
625 proof of completion of the minimum core training education

626 requirements, successful passage of the competency test
 627 established under this section, and proof of compliance with the
 628 continuing education requirement in subsection (5).

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

630 (a) Provide proof of completion of a 4-year degree from an
 631 accredited college or university and must have worked in a
 632 management position in an assisted living facility for 3 years
 633 after being core certified;

634 (b) Have worked in a management position in an assisted
 635 living facility for 5 years after being core certified and have
 636 1 year of teaching experience as an educator or staff trainer
 637 for persons who work in assisted living facilities or other
 638 long-term care settings;

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

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

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

645 Section 22. Section 429.54, Florida Statutes, is amended
 646 to read:

647 429.54 Collection of information; local subsidy.—

648 (1) To enable the agency ~~department~~ to collect the
 649 information requested by the Legislature regarding the actual
 650 cost of providing room, board, and personal care in facilities,

651 the agency ~~department~~ is authorized to conduct field visits and
652 audits of facilities as ~~may be~~ necessary. The owners of randomly
653 sampled facilities shall submit such reports, audits, and
654 accountings of cost as the agency ~~department~~ may require by
655 rule; provided that such reports, audits, and accountings shall
656 be the minimum necessary to implement ~~the provisions of~~ this
657 section. Any facility selected to participate in the study shall
658 cooperate with the agency ~~department~~ by providing cost of
659 operation information to interviewers.

660 (2) Local governments or organizations may contribute to
661 the cost of care of local facility residents by further
662 subsidizing the rate of state-authorized payment to such
663 facilities. Implementation of local subsidy requires agency
664 ~~shall require departmental~~ approval and may ~~shall~~ not result in
665 reductions in the state supplement.

666 Section 23. Subsections (4) and (5) of section 429.63,
667 Florida Statutes, are amended to read:

668 429.63 Legislative intent; purpose.—

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

675 (5) Rules of the agency ~~department~~ relating to adult

HB 7019

2019

676 family-care homes shall be as minimal and flexible as possible
677 to ensure the protection of residents while minimizing the
678 obstacles that could inhibit the establishment of adult family-
679 care homes.

680 Section 24. Subsections (9), (10), and (11) of section
681 429.67, Florida Statutes, are amended to read:

682 429.67 Licensure.—

683 (9) In addition to the license categories available in s.
684 408.808, the agency may issue a conditional license to a
685 provider for the purpose of bringing the adult family-care home
686 into compliance with licensure requirements. A conditional
687 license must be limited to a specific period, not exceeding 6
688 months. The agency ~~department~~ shall, by rule, establish criteria
689 for issuing conditional licenses.

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

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

695 Section 25. Subsection (6) of section 429.71, Florida
696 Statutes, is amended to read:

697 429.71 Classification of deficiencies; administrative
698 fines.—

699 (6) The agency shall establish ~~department shall set forth,~~
700 by rule, notice requirements and procedures for correction of

HB 7019

2019

701 deficiencies.

702 Section 26. Section 429.73, Florida Statutes, is amended
703 to read:

704 429.73 Rules and standards relating to adult family-care
705 homes.—

706 (1) The agency, ~~in consultation with the department, may~~
707 ~~adopt rules to administer the requirements of part II of chapter~~
708 ~~408. The department,~~ in consultation with the Department of
709 Health and, the Department of Children and Families, ~~and the~~
710 ~~agency shall, by rule,~~ establish by rule minimum standards to
711 ensure the health, safety, and well-being of each resident in
712 the adult family-care home pursuant to this part. The rules must
713 address:

714 (a) Requirements for the physical site of the facility and
715 facility maintenance.

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

- 719 1. Room and board.
- 720 2. Assistance necessary to perform the activities of daily
721 living.
- 722 3. Assistance necessary to administer medication.
- 723 4. Supervision of residents.
- 724 5. Health monitoring.
- 725 6. Social and leisure activities.

726 (c) Standards and procedures for license application and
727 annual license renewal, advertising, proper management of each
728 resident's funds and personal property and personal affairs,
729 financial ability to operate, medication management,
730 inspections, complaint investigations, and facility, staff, and
731 resident records.

732 (d) Qualifications, training, standards, and
733 responsibilities for providers and staff.

734 (e) Compliance with chapter 419, relating to community
735 residential homes.

736 (f) Criteria and procedures for determining the
737 appropriateness of a resident's placement and continued
738 residency in an adult family-care home. A resident who requires
739 24-hour nursing supervision may not be retained in an adult
740 family-care home unless such resident is an enrolled hospice
741 patient and the resident's continued residency is mutually
742 agreeable to the resident and the provider.

743 (g) Procedures for providing notice and assuring the least
744 possible disruption of residents' lives when residents are
745 relocated, an adult family-care home is closed, or the ownership
746 of an adult family-care home is transferred.

747 (h) Procedures to protect the residents' rights as
748 provided in s. 429.85.

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

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

753 (2) The agency ~~department~~ shall ~~by rule~~ provide by rule
754 minimum standards and procedures for emergencies. Pursuant to s.
755 633.206, the State Fire Marshal, in consultation with the
756 ~~department and the agency~~, shall adopt uniform firesafety
757 standards for adult family-care homes.

758 (3) The agency ~~department~~ shall adopt rules providing for
759 the implementation of orders not to resuscitate. The provider
760 may withhold or withdraw cardiopulmonary resuscitation if
761 presented with an order not to resuscitate executed pursuant to
762 s. 401.45. The provider shall not be subject to criminal
763 prosecution or civil liability, nor be considered to have
764 engaged in negligent or unprofessional conduct, for withholding
765 or withdrawing cardiopulmonary resuscitation pursuant to such an
766 order and applicable rules.

767 Section 27. Subsections (3), (4), and (5) of section
768 429.75, Florida Statutes, are amended to read:

769 429.75 Training and education programs.—

770 (3) Providers must complete the training and education
771 program within a reasonable time determined by the agency
772 ~~department~~. Failure to complete the training and education
773 program within the time set by the agency ~~department~~ is a
774 violation of this part and subjects the provider to revocation
775 of the license.

HB 7019

2019

776 (4) If the Department of Children and Families or, the
777 agency, ~~or the department~~ determines that there are problems in
778 an adult family-care home which could be reduced through
779 specific training or education beyond that required under this
780 section, the agency may require the provider or staff to
781 complete such training or education.

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

784 Section 28. Subsection (2) of section 429.81, Florida
785 Statutes, is amended to read:

786 429.81 Residency agreements.—

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

792 Section 29. Section 429.929, Florida Statutes, is amended
793 to read:

794 429.929 Rules establishing standards.—

795 (1) The agency, ~~in consultation with the department, may~~
796 ~~adopt rules to administer the requirements of part II of chapter~~
797 ~~408. The Department of Elderly Affairs, in conjunction with the~~
798 ~~agency,~~ shall adopt rules to implement ~~the provisions of this~~
799 part. The rules must include reasonable and fair standards. Any
800 conflict between these standards and those that may be set forth

801 in local, county, or municipal ordinances shall be resolved in
802 favor of those having statewide effect. Such standards must
803 relate to:

804 (a) The maintenance of adult day care centers with respect
805 to plumbing, heating, lighting, ventilation, and other building
806 conditions, including adequate meeting space, to ensure the
807 health, safety, and comfort of participants and protection from
808 fire hazard. Such standards may not conflict with chapter 553
809 and must be based upon the size of the structure and the number
810 of participants.

811 (b) The number and qualifications of all personnel
812 employed by adult day care centers who have responsibilities for
813 the care of participants.

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

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

819 (e) Supportive and optional services provided by adult day
820 care centers.

821 (f) Data and information relative to participants and
822 programs of adult day care centers, including, but not limited
823 to, the physical and mental capabilities and needs of the
824 participants, the availability, frequency, and intensity of
825 basic services and of supportive and optional services provided,

HB 7019

2019

826 the frequency of participation, the distances traveled by
827 participants, the hours of operation, the number of referrals to
828 other centers or elsewhere, and the incidence of illness.

829 (g) Components of a comprehensive emergency management
830 plan, developed in consultation with the Department of Health,
831 ~~the Agency for Health Care Administration,~~ and the Division of
832 Emergency Management.

833 (2) Pursuant to this part, s. 408.811, and applicable
834 rules, the agency may conduct an abbreviated biennial inspection
835 of key quality-of-care standards, in lieu of a full inspection,
836 of a center that has a record of good performance. However, the
837 agency must conduct a full inspection of a center that has had
838 one or more confirmed complaints within the licensure period
839 immediately preceding the inspection or which has a serious
840 problem identified during the abbreviated inspection. The agency
841 shall develop the key quality-of-care standards, taking into
842 consideration the comments and recommendations of ~~the Department~~
843 ~~of Elderly Affairs and of~~ provider groups. These standards shall
844 be included in rules adopted by the agency ~~Department of Elderly~~
845 ~~Affairs.~~

846 Section 30. Subsection (4) of section 765.110, Florida
847 Statutes, is amended to read:

848 765.110 Health care facilities and providers; discipline.—

849 (4) ~~The Department of Elderly Affairs for hospices and, in~~
850 ~~consultation with the Department of Elderly Affairs, the~~

HB 7019

2019

851 Department of Health, in consultation with the Department of
852 Elderly Affairs, for health care providers; the Agency for
853 Health Care Administration for hospitals, hospices, nursing
854 homes, home health agencies, and health maintenance
855 organizations; and the Department of Children and Families for
856 facilities subject to part I of chapter 394 shall adopt rules to
857 implement this ~~the provisions of the~~ section.

858 Section 31. This act shall take effect July 1, 2019.