Future of Florida's Families Committee

Wednesday, March 8, 2006
10:00 AM – 12:00 PM
12 House Office Building

Bill Galvano
Chair

Aaron Bean
Vice Chair

Florida House of Representatives

Future of Florida's Families Committee

Bill Galvano
Chair

AGENDA
March 8, 2006
10:00 AM – NOON
12 HOB

Opening Remarks by Chair Galvano

Consideration of the following bills:

HB 469/CS Human Trafficking by Rep. Gannon

HB 501/CS Assisted Care Communities by Rep. Clarke

Consideration of the following Proposed Committee Bill:

PCB FFF 06-04 – Department of Children and Families

Workshop on the following Proposed Committee Bill:

PCB FFF 06-01 – Welfare of Children

Closing Remarks by Chair Galvano

214 House Office Building, 402 South Monroe Street Tallahassee, Florida 32399-1300 (850) 488-8315

HB 469

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 469 CS Human Trafficking
SPONSOR(S): Gannon and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 250

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	7 Y, 0 N, w/CS	Ferguson	Kramer
2) Future of Florida's Families Committee		Preston	Collins
3) Criminal Justice Appropriations Committee			
4) Justice Council			
5)			

SUMMARY ANALYSIS

Currently, section 787.06, F.S., makes it a second degree felony to knowingly engage in human trafficking with the intent that the trafficked person engage in forced labor or services.

HB 469 expands the definition of "forced labor or services" to include labor or services obtained from a person by:

- Isolating a person without lawful authority and against his or her will; or
- Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of that person or another; or
- Fraud or coercion.

HB 469 amends section 787.06 (3), F.S., by adding criminal penalties for knowingly benefiting financially or receiving anything of value from human trafficking.

HB 469 amends section 772.102, F.S., by expanding the definition of the term "criminal activity" to include the offenses of human trafficking and sex trafficking for purposes of seeking civil remedies for criminal offenses.

HB 469 amends section 772.104, F.S., by providing that any person injured as a result of sex trafficking has a civil cause of action for threefold the amount of profit gained from the sex trafficking.

HB 469 amends section 895.02, F.S., by redefining the term "racketeering activity" to include the offense of human trafficking for purposes of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act.

HB 469 provides an effective date of October 1, 2006.

The Criminal Justice Estimating Conference determined that passage of this bill would not have an impact on the prison bed population for the Department of Corrections.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill expands the scope of the offense of human trafficking.

B. EFFECT OF PROPOSED CHANGES:

Human Trafficking

In 2000, Congress passed the "Victims of Trafficking and Violence Protection Act of 2000" and published findings including the following[1]:

> As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.
>
> Many of these persons are trafficked into the international sex trade, often by force, fraud or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominately women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.
>
> Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human trafficking rights standards worldwide.

On June 3, 2005, Secretary of State Condoleezza Rice released the Fifth Annual Department of State Trafficking In Persons Report[2]:

> We estimate that up to 800,000 people are trafficked across international borders every year. And millions more are trafficked internally. Victims of trafficking, most of them women and children, are forced, defrauded or coerced into inhumane conditions. They are made to toil on farms and in work camps, in brothels and in sweatshops. Children are even forced to become soldiers. Whatever cruel form of servitude they may take, trafficking victims live in fear and misery. And wherever the trafficking trade flourishes, the rule of law erodes, corruption thrives, public health suffers and organized crime threatens the security of entire communities.

Federal legislation

As part of the Victims of Trafficking and Violence Protection Act, Congress created 18 U.S.C. 1591 which prohibits sex trafficking. The section makes it a felony to recruit, entice, harbor, transport or provide another person knowing that force, fraud or coercion will be used to cause the person to engage in a "commercial sex act."

---

[1] Public Law 106-386, sec. 102.

[2] Trafficking in Persons Report June 2005. *See* http://www.state.gov/secretary/rm/2005/47193.htm

Current law

On October 1, 2004, section 787.06, F.S., was enacted providing that any person who knowingly engages in human trafficking with the intent that the trafficked person engage in "forced labor or services" commits a felony of the second degree.

"Human trafficking" is defined as transporting, soliciting, recruiting, harboring, providing or obtaining another person for transport.

"Forced labor or services" is currently defined as:

- Using or threatening to use physical force against that person or another person; or
- Restraining or confining or threatening to restrain or confine that person or another person without lawful authority and against her or his will.

Effect of bill

HB 469 amends section 787.06, F.S., providing legislative findings and intent; those findings are summarized as follows:

The Legislature finds that human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, teenagers, and adults. Thousands of victims are trafficked annually across international boarders worldwide. Many of these victims are trafficked into this state. The Legislature finds that while many victims of human trafficking are forced to work in prostitution or the sexual entertainment industry, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work. The Legislature finds that traffickers use various techniques to instill fear in victims and to keep them enslaved. It is the intent of the Legislature that the perpetrators of human trafficking be penalized for their illegal conduct and that the victims of trafficking be protected and assisted by this state and its agencies.

HB 469 amends section 787.06, F.S., by expanding the term "forced labor or services" to include:

- Isolating a person without lawful authority and against his or her will; or
- Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of that person or another; or
- Fraud or coercion.

HB 469 amends section 787.06 (3), F.S., by adding criminal penalties for knowingly benefiting financially or receiving anything of value from human trafficking.

HB 469 amends section 787.06, F.S., to provide:

> The Florida Court Educational Council shall establish standards of instruction for circuit and county court judges who hear cases involving victims of human trafficking and shall provide for periodic and timely instruction.

The Florida Court Educational Council is statutorily created. Section 25.384, F.S., states that, "There is created a Court Education Trust Fund to be administered by the Supreme Court through the Florida Court Educational Council." This statute provides that trust fund moneys shall be used to provide education and training for judges and other court personnel as defined and determined by the Florida Court Education Council.[3]

---

[3] *See* section 25.384(2)(a), F.S.

HB 469 amends section 772.102, F.S., by expanding the definition of the term "criminal activity" to include the offenses of human trafficking and sex trafficking for purposes of seeking civil remedies for criminal offenses.

HB 469 amends section 772.104, F.S., by providing that any injured person as a result of sex trafficking has a civil cause of action for threefold the amount of profit gained from the sex trafficking.

HB 469 amends section 895.02, F.S., by redefining the term "racketeering activity" to include the offense of human trafficking for purposes of the Florida RICO Act.

HB 469 reenacts ss. 16.56(1) (a), 655.50(3) (g), 896.101(2) (g), and 905.34, F.S., relating to the authority of the Office of the Statewide Prosecutor, the definition of "specified unlawful activity" in a law prohibiting money laundering in financial institutions and in the Florida Money Laundering Act, and the subject matter jurisdiction of a statewide grand jury.

HB 469 provides an effective date of October 1, 2006.

C. SECTION DIRECTORY:

Section 1. Amends s. 787.06, F.S., providing legislative findings and intent; redefining the term "forced labor or services"; and establishing standards for circuit and county judges.

Section 2. Amends s. 772.102, F.S., expanding the definition of the term "criminal activity".

Section 3. Amends s. 772.104, F.S., providing the person injured a cause of action for threefold the amount of profit gained from the sex trafficking.

Section 4. Amends s. 895.02, F.S., redefining the term "racketeering activity."

Section 5. Reenacts s. 16.56 (1) (a), F.S., relating to the authority of the Office of the Statewide Prosecutor.

Section 6. Reenacts s. 655.50 (3) (g), F.S., relating to the definition of "specified unlawful activity" in a law prohibiting money laundering in financial institutions.

Section 7. Reenacts s. 896.101 (2) (g), F.S., relating to the definition of "specified unlawful activity" in the Florida Money Laundering Act.

Section 8. Reenacts s. 905.34, F.S., relating to the subject matter jurisdiction of a statewide grand jury.

Section 9. Provides an effective date of October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   On January 9, 2006, the Criminal Justice Estimating Conference met and determined that HB 469 would have no impact on the prison bed population for the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 8, 2006, the Criminal Justice Committee passed House Bill 469 with three amendments. The first amendment adds fraud or coercion to the term "forced labor or services." The second amendment adds criminal penalties for knowingly benefiting financially or receiving anything of value from human trafficking. The third amendment provides that a person injured as a result of sex trafficking has a civil cause of action for threefold the amount of profit gained from the sex trafficking.

This analysis reflects HB 469 as a committee substitute.

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to human trafficking; amending s. 787.06,
7 F.S.; providing legislative findings and intent;
8 redefining the term "forced labor or services" to include
9 labor obtained from a person when the person's
10 identification documents are destroyed, concealed, or
11 withheld by another or obtained through fraud or coercion;
12 prohibiting knowingly benefiting financially or receiving
13 anything of value from human trafficking when the
14 trafficked person engages in forced labor or services;
15 providing criminal penalties; directing the Florida Court
16 Educational Council to establish standards for instructing
17 circuit and county court judges on matters relating to
18 victims of human trafficking; directing the council to
19 provide for periodic and timely instruction; amending s.
20 772.102, F.S.; expanding the definition of the term
21 "criminal activity" to include the offense of human
22 trafficking for purposes of seeking civil remedies for
23 criminal offenses; amending s. 772.104, F.S.; providing

24 that persons who are victims of sex trafficking have a
25 civil action to recover three times the profit of the sex
26 trafficking; amending s. 895.02, F.S.; redefining the term
27 "racketeering activity" to include the offense of human
28 trafficking for purposes of the Florida RICO Act;
29 reenacting ss. 16.56(1)(a), 655.50(3)(g), 896.101(2)(g),
30 and 905.34, F.S., relating to the authority of the Office
31 of the Statewide Prosecutor, the definition of "specified
32 unlawful activity" in a law prohibiting money laundering
33 in financial institutions and in the Florida Money
34 Laundering Act, and the subject matter jurisdiction of a
35 statewide grand jury, to incorporate the amendments made
36 to s. 895.02, F.S., in references thereto; providing an
37 effective date.
38
39 Be It Enacted by the Legislature of the State of Florida:
40
41 Section 1. Section 787.06, Florida Statutes, is amended to
42 read:
43 787.06 Human trafficking.--
44 (1)(a) The Legislature finds that human trafficking is a
45 form of modern-day slavery. Victims of human trafficking are
46 young children, teenagers, and adults. Thousands of victims are
47 trafficked annually across international borders worldwide. Many
48 of these victims are trafficked into this state. The Legislature
49 finds that victims of human trafficking are subjected to force,
50 fraud, or coercion for the purpose of sexual exploitation or
51 forced labor.

52 (b) The Legislature finds that while many victims of human
53 trafficking are forced to work in prostitution or the sexual
54 entertainment industry, trafficking also occurs in forms of
55 labor exploitation, such as domestic servitude, restaurant work,
56 janitorial work, sweatshop factory work, and migrant
57 agricultural work.
58 (c) The Legislature finds that traffickers use various
59 techniques to instill fear in victims and to keep them enslaved.
60 Some traffickers keep their victims under lock and key. However,
61 the most frequently used practices are less obvious techniques
62 that include isolating victims from the public and family
63 members; confiscating passports, visas, or other identification
64 documents; using or threatening to use violence toward victims
65 or their families; telling victims that they will be imprisoned
66 or deported for immigration violations if they contact
67 authorities; and controlling the victims' funds by holding the
68 money for "safekeeping."
69 (d) It is the intent of the Legislature that the
70 perpetrators of human trafficking be penalized for their illegal
71 conduct and that the victims of trafficking be protected and
72 assisted by this state and its agencies. In furtherance of this
73 policy, it is the intent of the Legislature that the State
74 Supreme Court, The Florida Bar, and relevant state agencies
75 prepare and implement training programs in order that judges,
76 attorneys, law enforcement personnel, investigators, and others
77 are able to identify traffickers and victims of human
78 trafficking and direct victims to appropriate agencies for
79 assistance. It is the intent of the Legislature that the

80 Department of Children and Family Services and other state
81 agencies cooperate with other state and federal agencies to
82 ensure that victims of human trafficking can access social
83 services and benefits to alleviate their plight.
84 (2) ~~(1)~~ As used in this section, the term:
85 (a) "Forced labor or services" means labor or services
86 obtained from a person by:
87 1. Using or threatening to use physical force against that
88 person or another person; ~~or~~
89 2. Restraining, isolating, or confining or threatening to
90 restrain, isolate, or confine that person or another person
91 without lawful authority and against her or his will; ~~.~~
92 3. Destroying, concealing, removing, confiscating,
93 withholding, or possessing any actual or purported passport,
94 visa, or other immigration document, or any other actual or
95 purported government identification document, of that person or
96 another person; or
97 4. Fraud or coercion.
98 (b) "Human trafficking" means transporting, soliciting,
99 recruiting, harboring, providing, or obtaining another person
100 for transport.
101 (3) ~~(2)~~ Any person who knowingly engages in human
102 trafficking with the intent that the trafficked person engage in
103 forced labor or services or who knowingly benefits financially
104 or receives anything of value from human trafficking when the
105 trafficked person engages in forced labor or services commits a
106 felony of the second degree, punishable as provided in s.
107 775.082, s. 775.083, or s. 775.084.

108 (4) The Florida Court Educational Council shall establish
109 standards of instruction for circuit and county court judges who
110 hear cases involving victims of human trafficking and shall
111 provide for periodic and timely instruction.
112 Section 2. Subsection (1) of section 772.102, Florida
113 Statutes, is amended to read:
114 772.102 Definitions.--As used in this chapter, the term:
115 (1) "Criminal activity" means to commit, to attempt to
116 commit, to conspire to commit, or to solicit, coerce, or
117 intimidate another person to commit:
118 (a) Any crime that ~~which~~ is chargeable by indictment or
119 information under the following provisions:
120 1. Section 210.18, relating to evasion of payment of
121 cigarette taxes.
122 2. Section 414.39, relating to public assistance fraud.
123 3. Section 440.105 or s. 440.106, relating to workers'
124 compensation.
125 4. Part IV of chapter 501, relating to telemarketing.
126 5. Chapter 517, relating to securities transactions.
127 6. Section 550.235, s. 550.3551, or s. 550.3605, relating
128 to dogracing and horseracing.
129 7. Chapter 550, relating to jai alai frontons.
130 8. Chapter 552, relating to the manufacture, distribution,
131 and use of explosives.
132 9. Chapter 562, relating to beverage law enforcement.
133 10. Section 624.401, relating to transacting insurance
134 without a certificate of authority, s. 624.437(4)(c)1., relating
135 to operating an unauthorized multiple-employer welfare

136 arrangement, or s. 626.902(1)(b), relating to representing or
137 aiding an unauthorized insurer.
138 11. Chapter 687, relating to interest and usurious
139 practices.
140 12. Section 721.08, s. 721.09, or s. 721.13, relating to
141 real estate timeshare plans.
142 13. Chapter 782, relating to homicide.
143 14. Chapter 784, relating to assault and battery.
144 15. Chapter 787, relating to kidnapping or human
145 trafficking.
146 16. Chapter 790, relating to weapons and firearms.
147 17. Section 796.03, s. 796.04, s. 796.045, s. 796.05, or
148 s. 796.07, relating to prostitution or sex trafficking.
149 18. Chapter 806, relating to arson.
150 19. Section 810.02(2)(c), relating to specified burglary
151 of a dwelling or structure.
152 20. Chapter 812, relating to theft, robbery, and related
153 crimes.
154 21. Chapter 815, relating to computer-related crimes.
155 22. Chapter 817, relating to fraudulent practices, false
156 pretenses, fraud generally, and credit card crimes.
157 23. Section 827.071, relating to commercial sexual
158 exploitation of children.
159 24. Chapter 831, relating to forgery and counterfeiting.
160 25. Chapter 832, relating to issuance of worthless checks
161 and drafts.
162 26. Section 836.05, relating to extortion.
163 27. Chapter 837, relating to perjury.

164 28. Chapter 838, relating to bribery and misuse of public
165 office.
166 29. Chapter 843, relating to obstruction of justice.
167 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
168 s. 847.07, relating to obscene literature and profanity.
169 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
170 849.25, relating to gambling.
171 32. Chapter 893, relating to drug abuse prevention and
172 control.
173 33. Section 914.22 or s. 914.23, relating to witnesses,
174 victims, or informants.
175 34. Section 918.12 or s. 918.13, relating to tampering
176 with jurors and evidence.
177 (b) Any conduct which is subject to indictment or
178 information as a criminal offense and listed in 18 U.S.C. s.
179 1961(1) (A), (B), (C), or (D).
180 Section 3. Section 772.104, Florida Statutes, is amended
181 to read:
182 772.104 Civil cause of action.--Any person who proves by
183 clear and convincing evidence that he or she has been injured by
184 reason of any violation of the provisions of s. 772.103 shall
185 have a cause of action for threefold the actual damages
186 sustained and, in any such action, is entitled to minimum
187 damages in the amount of $200, and reasonable attorney's fees
188 and court costs in the trial and appellate courts. <u>If the</u>
189 <u>violation is related to sex trafficking, the injured person</u>
190 <u>shall have a cause of action for threefold the amount of profit</u>
191 <u>gained from the sex trafficking.</u> In no event shall punitive

192 damages be awarded under this section. The defendant shall be
193 entitled to recover reasonable attorney's fees and court costs
194 in the trial and appellate courts upon a finding that the
195 claimant raised a claim which was without substantial fact or
196 legal support. In awarding attorney's fees and costs under this
197 section, the court shall not consider the ability of the
198 opposing party to pay such fees and costs. Nothing under this
199 section shall be interpreted as limiting any right to recover
200 attorney's fees or costs provided under other provisions of law.
201 Section 4. Subsection (1) of section 895.02, Florida
202 Statutes, as amended by section 3 of chapter 2005-362, Laws of
203 Florida, is amended to read:
204 895.02 Definitions.--As used in ss. 895.01-895.08, the
205 term:
206 (1) "Racketeering activity" means to commit, to attempt to
207 commit, to conspire to commit, or to solicit, coerce, or
208 intimidate another person to commit:
209 (a) Any crime that ~~which~~ is chargeable by indictment or
210 information under the following provisions of the Florida
211 Statutes:
212 1. Section 210.18, relating to evasion of payment of
213 cigarette taxes.
214 2. Section 403.727(3)(b), relating to environmental
215 control.
216 3. Section 409.920 or s. 409.9201, relating to Medicaid
217 fraud.
218 4. Section 414.39, relating to public assistance fraud.

219 5. Section 440.105 or s. 440.106, relating to workers'
220 compensation.
221 6. Section 443.071(4), relating to creation of a
222 fictitious employer scheme to commit unemployment compensation
223 fraud.
224 7. Section 465.0161, relating to distribution of medicinal
225 drugs without a permit as an Internet pharmacy.
226 8. Sections 499.0051, 499.0052, 499.00535, 499.00545, and
227 499.0691, relating to crimes involving contraband and
228 adulterated drugs.
229 9. Part IV of chapter 501, relating to telemarketing.
230 10. Chapter 517, relating to sale of securities and
231 investor protection.
232 11. Section 550.235, s. 550.3551, or s. 550.3605, relating
233 to dogracing and horseracing.
234 12. Chapter 550, relating to jai alai frontons.
235 13. Section 551.109, relating to slot machine gaming.
236 14. Chapter 552, relating to the manufacture,
237 distribution, and use of explosives.
238 15. Chapter 560, relating to money transmitters, if the
239 violation is punishable as a felony.
240 16. Chapter 562, relating to beverage law enforcement.
241 17. Section 624.401, relating to transacting insurance
242 without a certificate of authority, s. 624.437(4)(c)1., relating
243 to operating an unauthorized multiple-employer welfare
244 arrangement, or s. 626.902(1)(b), relating to representing or
245 aiding an unauthorized insurer.

246 18. Section 655.50, relating to reports of currency
247 transactions, when such violation is punishable as a felony.
248 19. Chapter 687, relating to interest and usurious
249 practices.
250 20. Section 721.08, s. 721.09, or s. 721.13, relating to
251 real estate timeshare plans.
252 21. Chapter 782, relating to homicide.
253 22. Chapter 784, relating to assault and battery.
254 23. Chapter 787, relating to kidnapping or human
255 trafficking.
256 24. Chapter 790, relating to weapons and firearms.
257 25. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.
258 796.05, or s. 796.07, relating to prostitution and sex
259 trafficking.
260 26. Chapter 806, relating to arson.
261 27. Section 810.02(2)(c), relating to specified burglary
262 of a dwelling or structure.
263 28. Chapter 812, relating to theft, robbery, and related
264 crimes.
265 29. Chapter 815, relating to computer-related crimes.
266 30. Chapter 817, relating to fraudulent practices, false
267 pretenses, fraud generally, and credit card crimes.
268 31. Chapter 825, relating to abuse, neglect, or
269 exploitation of an elderly person or disabled adult.
270 32. Section 827.071, relating to commercial sexual
271 exploitation of children.
272 33. Chapter 831, relating to forgery and counterfeiting.

273 34. Chapter 832, relating to issuance of worthless checks
274 and drafts.
275 35. Section 836.05, relating to extortion.
276 36. Chapter 837, relating to perjury.
277 37. Chapter 838, relating to bribery and misuse of public
278 office.
279 38. Chapter 843, relating to obstruction of justice.
280 39. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
281 s. 847.07, relating to obscene literature and profanity.
282 40. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
283 849.25, relating to gambling.
284 41. Chapter 874, relating to criminal street gangs.
285 42. Chapter 893, relating to drug abuse prevention and
286 control.
287 43. Chapter 896, relating to offenses related to financial
288 transactions.
289 44. Sections 914.22 and 914.23, relating to tampering with
290 a witness, victim, or informant, and retaliation against a
291 witness, victim, or informant.
292 45. Sections 918.12 and 918.13, relating to tampering with
293 jurors and evidence.
294 (b) Any conduct defined as "racketeering activity" under
295 18 U.S.C. s. 1961(1).
296 Section 5. For the purpose of incorporating the amendment
297 made by this act to section 895.02, Florida Statutes, in a
298 reference thereto, paragraph (a) of subsection (1) of section
299 16.56, Florida Statutes, is reenacted to read:
300 16.56 Office of Statewide Prosecution.--

301 (1) There is created in the Department of Legal Affairs an
302 Office of Statewide Prosecution. The office shall be a separate
303 "budget entity" as that term is defined in chapter 216. The
304 office may:
305 (a) Investigate and prosecute the offenses of:
306 1. Bribery, burglary, criminal usury, extortion, gambling,
307 kidnapping, larceny, murder, prostitution, perjury, robbery,
308 carjacking, and home-invasion robbery;
309 2. Any crime involving narcotic or other dangerous drugs;
310 3. Any violation of the provisions of the Florida RICO
311 (Racketeer Influenced and Corrupt Organization) Act, including
312 any offense listed in the definition of racketeering activity in
313 s. 895.02(1)(a), providing such listed offense is investigated
314 in connection with a violation of s. 895.03 and is charged in a
315 separate count of an information or indictment containing a
316 count charging a violation of s. 895.03, the prosecution of
317 which listed offense may continue independently if the
318 prosecution of the violation of s. 895.03 is terminated for any
319 reason;
320 4. Any violation of the provisions of the Florida Anti-
321 Fencing Act;
322 5. Any violation of the provisions of the Florida
323 Antitrust Act of 1980, as amended;
324 6. Any crime involving, or resulting in, fraud or deceit
325 upon any person;
326 7. Any violation of s. 847.0135, relating to computer
327 pornography and child exploitation prevention, or any offense
328 related to a violation of s. 847.0135;

329 8. Any violation of the provisions of chapter 815;
330 9. Any criminal violation of part I of chapter 499;
331 10. Any violation of the provisions of the Florida Motor
332 Fuel Tax Relief Act of 2004;
333 11. Any criminal violation of s. 409.920 or s. 409.9201;
334 or
335 12. Any crime involving voter registration, voting, or
336 candidate or issue petition activities;
337
338 or any attempt, solicitation, or conspiracy to commit any of the
339 crimes specifically enumerated above. The office shall have such
340 power only when any such offense is occurring, or has occurred,
341 in two or more judicial circuits as part of a related
342 transaction, or when any such offense is connected with an
343 organized criminal conspiracy affecting two or more judicial
344 circuits.
345 Section 6. For the purpose of incorporating the amendment
346 made by this act to section 895.02, Florida Statutes, in a
347 reference thereto, paragraph (g) of subsection (3) of section
348 655.50, Florida Statutes, is reenacted to read:
349 655.50 Florida Control of Money Laundering in Financial
350 Institutions Act; reports of transactions involving currency or
351 monetary instruments; when required; purpose; definitions;
352 penalties.--
353 (3) As used in this section, the term:
354 (g) "Specified unlawful activity" means any "racketeering
355 activity" as defined in s. 895.02.

356 Section 7. For the purpose of incorporating the amendment
357 made by this act to section 895.02, Florida Statutes, in a
358 reference thereto, paragraph (g) of subsection (2) of section
359 896.101, Florida Statutes, is reenacted to read:
360 896.101 Florida Money Laundering Act; definitions;
361 penalties; injunctions; seizure warrants; immunity.--
362 (2) As used in this section, the term:
363 (g) "Specified unlawful activity" means any "racketeering
364 activity" as defined in s. 895.02.
365 Section 8. For the purpose of incorporating the amendment
366 made by this act to section 895.02, Florida Statutes, in a
367 reference thereto, section 905.34, Florida Statutes, is
368 reenacted to read:
369 905.34 Powers and duties; law applicable.--The
370 jurisdiction of a statewide grand jury impaneled under this
371 chapter shall extend throughout the state. The subject matter
372 jurisdiction of the statewide grand jury shall be limited to the
373 offenses of:
374 (1) Bribery, burglary, carjacking, home-invasion robbery,
375 criminal usury, extortion, gambling, kidnapping, larceny,
376 murder, prostitution, perjury, and robbery;
377 (2) Crimes involving narcotic or other dangerous drugs;
378 (3) Any violation of the provisions of the Florida RICO
379 (Racketeer Influenced and Corrupt Organization) Act, including
380 any offense listed in the definition of racketeering activity in
381 s. 895.02(1)(a), providing such listed offense is investigated
382 in connection with a violation of s. 895.03 and is charged in a
383 separate count of an information or indictment containing a

384 count charging a violation of s. 895.03, the prosecution of
385 which listed offense may continue independently if the
386 prosecution of the violation of s. 895.03 is terminated for any
387 reason;
388 (4) Any violation of the provisions of the Florida Anti-
389 Fencing Act;
390 (5) Any violation of the provisions of the Florida
391 Antitrust Act of 1980, as amended;
392 (6) Any violation of the provisions of chapter 815;
393 (7) Any crime involving, or resulting in, fraud or deceit
394 upon any person;
395 (8) Any violation of s. 847.0135, s. 847.0137, or s.
396 847.0138 relating to computer pornography and child exploitation
397 prevention, or any offense related to a violation of s.
398 847.0135, s. 847.0137, or s. 847.0138;
399 (9) Any criminal violation of part I of chapter 499; or
400 (10) Any criminal violation of s. 409.920 or s. 409.9201;
401
402 or any attempt, solicitation, or conspiracy to commit any
403 violation of the crimes specifically enumerated above, when any
404 such offense is occurring, or has occurred, in two or more
405 judicial circuits as part of a related transaction or when any
406 such offense is connected with an organized criminal conspiracy
407 affecting two or more judicial circuits. The statewide grand
408 jury may return indictments and presentments irrespective of the
409 county or judicial circuit where the offense is committed or
410 triable. If an indictment is returned, it shall be certified
411 and transferred for trial to the county where the offense was

412 committed. The powers and duties of, and law applicable to,
413 county grand juries shall apply to a statewide grand jury except
414 when such powers, duties, and law are inconsistent with the
415 provisions of ss. 905.31-905.40.
416 Section 9. This act shall take effect October 1, 2006.

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

---

1 Council/Committee hearing bill: Future of Florida's Families
2 Representative(s) Gannon offered the following:
3 **Amendment**
4 Remove lines 97-107 and insert:
5 4. Fraud or coercion.
6 (b) "Human trafficking" means transporting, soliciting,
7 recruiting, harboring, providing, or obtaining another person
8 for transport.
9 (c) "Financial harm" includes the extortionate extension of
10 credit, criminal usury and loan sharking as defined in 687.071,
11 Florida Statutes, or employment contracts that violate the
12 Statute of Frauds as defined in Chapter 725, Florida Statutes.
13 (d) "Maintain" means, in relation to labor or services, to
14 secure continued performance thereof, regardless of any initial
15 agreement on the part of the victim to perform such type of
16 service.
17 (3) ~~(2)~~ Any person who knowingly:
18 (a) engages in human trafficking with the intent or
19 knowledge that the trafficked person ~~engage in~~ will be
20 subjected to forced labor or services; or

21 (b) benefits, financially or by receiving anything of value
22 from participation in a venture which has subjected a person to
23 forced labor or services, commits a felony of the second degree,
24 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

HB 501

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 501 CS Assisted Care Communities
SPONSOR(S): Clarke
TIED BILLS: **IDEN./SIM. BILLS:** SB 388

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Elder & Long-Term Care Committee	8 Y, 0 N, w/CS	DePalma	Walsh
2) Future of Florida's Families Committee		Davis	Collins
3) Governmental Operations Committee			
4) Health & Families Council			
5)			

SUMMARY ANALYSIS

The Committee Substitute for HB 501 transfers provisions relating to assisted living facilities, adult family-care homes and adult day care centers from Parts III, V and VII of Chapter 400, F.S., to newly-created Parts I, II and III of Chapter 429, F.S., to be entitled "Assisted Care Communities."

The CS makes multiple statutory revisions which specify each conforming change required to accurately move these sections to their new chapter.

The bill does not appear to have a fiscal impact on state or local government.

The effective date of the CS is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The CS does not appear to implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Regulation of Health Care Facilities and Services

Chapter 408, F.S., "Health Care Administration" contains the general statutory provisions assigned to the Agency for Health Care Administration (AHCA). The Agency, as created in s. 20.42, F.S., is responsible for:

- Health facility licensure, inspection, and regulatory enforcement;
- Investigation of consumer complaints related to health care facilities and managed care plans;
- Implementation of the certificate of need program;
- Operation of the State Center for Health Statistics;
- Administration of the Medicaid program;
- Administration of the contracts with the Florida Healthy Kids Corporation;
- Certification of health maintenance organizations and prepaid health clinics as set forth in part III of chapter 641, F.S.; and
- Any other duties prescribed by statute or agreement.

The statutory provisions for the health care facilities and services requiring licensure by, or registration with, AHCA, are found in chapters 112, 383, 390, 394, 395, 400, 440, 483, and 765, F.S. The facilities and services include drug free workplace laboratories, birth centers, abortion clinics, crisis stabilization units, short term residential treatment units, residential treatment facilities, residential treatment centers for children and adolescents, hospitals, ambulatory surgical centers, mobile surgical facilities, private review agents, health care risk managers, nursing homes, assisted living facilities, home health agencies, nurse registries, companion services or homemaker services providers, adult day care centers, hospices, adult family care homes, homes for special services, transitional living facilities, prescribed pediatric extended care centers, home medical equipment providers, intermediate care facilities for the developmentally disabled, health care services pools, health care clinics, clinical laboratories, multiphasic health testing centers, and organ and tissue procurement agencies.

These regulated health care facilities and services provide care in settings ranging from individual homes to institutions such as hospitals and nursing homes. The complexity of care provided ranges from companion and homemaker services in the home to trauma care and intensive care in hospitals. The duration of service ranges from short-term to long-term.

The Department of Elderly Affairs currently has rulemaking authority for the assisted living facility, adult family care home, adult day care center, and hospice programs. The Agency for Health Care Administration has rulemaking authority for the majority of other programs it licenses including hospitals, nursing homes, home health agencies, and others.

Nursing Homes and Related Health Care Facilities

Chapter 400, F.S., is entitled "Nursing Homes and Related Health Care Facilities" and consists of 13 parts.

Part	Title
I	Long-Term Care Facilities: Ombudsman Program
II	Nursing Homes
III	Assisted Living Facilities
IV	Home Health Agencies
V	Adult Day Care Centers
VI	Hospices
VII	Adult Family-Care Home Act
VIII	Intermediate, Special Services, and Transitional Living Facilities
IX	Prescribed Pediatric Extended Care Centers
X	Home Medical Equipment Providers
XI	Intermediate Care Facilities for Developmentally Disabled Persons
XII	Health Care Services Pools
XIII	Health Care Clinic Act

Assisted Living Facilities

Assisted Living Facilities (ALFs) are residential care facilities that provide housing, meals, personal care, and supportive services to older persons and disabled adults who are unable to live independently. The facilities are licensed under Chapter 400, part III, F.S., and are intended to be a less costly alternative to more restrictive institutional settings for individuals who do not require 24-hour nursing supervision. Generally speaking, ALFs provide supervision, assistance with personal and supportive services, and assistance with administration of medications to elders and disabled adults.

Nationally, it is estimated that an excess of 600,000 seniors currently reside in an ALF. In 2000, Florida's 2,305 assisted living facilities alone housed approximately 75,000 residents. Facilities operating on a for-profit basis account for the majority of the state's ALFs, as more than 83% of Florida's ALFs function as for-profit enterprises.[1]

In addition to a standard ALF operating license, there are three "specialty" ALF licenses: extended congregate care (ECC), limited nursing services (LNS), and limited mental health (LMH). An ALF holding an ECC license may provide additional nursing services and total assistance with personal care services. Residents living in ECC-licensed facilities may have greater impairment levels than those living in a standard ALF. Residents living in an ALF holding a LNS or LMH license must meet the same residency criteria as a standard-licensed ALF.

Regardless of the facility's license status, residents living in ALFs cannot have conditions that require 24-hour nursing supervision.[2]

Part III of Chapter 400, F.S., was created in 1975, and details the licensing and regulatory requirements for ALFs.

Adult Family Care Homes

Adult Family-Care Homes (AFCHs) are a familial-oriented living arrangement in a private home. AFCHs are licensed in accordance with Chapter 400, part VII, F.S., to provide room, board, and personal care on a 24-hour basis for up to five residents as an alternative to more restrictive institutional settings for individuals who need housing and supportive services, but not 24-hour nursing supervision. The provider must own or rent and live in the home operating as an AFCHs, and staff in AFCH are either employed by, or under contract with, the provider.

---

[1] *Florida's Aging Population: Critical Issues for Florida's Future*, 2nd Edition (2004), Pepper Institute on Aging and Public Policy, FSU College of Social Sciences.

[2] An exception is made for an existing resident who is receiving licensed hospice services while residing in an ALF.

Part VII of Chapter 400, F.S., was created in 1985, and details the licensing and regulatory requirements for AFCHs.

Adult Day Care Centers

Adult Day Care Centers (ADCCs) provide a variety of therapeutic, social, and health activities and services to adults who have functional impairments, in an effort to help restore, remediate, or maintain optimal functioning and increase interaction with others in a non-institutional setting. Participants may utilize a variety of services offered during any part of a day but less than a 24-hour period.

Part V of Chapter 400, F.S., was created in 1978, and details the licensing and regulatory requirements for ADCCs.

Division of Statutory Revision

The Division of Statutory Revision (the "Division") is a unit within the Office of Legislative Services (OLS), which is responsible for editing, compiling, indexing, and publishing the Florida Statutes under the continuous permanent statutory revision plan established under ss. 11.241-11.243, F.S. The powers, duties, and functions of OLS as they pertain to the statutory revision program are specified by these sections of statute.

The provisions of s.11.242(1), F.S., charge the Division with conducting a systematic and continuing study of the statutes and laws of this state for the purpose of reducing their number and bulk, removing inconsistencies, redundancies, and unnecessary repetitions and otherwise improving their clarity and facilitating their correct and proper interpretation; and for the same purpose, to prepare and submit to the Legislature reviser's bills and bills for the amendment, consolidation, revision, repeal, or other alterations or changes in any general statute or laws or parts thereof of a general nature required as a result of legislation approved during the preceding session or sessions.

EFFECT OF PROPOSED CHANGES

The CS for HB 501 transfers all sections of parts III, V and VII of chapter 400, F.S., to chapter 429, F.S., entitling the chapter "Assisted Care Communities" and making multiple statutory revisions necessary to accurately reflect the move of part III of chapter 400, F.S., to chapter 429, F.S. Chapter 429, F.S. is organized into parts I, II and III as follows:

Chapter 400, F.S., part	Title	Transfer to Chapter 429, F.S., part
III	Assisted Living Facilities	I
VII	Adult Family-Care Home Act	II
V	Adult Day Care Centers	III

C. SECTION DIRECTORY:

Section 1: Creates Chapter 429, Assisted Care Communities.

Section 2: Renumbers ss. 400.401 through 400.454 as ss. 429.01 through 429.54 and designates those sections as Part I, Assisted Living Facilities.

Section 3: Renumbers ss. 400.616 through 400.629 as ss. 429.60 through 429.87 and designates those sections as Part II, Adult Family-Care Homes.

Section 4: Renumbers ss. 400.55 through 400.564 as ss. 429.90 through 429.933 and designates those sections as Part III, Adult Day Care Centers.

Sections 5 through 121: Specifies each conforming change required to reflect the relocation of Parts III, VII and V of Chapter 400, F.S., to newly-created Parts I, II, and III of Chapter 429, F.S.

Section 122: Directs the Division of Statutory Revision to prepare a reviser's bill for introduction at a subsequent legislative session making conforming changes to Florida Statutes.

Section 123: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Agency for Health Care Administration reports that there should be no fiscal impact through implementation of the provisions of the CS.

2. Expenditures:

   The Agency for Health Care Administration reports that there should be no fiscal impact through implementation of the provisions of the CS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The municipal/county mandates provision in Section 18 of Article VII of the Florida Constitution does not appear to be applicable since the CS does not appear to require counties or municipalities to take action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its January 25, 2006 meeting, the Committee on Elder & Long-Term Care adopted a strike-all amendment to HB 501. The strike-all corrects several technical and conforming references throughout the bill.

The Committee favorably reported a Committee Substitute.

This analysis is drafted to the Committee Substitute.

CHAMBER ACTION

1 The Elder & Long-Term Care Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to assisted care communities; creating ch.
7 429, F.S.; transferring pt. III of ch. 400, F.S., relating
8 to assisted living facilities, to pt. I of ch. 429, F.S.;
9 transferring pt. VII of ch. 400, F.S., relating to adult
10 family-care homes, to pt. II of ch. 429, F.S.;
11 transferring pt. V of ch. 400, F.S., relating to adult day
12 care centers, to pt. III of ch. 429, F.S.; amending ss.
13 101.655, 189.428, 196.1975, 202.125, 205.1965, 212.031,
14 212.08, 296.02, 381.0035, 381.745, 393.063, 393.506,
15 394.455, 394.4574, 394.463, 400.0063, 400.0069, 400.0073,
16 400.0077, 400.0239, 400.119, 400.141, 400.142, 400.191,
17 400.215, 400.402, 400.404, 400.407, 400.4071, 400.408,
18 400.411, 400.412, 400.414, 400.415, 400.417, 400.4174,
19 400.4176, 400.4178, 400.418, 400.419, 400.42, 400.422,
20 400.424, 400.4255, 400.4256, 400.426, 400.427, 400.428,
21 400.429, 400.4293, 400.431, 400.441, 400.442, 400.444,
22 400.447, 400.452, 400.462, 400.464, 400.497, 400.552,
23 400.555, 400.556, 400.557, 400.5572, 400.601, 400.618,

24 400.6194, 400.621, 400.628, 400.93, 400.962, 400.980,
25 400.9905, 401.23, 402.164, 408.032, 408.033, 408.034,
26 408.07, 408.831, 409.212, 409.221, 409.905, 409.906,
27 409.907, 409.912, 410.031, 410.034, 415.1111, 419.001,
28 430.601, 430.703, 435.03, 435.04, 440.13, 465.0235,
29 468.1685, 468.505, 477.025, 483.285, 509.032, 509.241,
30 627.6617, 627.732, 651.011, 651.022, 651.023, 651.055,
31 651.095, 651.118, 765.1103, 765.205, 768.735, 893.13,
32 943.0585, and 943.059, F.S., to conform references to
33 changes made by the act; requesting the Division of
34 Statutory Revision to make necessary conforming changes to
35 the Florida Statutes; providing an effective date.
36
37 Be It Enacted by the Legislature of the State of Florida:
38
39 Section 1. Chapter 429, Florida Statutes, is created, to
40 be entitled "Assisted Care Communities."
41 Section 2. Sections 400.401, 400.402, 400.404, 400.407,
42 400.4071, 400.4075, 400.408, 400.411, 400.412, 400.414, 400.415,
43 400.417, 400.4174, 400.4176, 400.4177, 400.4178, 400.418,
44 400.419, 400.4195, 400.42, 400.421, 400.422, 400.423, 400.424,
45 400.4255, 400.4256, 400.426, 400.427, 400.4275, 400.428,
46 400.429, 400.4293, 400.4294, 400.4295, 400.4296, 400.4297,
47 400.4298, 400.431, 400.434, 400.435, 400.441, 400.442, 400.444,
48 400.4445, 400.447, 400.449, 400.451, 400.452, 400.453, and
49 400.454, Florida Statutes, are renumbered as sections 429.01,
50 429.02, 429.04, 429.07, 429.071, 429.075, 429.08, 429.11,
51 429.12, 429.14, 429.15, 429.17, 429.174, 429.176, 429.177,

52 429.178, 429.18, 429.19, 429.195, 429.20, 429.21, 429.22,
53 429.23, 429.24, 429.255, 429.256, 429.26, 429.27, 429.275,
54 429.28, 429.29, 429.293, 429.294, 429.295, 429.296, 429.297,
55 429.298, 429.31, 429.34, 429.35, 429.41, 429.42, 429.44,
56 429.445, 429.47, 429.49, 429.51, 429.52, 429.53, and 429.54,
57 Florida Statutes, respectively, designated as part I of chapter
58 429, Florida Statutes, and entitled "ASSISTED LIVING
59 FACILITIES."
60 Section 3. Sections 400.616, 400.617, 400.618, 400.619,
61 400.6194, 400.6196, 400.621, 400.6211, 400.622, 400.625,
62 400.6255, 400.628, and 400.629, Florida Statutes, are renumbered
63 as sections 429.60, 429.63, 429.65, 429.67, 429.69, 429.71,
64 429.73, 429.75, 429.77, 429.81, 429.83, 429.85, and 429.87,
65 Florida Statutes, respectively, designated as part II of chapter
66 429, Florida Statutes, and entitled "ADULT FAMILY-CARE HOMES."
67 Section 4. Sections 400.55, 400.551, 400.552, 400.553,
68 400.554, 400.555, 400.556, 400.5565, 400.557, 400.5571,
69 400.5572, 400.5575, 400.558, 400.559, 400.56, 400.562, 400.563,
70 and 400.564, Florida Statutes, are renumbered as sections
71 429.90, 429.901, 429.903, 429.905, 429.907, 429.909, 429.911,
72 429.913, 429.915, 429.917, 429.919, 429.921, 429.923, 429.925,
73 429.927, 429.929, 429.931, and 429.933, Florida Statutes,
74 designated as part III of chapter 429, Florida Statutes, and
75 entitled "ADULT DAY CARE CENTERS."
76 Section 5. Subsection (1) of section 101.655, Florida
77 Statutes, is amended to read:
78 101.655 Supervised voting by absent electors in certain
79 facilities.--

80 (1) The supervisor of elections of a county shall provide
81 supervised voting for absent electors residing in any assisted
82 living facility, as defined in s. 429.02 ~~s. 400.402~~, or nursing
83 home facility, as defined in s. 400.021, within that county at
84 the request of any administrator of such a facility. Such
85 request for supervised voting in the facility shall be made by
86 submitting a written request to the supervisor of elections no
87 later than 21 days prior to the election for which that request
88 is submitted. The request shall specify the name and address of
89 the facility and the name of the electors who wish to vote
90 absentee in that election. If the request contains the names of
91 fewer than five voters, the supervisor of elections is not
92 required to provide supervised voting.
93 Section 6. Subsection (9) of section 189.428, Florida
94 Statutes, is amended to read:
95 189.428 Special districts; oversight review process.--
96 (9) This section does not apply to a deepwater port listed
97 in s. 311.09(1) which is in compliance with a port master plan
98 adopted pursuant to s. 163.3178(2)(k), or to an airport
99 authority operating in compliance with an airport master plan
100 approved by the Federal Aviation Administration, or to any
101 special district organized to operate health systems and
102 facilities licensed under chapter 395, ~~or~~ chapter 400, or
103 chapter 429.
104 Section 7. Paragraph (b) of subsection (2) of section
105 196.1975, Florida Statutes, is amended to read:

106 196.1975 Exemption for property used by nonprofit homes
107 for the aged.--Nonprofit homes for the aged are exempt to the
108 extent that they meet the following criteria:
109 (2) A facility will not qualify as a "home for the aged"
110 unless at least 75 percent of the occupants are over the age of
111 62 years or totally and permanently disabled. For homes for the
112 aged which are exempt from paying income taxes to the United
113 States as specified in subsection (1), licensing by the Agency
114 for Health Care Administration is required for ad valorem tax
115 exemption hereunder only if the home:
116 (b) Qualifies as an assisted living facility under ~~part~~
117 ~~III of~~ chapter 429 ~~400~~.
118 Section 8. Paragraph (c) of subsection (4) of section
119 202.125, Florida Statutes, is amended to read:
120 202.125 Sales of communications services; specified
121 exemptions.--
122 (4) The sale of communications services to a home for the
123 aged, religious institution or educational institution that is
124 exempt from federal income tax under s. 501(c)(3) of the
125 Internal Revenue Code, or by a religious institution that is
126 exempt from federal income tax under s. 501(c)(3) of the
127 Internal Revenue Code having an established physical place for
128 worship at which nonprofit religious services and activities are
129 regularly conducted and carried on, is exempt from the taxes
130 imposed or administered pursuant to ss. 202.12 and 202.19. As
131 used in this subsection, the term:
132 (c) "Home for the aged" includes any nonprofit
133 corporation:

134 1. In which at least 75 percent of the occupants are 62
135 years of age or older or totally and permanently disabled; which
136 qualifies for an ad valorem property tax exemption under s.
137 196.196, s. 196.197, or s. 196.1975; and which is exempt from
138 the sales tax imposed under chapter 212.
139 2. Licensed as a nursing home under chapter 400 or an
140 assisted living facility under chapter 429 ~~400~~ and which is
141 exempt from the sales tax imposed under chapter 212.
142 Section 9. Section 205.1965, Florida Statutes, is amended
143 to read:
144 205.1965 Assisted living facilities.--A county or
145 municipality may not issue an occupational license for the
146 operation of an assisted living facility pursuant to ~~part III of~~
147 chapter 429 ~~400~~ without first ascertaining that the applicant
148 has been licensed by the Agency for Health Care Administration
149 to operate such facility at the specified location or locations.
150 The Agency for Health Care Administration shall furnish to local
151 agencies responsible for issuing occupational licenses
152 sufficient instructions for making the above required
153 determinations.
154 Section 10. Paragraph (b) of subsection (1) of section
155 212.031, Florida Statutes, is amended to read:
156 212.031 Tax on rental or license fee for use of real
157 property.--
158 (1)
159 (b) When a lease involves multiple use of real property
160 wherein a part of the real property is subject to the tax
161 herein, and a part of the property would be excluded from the

162 tax under subparagraph (a)1., subparagraph (a)2., subparagraph
163 (a)3., or subparagraph (a)5., the department shall determine,
164 from the lease or license and such other information as may be
165 available, that portion of the total rental charge which is
166 exempt from the tax imposed by this section. The portion of the
167 premises leased or rented by a for-profit entity providing a
168 residential facility for the aged will be exempt on the basis of
169 a pro rata portion calculated by combining the square footage of
170 the areas used for residential units by the aged and for the
171 care of such residents and dividing the resultant sum by the
172 total square footage of the rented premises. For purposes of
173 this section, the term "residential facility for the aged" means
174 a facility that is licensed or certified in whole or in part
175 under chapter 400, chapter 429, or chapter 651; or that provides
176 residences to the elderly and is financed by a mortgage or loan
177 made or insured by the United States Department of Housing and
178 Urban Development under s. 202, s. 202 with a s. 8 subsidy, s.
179 221(d)(3) or (4), s. 232, or s. 236 of the National Housing Act;
180 or other such similar facility that provides residences
181 primarily for the elderly.
182 Section 11. Paragraph (i) of subsection (7) of section
183 212.08, Florida Statutes, is amended to read:
184 212.08 Sales, rental, use, consumption, distribution, and
185 storage tax; specified exemptions.--The sale at retail, the
186 rental, the use, the consumption, the distribution, and the
187 storage to be used or consumed in this state of the following
188 are hereby specifically exempt from the tax imposed by this
189 chapter.

190 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
191 entity by this chapter do not inure to any transaction that is
192 otherwise taxable under this chapter when payment is made by a
193 representative or employee of the entity by any means,
194 including, but not limited to, cash, check, or credit card, even
195 when that representative or employee is subsequently reimbursed
196 by the entity. In addition, exemptions provided to any entity by
197 this subsection do not inure to any transaction that is
198 otherwise taxable under this chapter unless the entity has
199 obtained a sales tax exemption certificate from the department
200 or the entity obtains or provides other documentation as
201 required by the department. Eligible purchases or leases made
202 with such a certificate must be in strict compliance with this
203 subsection and departmental rules, and any person who makes an
204 exempt purchase with a certificate that is not in strict
205 compliance with this subsection and the rules is liable for and
206 shall pay the tax. The department may adopt rules to administer
207 this subsection.
208 (i) Hospital meals and rooms.--Also exempt from payment of
209 the tax imposed by this chapter on rentals and meals are
210 patients and inmates of any hospital or other physical plant or
211 facility designed and operated primarily for the care of persons
212 who are ill, aged, infirm, mentally or physically incapacitated,
213 or otherwise dependent on special care or attention. Residents
214 of a home for the aged are exempt from payment of taxes on meals
215 provided through the facility. A home for the aged is defined
216 as a facility that is licensed or certified in part or in whole
217 under chapter 400, chapter 429, or chapter 651, or that is

218 financed by a mortgage loan made or insured by the United States
219 Department of Housing and Urban Development under s. 202, s. 202
220 with a s. 8 subsidy, s. 221(d)(3) or (4), s. 232, or s. 236 of
221 the National Housing Act, or other such similar facility
222 designed and operated primarily for the care of the aged.
223 Section 12. Subsection (5) of section 296.02, Florida
224 Statutes, is amended to read:
225 296.02 Definitions.--For the purposes of this part, except
226 where the context clearly indicates otherwise:
227 (5) "Extended congregate care" has the meaning given to
228 that term under s. 429.02 ~~s. 400.402~~.
229 Section 13. Subsections (1) and (3) of section 381.0035,
230 Florida Statutes, are amended to read:
231 381.0035 Educational course on HIV and AIDS; employees and
232 clients of certain health care facilities.--
233 (1) The Department of Health shall require all employees
234 and clients of facilities licensed under chapters 393, 394, and
235 397 and employees of facilities licensed under chapter 395, ~~and~~
236 parts II and~~,~~ III~~,~~ ~~IV, and VI~~ of chapter 400, and parts I and IV
237 of chapter 429 to complete, biennially, a continuing educational
238 course on the modes of transmission, infection control
239 procedures, clinical management, and prevention of human
240 immunodeficiency virus and acquired immune deficiency syndrome
241 with an emphasis on appropriate behavior and attitude change.
242 Such instruction shall include information on current Florida
243 law and its impact on testing, confidentiality of test results,
244 and treatment of patients and any protocols and procedures
245 applicable to human immunodeficiency counseling and testing,

246 reporting, the offering of HIV testing to pregnant women, and
247 partner notification issues pursuant to ss. 381.004 and 384.25.
248 (3) Facilities licensed under chapters 393, 394, 395, and
249 397, ~~and~~ parts II, III, and IV~~, and VI~~ of chapter 400, and part
250 I of chapter 429 shall maintain a record of employees and dates
251 of attendance at human immunodeficiency virus and acquired
252 immune deficiency syndrome educational courses.
253 Section 14. Subsection (9) of section 381.745, Florida
254 Statutes, is amended to read:
255 381.745 Definitions; ss. 381.739-381.79.--As used in ss.
256 381.739-381.79, the term:
257 (9) "Transitional living facility" means a state-approved
258 facility, as defined and licensed under chapter 400 or chapter
259 429, or a facility approved by the brain and spinal cord injury
260 program in accordance with this chapter.
261 Section 15. Subsection (24) of section 393.063, Florida
262 Statutes, is amended to read:
263 393.063 Definitions.--For the purposes of this chapter:
264 (24) "Intermediate care facility for the developmentally
265 disabled" or "ICF/DD" means a residential facility licensed and
266 certified pursuant to part VIII ~~XI~~ of chapter 400.
267 Section 16. Paragraph (b) of subsection (1) of section
268 393.506, Florida Statutes, is amended to read:
269 393.506 Administration of medication.--
270 (1) Notwithstanding the provisions of part I of chapter
271 464, the Nurse Practice Act, unlicensed direct care services
272 staff providing services to persons with developmental

273 disabilities may administer oral, transdermal, inhaled, or
274 topical prescription medications as provided in this section.
275 (b) For intermediate care facilities for the
276 developmentally disabled licensed pursuant to part VIII ~~XI~~ of
277 chapter 400, unlicensed staff designated by the director may
278 provide medication assistance under the general supervision of a
279 registered nurse licensed pursuant to chapter 464.
280 Section 17. Subsection (10) of section 394.455, Florida
281 Statutes, is amended to read:
282 394.455 Definitions.--As used in this part, unless the
283 context clearly requires otherwise, the term:
284 (10) "Facility" means any hospital, community facility,
285 public or private facility, or receiving or treatment facility
286 providing for the evaluation, diagnosis, care, treatment,
287 training, or hospitalization of persons who appear to have a
288 mental illness or have been diagnosed as having a mental
289 illness. "Facility" does not include any program or entity
290 licensed pursuant to chapter 400 or chapter 429.
291 Section 18. Paragraphs (b), (c), and (e) of subsection (2)
292 of section 394.4574, Florida Statutes, are amended to read:
293 394.4574 Department responsibilities for a mental health
294 resident who resides in an assisted living facility that holds a
295 limited mental health license.--
296 (2) The department must ensure that:
297 (b) A cooperative agreement, as required in s. 429.075 ~~s.~~
298 ~~400.4075~~, is developed between the mental health care services
299 provider that serves a mental health resident and the
300 administrator of the assisted living facility with a limited

301 mental health license in which the mental health resident is
302 living. Any entity that provides Medicaid prepaid health plan
303 services shall ensure the appropriate coordination of health
304 care services with an assisted living facility in cases where a
305 Medicaid recipient is both a member of the entity's prepaid
306 health plan and a resident of the assisted living facility. If
307 the entity is at risk for Medicaid targeted case management and
308 behavioral health services, the entity shall inform the assisted
309 living facility of the procedures to follow should an emergent
310 condition arise.
311 (c) The community living support plan, as defined in s.
312 429.02 ~~s. 400.402~~, has been prepared by a mental health resident
313 and a mental health case manager of that resident in
314 consultation with the administrator of the facility or the
315 administrator's designee. The plan must be provided to the
316 administrator of the assisted living facility with a limited
317 mental health license in which the mental health resident lives.
318 The support plan and the agreement may be in one document.
319 (e) The mental health services provider assigns a case
320 manager to each mental health resident who lives in an assisted
321 living facility with a limited mental health license. The case
322 manager is responsible for coordinating the development of and
323 implementation of the community living support plan defined in
324 s. 429.02 ~~s. 400.402~~. The plan must be updated at least
325 annually.
326 Section 19. Paragraph (b) of subsection (2) of section
327 394.463, Florida Statutes, is amended to read:
328 394.463 Involuntary examination.--

329 (2) INVOLUNTARY EXAMINATION.--
330 (b) A person shall not be removed from any program or
331 residential placement licensed under chapter 400 or chapter 429
332 and transported to a receiving facility for involuntary
333 examination unless an ex parte order, a professional
334 certificate, or a law enforcement officer's report is first
335 prepared. If the condition of the person is such that
336 preparation of a law enforcement officer's report is not
337 practicable before removal, the report shall be completed as
338 soon as possible after removal, but in any case before the
339 person is transported to a receiving facility. A receiving
340 facility admitting a person for involuntary examination who is
341 not accompanied by the required ex parte order, professional
342 certificate, or law enforcement officer's report shall notify
343 the Agency for Health Care Administration of such admission by
344 certified mail no later than the next working day. The
345 provisions of this paragraph do not apply when transportation is
346 provided by the patient's family or guardian.
347 Section 20. Paragraph (b) of subsection (3) of section
348 400.0063, Florida Statutes, is amended to read:
349 400.0063 Establishment of Office of State Long-Term Care
350 Ombudsman; designation of ombudsman and legal advocate.--
351 (3)
352 (b) The duties of the legal advocate shall include, but
353 not be limited to:
354 1. Assisting the ombudsman in carrying out the duties of
355 the office with respect to the abuse, neglect, or violation of
356 rights of residents of long-term care facilities.

357 2. Assisting the state and local ombudsman councils in
358 carrying out their responsibilities under this part.
359 3. Initiating and prosecuting legal and equitable actions
360 to enforce the rights of long-term care facility residents as
361 defined in this chapter or chapter 429.
362 4. Serving as legal counsel to the state and local
363 ombudsman councils, or individual members thereof, against whom
364 any suit or other legal action is initiated in connection with
365 the performance of the official duties of the councils or an
366 individual member.
367 Section 21. Subsection (3) of section 400.0069, Florida
368 Statutes, is amended to read:
369 400.0069 Local long-term care ombudsman councils; duties;
370 membership.--
371 (3) In order to carry out the duties specified in
372 subsection (2), the local ombudsman council is authorized,
373 pursuant to ss. 400.19(1) and 429.34 ~~400.434~~, to enter any long-
374 term care facility without notice or first obtaining a warrant,
375 subject to the provisions of s. 400.0073(5).
376 Section 22. Paragraphs (c) and (f) of subsection (5) and
377 subsection (6) of section 400.0073, Florida Statutes, are
378 amended to read:
379 400.0073 State and local ombudsman council
380 investigations.--
381 (5) Any onsite administrative inspection conducted by an
382 ombudsman council shall be subject to the following:
383 (c) Inspections shall be conducted in a manner which will
384 impose no unreasonable burden on nursing homes or long-term care

385 facilities, consistent with the underlying purposes of this part
386 and chapter 429. Unnecessary duplication of efforts among
387 council members or the councils shall be reduced to the extent
388 possible.
389 (f) All inspections shall be limited to compliance with
390 part ~~parts~~ II~~, III, and VII~~ of this chapter, chapter 429, and 42
391 U.S.C. ss. 1396(a) et seq., and any rules or regulations
392 promulgated pursuant to such laws.
393 (6) An inspection may not be accomplished by forcible
394 entry. Refusal of a long-term care facility to allow entry of
395 any ombudsman council member constitutes a violation of part II~~,~~
396 ~~part III, or part VII~~ of this chapter or chapter 429.
397 Section 23. Subsection (4) of section 400.0077, Florida
398 Statutes, is amended to read:
399 400.0077 Confidentiality.--
400 (4) Members of any state or local ombudsman council shall
401 not be required to testify in any court with respect to matters
402 held to be confidential under s. 429.14 ~~s. 400.414~~ except as may
403 be necessary to enforce the provisions of this act.
404 Section 24. Subsection (1) of section 400.0239, Florida
405 Statutes, is amended to read:
406 400.0239 Quality of Long-Term Care Facility Improvement
407 Trust Fund.--
408 (1) There is created within the Agency for Health Care
409 Administration a Quality of Long-Term Care Facility Improvement
410 Trust Fund to support activities and programs directly related
411 to improvement of the care of nursing home and assisted living
412 facility residents. The trust fund shall be funded through

413 proceeds generated pursuant to ss. 400.0238 and 429.298
414 ~~400.4298~~, through funds specifically appropriated by the
415 Legislature, through gifts, endowments, and other charitable
416 contributions allowed under federal and state law, and through
417 federal nursing home civil monetary penalties collected by the
418 Centers for Medicare and Medicaid Services and returned to the
419 state. These funds must be utilized in accordance with federal
420 requirements.
421 Section 25. Subsections (1) and (4) of section 400.119,
422 Florida Statutes, are amended to read:
423 400.119 Confidentiality of records and meetings of risk
424 management and quality assurance committees.--
425 (1) Records of meetings of the risk management and quality
426 assurance committee of a long-term care facility licensed under
427 this part or part I ~~III~~ of ~~this~~ chapter 429, as well as incident
428 reports filed with the facility's risk manager and
429 administrator, notifications of the occurrence of an adverse
430 incident, and adverse incident reports from the facility are
431 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
432 of the State Constitution. However, if the Agency for Health
433 Care Administration has a reasonable belief that conduct by a
434 staff member or employee of a facility is criminal activity or
435 grounds for disciplinary action by a regulatory board, the
436 agency may disclose such records to the appropriate law
437 enforcement agency or regulatory board.
438 (4) The meetings of an internal risk management and
439 quality assurance committee of a long-term care facility
440 licensed under this part or part I ~~III~~ of ~~this~~ chapter 429 are

441 exempt from s. 286.011 and s. 24(b), Art. I of the State
442 Constitution and are not open to the public.
443 Section 26. Subsections (4) and (7) of section 400.141,
444 Florida Statutes, are amended to read:
445 400.141 Administration and management of nursing home
446 facilities.--Every licensed facility shall comply with all
447 applicable standards and rules of the agency and shall:
448 (4) Provide for resident use of a community pharmacy as
449 specified in s. 400.022(1)(q). Any other law to the contrary
450 notwithstanding, a registered pharmacist licensed in Florida,
451 that is under contract with a facility licensed under this
452 chapter <u>or chapter 429</u>, shall repackage a nursing facility
453 resident's bulk prescription medication which has been packaged
454 by another pharmacist licensed in any state in the United States
455 into a unit dose system compatible with the system used by the
456 nursing facility, if the pharmacist is requested to offer such
457 service. In order to be eligible for the repackaging, a resident
458 or the resident's spouse must receive prescription medication
459 benefits provided through a former employer as part of his or
460 her retirement benefits, a qualified pension plan as specified
461 in s. 4972 of the Internal Revenue Code, a federal retirement
462 program as specified under 5 C.F.R. s. 831, or a long-term care
463 policy as defined in s. 627.9404(1). A pharmacist who correctly
464 repackages and relabels the medication and the nursing facility
465 which correctly administers such repackaged medication under the
466 provisions of this subsection shall not be held liable in any
467 civil or administrative action arising from the repackaging. In
468 order to be eligible for the repackaging, a nursing facility

469 resident for whom the medication is to be repackaged shall sign
470 an informed consent form provided by the facility which includes
471 an explanation of the repackaging process and which notifies the
472 resident of the immunities from liability provided herein. A
473 pharmacist who repackages and relabels prescription medications,
474 as authorized under this subsection, may charge a reasonable fee
475 for costs resulting from the implementation of this provision.
476 (7) If the facility has a standard license or is a Gold
477 Seal facility, exceeds the minimum required hours of licensed
478 nursing and certified nursing assistant direct care per resident
479 per day, and is part of a continuing care facility licensed
480 under chapter 651 or a retirement community that offers other
481 services pursuant to part III of this chapter or part I or part
482 III of chapter 429~~, part IV, or part V~~ on a single campus, be
483 allowed to share programming and staff. At the time of
484 inspection and in the semiannual report required pursuant to
485 subsection (15), a continuing care facility or retirement
486 community that uses this option must demonstrate through
487 staffing records that minimum staffing requirements for the
488 facility were met. Licensed nurses and certified nursing
489 assistants who work in the nursing home facility may be used to
490 provide services elsewhere on campus if the facility exceeds the
491 minimum number of direct care hours required per resident per
492 day and the total number of residents receiving direct care
493 services from a licensed nurse or a certified nursing assistant
494 does not cause the facility to violate the staffing ratios
495 required under s. 400.23(3)(a). Compliance with the minimum
496 staffing ratios shall be based on total number of residents

497 receiving direct care services, regardless of where they reside
498 on campus. If the facility receives a conditional license, it
499 may not share staff until the conditional license status ends.
500 This subsection does not restrict the agency's authority under
501 federal or state law to require additional staff if a facility
502 is cited for deficiencies in care which are caused by an
503 insufficient number of certified nursing assistants or licensed
504 nurses. The agency may adopt rules for the documentation
505 necessary to determine compliance with this provision.
506
507 Facilities that have been awarded a Gold Seal under the program
508 established in s. 400.235 may develop a plan to provide
509 certified nursing assistant training as prescribed by federal
510 regulations and state rules and may apply to the agency for
511 approval of their program.
512 Section 27. Subsection (1) of section 400.142, Florida
513 Statutes, is amended to read:
514 400.142 Emergency medication kits; orders not to
515 resuscitate.--
516 (1) Other provisions of this chapter or of chapter 429,
517 chapter 465, chapter 499, or chapter 893 to the contrary
518 notwithstanding, each nursing home operating pursuant to a
519 license issued by the agency may maintain an emergency
520 medication kit for the purpose of storing medicinal drugs to be
521 administered under emergency conditions to residents residing in
522 such facility.
523 Section 28. Paragraph (a) of subsection (2) of section
524 400.191, Florida Statutes, is amended to read:

525 400.191 Availability, distribution, and posting of reports
526 and records.--
527 (2) The agency shall provide additional information in
528 consumer-friendly printed and electronic formats to assist
529 consumers and their families in comparing and evaluating nursing
530 home facilities.
531 (a) The agency shall provide an Internet site which shall
532 include at least the following information either directly or
533 indirectly through a link to another established site or sites
534 of the agency's choosing:
535 1. A list by name and address of all nursing home
536 facilities in this state.
537 2. Whether such nursing home facilities are proprietary or
538 nonproprietary.
539 3. The current owner of the facility's license and the
540 year that that entity became the owner of the license.
541 4. The name of the owner or owners of each facility and
542 whether the facility is affiliated with a company or other
543 organization owning or managing more than one nursing facility
544 in this state.
545 5. The total number of beds in each facility.
546 6. The number of private and semiprivate rooms in each
547 facility.
548 7. The religious affiliation, if any, of each facility.
549 8. The languages spoken by the administrator and staff of
550 each facility.
551 9. Whether or not each facility accepts Medicare or
552 Medicaid recipients or insurance, health maintenance

553 organization, Veterans Administration, CHAMPUS program, or
554 workers' compensation coverage.
555 10. Recreational and other programs available at each
556 facility.
557 11. Special care units or programs offered at each
558 facility.
559 12. Whether the facility is a part of a retirement
560 community that offers other services pursuant to part III of
561 this chapter or part I or part III of chapter 429~~, part IV, or~~
562 ~~part V~~.
563 13. Survey and deficiency information contained on the
564 Online Survey Certification and Reporting (OSCAR) system of the
565 federal Health Care Financing Administration, including annual
566 survey, revisit, and complaint survey information, for each
567 facility for the past 45 months. For noncertified nursing
568 homes, state survey and deficiency information, including annual
569 survey, revisit, and complaint survey information for the past
570 45 months shall be provided.
571 14. A summary of the Online Survey Certification and
572 Reporting (OSCAR) data for each facility over the past 45
573 months. Such summary may include a score, rating, or comparison
574 ranking with respect to other facilities based on the number of
575 citations received by the facility of annual, revisit, and
576 complaint surveys; the severity and scope of the citations; and
577 the number of annual recertification surveys the facility has
578 had during the past 45 months. The score, rating, or comparison
579 ranking may be presented in either numeric or symbolic form for
580 the intended consumer audience.

581 Section 29. Paragraph (b) of subsection (2) of section
582 400.215, Florida Statutes, is amended to read:
583 400.215 Personnel screening requirement.--
584 (2) Employers and employees shall comply with the
585 requirements of s. 435.05.
586 (b) Employees qualified under the provisions of paragraph
587 (a) who have not maintained continuous residency within the
588 state for the 5 years immediately preceding the date of request
589 for background screening must complete level 2 screening, as
590 provided in chapter 435. Such employees may work in a
591 conditional status up to 180 days pending the receipt of written
592 findings evidencing the completion of level 2 screening. Level 2
593 screening shall not be required of employees or prospective
594 employees who attest in writing under penalty of perjury that
595 they meet the residency requirement. Completion of level 2
596 screening shall require the employee or prospective employee to
597 furnish to the nursing facility a full set of fingerprints to
598 enable a criminal background investigation to be conducted. The
599 nursing facility shall submit the completed fingerprint card to
600 the agency. The agency shall establish a record of the request
601 in the database provided for in paragraph (c) and forward the
602 request to the Department of Law Enforcement, which is
603 authorized to submit the fingerprints to the Federal Bureau of
604 Investigation for a national criminal history records check. The
605 results of the national criminal history records check shall be
606 returned to the agency, which shall maintain the results in the
607 database provided for in paragraph (c). The agency shall notify
608 the administrator of the requesting nursing facility or the

609 administrator of any other facility licensed under chapter 393,
610 chapter 394, chapter 395, chapter 397, chapter 429, or this
611 chapter, as requested by such facility, as to whether or not the
612 employee has qualified under level 1 or level 2 screening. An
613 employee or prospective employee who has qualified under level 2
614 screening and has maintained such continuous residency within
615 the state shall not be required to complete a subsequent level 2
616 screening as a condition of employment at another facility.
617 Section 30. Section 400.402, Florida Statutes, is
618 renumbered as section 429.02, Florida Statutes, and amended to
619 read:
620 429.02 ~~400.402~~ Definitions.--When used in this part, the
621 term:
622 (1) "Activities of daily living" means functions and tasks
623 for self-care, including ambulation, bathing, dressing, eating,
624 grooming, and toileting, and other similar tasks.
625 (2) "Administrator" means an individual at least 21 years
626 of age who is responsible for the operation and maintenance of
627 an assisted living facility.
628 (3) "Agency" means the Agency for Health Care
629 Administration.
630 (4) "Aging in place" or "age in place" means the process
631 of providing increased or adjusted services to a person to
632 compensate for the physical or mental decline that may occur
633 with the aging process, in order to maximize the person's
634 dignity and independence and permit them to remain in a
635 familiar, noninstitutional, residential environment for as long
636 as possible. Such services may be provided by facility staff,

637 volunteers, family, or friends, or through contractual
638 arrangements with a third party.
639 (5) "Applicant" means an individual owner, corporation,
640 partnership, firm, association, or governmental entity that
641 applies for a license.
642 (6) "Assisted living facility" means any building or
643 buildings, section or distinct part of a building, private home,
644 boarding home, home for the aged, or other residential facility,
645 whether operated for profit or not, which undertakes through its
646 ownership or management to provide housing, meals, and one or
647 more personal services for a period exceeding 24 hours to one or
648 more adults who are not relatives of the owner or administrator.
649 (7) "Chemical restraint" means a pharmacologic drug that
650 physically limits, restricts, or deprives an individual of
651 movement or mobility, and is used for discipline or convenience
652 and not required for the treatment of medical symptoms.
653 (8) "Community living support plan" means a written
654 document prepared by a mental health resident and the resident's
655 mental health case manager in consultation with the
656 administrator of an assisted living facility with a limited
657 mental health license or the administrator's designee. A copy
658 must be provided to the administrator. The plan must include
659 information about the supports, services, and special needs of
660 the resident which enable the resident to live in the assisted
661 living facility and a method by which facility staff can
662 recognize and respond to the signs and symptoms particular to
663 that resident which indicate the need for professional services.

664 (9) "Cooperative agreement" means a written statement of
665 understanding between a mental health care provider and the
666 administrator of the assisted living facility with a limited
667 mental health license in which a mental health resident is
668 living. The agreement must specify directions for accessing
669 emergency and after-hours care for the mental health resident. A
670 single cooperative agreement may service all mental health
671 residents who are clients of the same mental health care
672 provider.
673 (10) "Department" means the Department of Elderly Affairs.
674 (11) "Emergency" means a situation, physical condition, or
675 method of operation which presents imminent danger of death or
676 serious physical or mental harm to facility residents.
677 (12) "Extended congregate care" means acts beyond those
678 authorized in subsection (17) that may be performed pursuant to
679 part I of chapter 464 by persons licensed thereunder while
680 carrying out their professional duties, and other supportive
681 services which may be specified by rule. The purpose of such
682 services is to enable residents to age in place in a residential
683 environment despite mental or physical limitations that might
684 otherwise disqualify them from residency in a facility licensed
685 under this part.
686 (13) "Guardian" means a person to whom the law has
687 entrusted the custody and control of the person or property, or
688 both, of a person who has been legally adjudged incapacitated.
689 (14) "Limited nursing services" means acts that may be
690 performed pursuant to part I of chapter 464 by persons licensed
691 thereunder while carrying out their professional duties but

692 limited to those acts which the department specifies by rule.
693 Acts which may be specified by rule as allowable limited nursing
694 services shall be for persons who meet the admission criteria
695 established by the department for assisted living facilities and
696 shall not be complex enough to require 24-hour nursing
697 supervision and may include such services as the application and
698 care of routine dressings, and care of casts, braces, and
699 splints.
700 (15) "Managed risk" means the process by which the
701 facility staff discuss the service plan and the needs of the
702 resident with the resident and, if applicable, the resident's
703 representative or designee or the resident's surrogate,
704 guardian, or attorney in fact, in such a way that the
705 consequences of a decision, including any inherent risk, are
706 explained to all parties and reviewed periodically in
707 conjunction with the service plan, taking into account changes
708 in the resident's status and the ability of the facility to
709 respond accordingly.
710 (16) "Mental health resident" means an individual who
711 receives social security disability income due to a mental
712 disorder as determined by the Social Security Administration or
713 receives supplemental security income due to a mental disorder
714 as determined by the Social Security Administration and receives
715 optional state supplementation.
716 (17) "Personal services" means direct physical assistance
717 with or supervision of the activities of daily living and the
718 self-administration of medication and other similar services
719 which the department may define by rule. "Personal services"

720 shall not be construed to mean the provision of medical,
721 nursing, dental, or mental health services.
722 (18) "Physical restraint" means a device which physically
723 limits, restricts, or deprives an individual of movement or
724 mobility, including, but not limited to, a half-bed rail, a
725 full-bed rail, a geriatric chair, and a posey restraint. The
726 term "physical restraint" shall also include any device which
727 was not specifically manufactured as a restraint but which has
728 been altered, arranged, or otherwise used for this purpose. The
729 term shall not include bandage material used for the purpose of
730 binding a wound or injury.
731 (19) "Relative" means an individual who is the father,
732 mother, stepfather, stepmother, son, daughter, brother, sister,
733 grandmother, grandfather, great-grandmother, great-grandfather,
734 grandson, granddaughter, uncle, aunt, first cousin, nephew,
735 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
736 daughter-in-law, brother-in-law, sister-in-law, stepson,
737 stepdaughter, stepbrother, stepsister, half brother, or half
738 sister of an owner or administrator.
739 (20) "Resident" means a person 18 years of age or older,
740 residing in and receiving care from a facility.
741 (21) "Resident's representative or designee" means a
742 person other than the owner, or an agent or employee of the
743 facility, designated in writing by the resident, if legally
744 competent, to receive notice of changes in the contract executed
745 pursuant to s. 429.24 ~~s. 400.424~~; to receive notice of and to
746 participate in meetings between the resident and the facility
747 owner, administrator, or staff concerning the rights of the

748 resident; to assist the resident in contacting the ombudsman
749 council if the resident has a complaint against the facility; or
750 to bring legal action on behalf of the resident pursuant to s.
751 429.29 ~~s. 400.429~~.
752 (22) "Service plan" means a written plan, developed and
753 agreed upon by the resident and, if applicable, the resident's
754 representative or designee or the resident's surrogate,
755 guardian, or attorney in fact, if any, and the administrator or
756 designee representing the facility, which addresses the unique
757 physical and psychosocial needs, abilities, and personal
758 preferences of each resident receiving extended congregate care
759 services. The plan shall include a brief written description, in
760 easily understood language, of what services shall be provided,
761 who shall provide the services, when the services shall be
762 rendered, and the purposes and benefits of the services.
763 (23) "Shared responsibility" means exploring the options
764 available to a resident within a facility and the risks involved
765 with each option when making decisions pertaining to the
766 resident's abilities, preferences, and service needs, thereby
767 enabling the resident and, if applicable, the resident's
768 representative or designee, or the resident's surrogate,
769 guardian, or attorney in fact, and the facility to develop a
770 service plan which best meets the resident's needs and seeks to
771 improve the resident's quality of life.
772 (24) "Supervision" means reminding residents to engage in
773 activities of daily living and the self-administration of
774 medication, and, when necessary, observing or providing verbal
775 cuing to residents while they perform these activities.

776 (25) "Supplemental security income," Title XVI of the
777 Social Security Act, means a program through which the Federal
778 Government guarantees a minimum monthly income to every person
779 who is age 65 or older, or disabled, or blind and meets the
780 income and asset requirements.
781 (26) "Supportive services" means services designed to
782 encourage and assist aged persons or adults with disabilities to
783 remain in the least restrictive living environment and to
784 maintain their independence as long as possible.
785 (27) "Twenty-four-hour nursing supervision" means services
786 that are ordered by a physician for a resident whose condition
787 requires the supervision of a physician and continued monitoring
788 of vital signs and physical status. Such services shall be:
789 medically complex enough to require constant supervision,
790 assessment, planning, or intervention by a nurse; required to be
791 performed by or under the direct supervision of licensed nursing
792 personnel or other professional personnel for safe and effective
793 performance; required on a daily basis; and consistent with the
794 nature and severity of the resident's condition or the disease
795 state or stage.
796 Section 31. Section 400.404, Florida Statutes, is
797 renumbered as section 429.04, Florida Statutes, and amended to
798 read:
799 429.04 ~~400.404~~ Facilities to be licensed; exemptions.--
800 (1) For the administration of this part, facilities to be
801 licensed by the agency shall include all assisted living
802 facilities as defined in this part.

803 (2) The following are exempt from licensure under this
804 part:
805 (a) Any facility, institution, or other place operated by
806 the Federal Government or any agency of the Federal Government.
807 (b) Any facility or part of a facility licensed under
808 chapter 393 or chapter 394.
809 (c) Any facility licensed as an adult family-care home
810 under part II ~~VII~~.
811 (d) Any person who provides housing, meals, and one or
812 more personal services on a 24-hour basis in the person's own
813 home to not more than two adults who do not receive optional
814 state supplementation. The person who provides the housing,
815 meals, and personal services must own or rent the home and
816 reside therein.
817 (e) Any home or facility approved by the United States
818 Department of Veterans Affairs as a residential care home
819 wherein care is provided exclusively to three or fewer veterans.
820 (f) Any facility that has been incorporated in this state
821 for 50 years or more on or before July 1, 1983, and the board of
822 directors of which is nominated or elected by the residents,
823 until the facility is sold or its ownership is transferred; or
824 any facility, with improvements or additions thereto, which has
825 existed and operated continuously in this state for 60 years or
826 more on or before July 1, 1989, is directly or indirectly owned
827 and operated by a nationally recognized fraternal organization,
828 is not open to the public, and accepts only its own members and
829 their spouses as residents.

830 (g) Any facility certified under chapter 651, or a
831 retirement community, may provide services authorized under this
832 part or part III ~~IV~~ of ~~this~~ chapter 400 to its residents who
833 live in single-family homes, duplexes, quadruplexes, or
834 apartments located on the campus without obtaining a license to
835 operate an assisted living facility if residential units within
836 such buildings are used by residents who do not require staff
837 supervision for that portion of the day when personal services
838 are not being delivered and the owner obtains a home health
839 license to provide such services. However, any building or
840 distinct part of a building on the campus that is designated for
841 persons who receive personal services and require supervision
842 beyond that which is available while such services are being
843 rendered must be licensed in accordance with this part. If a
844 facility provides personal services to residents who do not
845 otherwise require supervision and the owner is not licensed as a
846 home health agency, the buildings or distinct parts of buildings
847 where such services are rendered must be licensed under this
848 part. A resident of a facility that obtains a home health
849 license may contract with a home health agency of his or her
850 choice, provided that the home health agency provides liability
851 insurance and workers' compensation coverage for its employees.
852 Facilities covered by this exemption may establish policies that
853 give residents the option of contracting for services and care
854 beyond that which is provided by the facility to enable them to
855 age in place. For purposes of this section, a retirement
856 community consists of a facility licensed under this part or

857 under part II of chapter 400, and apartments designed for
858 independent living located on the same campus.
859 (h) Any residential unit for independent living which is
860 located within a facility certified under chapter 651, or any
861 residential unit which is colocated with a nursing home licensed
862 under part II of chapter 400 or colocated with a facility
863 licensed under this part in which services are provided through
864 an outpatient clinic or a nursing home on an outpatient basis.
865 Section 32. Section 400.407, Florida Statutes, is
866 renumbered as section 429.07, Florida Statutes, and amended to
867 read:
868 429.07 ~~400.407~~ License required; fee, display.--
869 (1) A license issued by the agency is required for an
870 assisted living facility operating in this state.
871 (2) Separate licenses shall be required for facilities
872 maintained in separate premises, even though operated under the
873 same management. A separate license shall not be required for
874 separate buildings on the same grounds.
875 (3) Any license granted by the agency must state the
876 maximum resident capacity of the facility, the type of care for
877 which the license is granted, the date the license is issued,
878 the expiration date of the license, and any other information
879 deemed necessary by the agency. Licenses shall be issued for one
880 or more of the following categories of care: standard, extended
881 congregate care, limited nursing services, or limited mental
882 health.
883 (a) A standard license shall be issued to facilities
884 providing one or more of the personal services identified in s.

885 429.02 ~~s. 400.402~~. Such facilities may also employ or contract
886 with a person licensed under part I of chapter 464 to administer
887 medications and perform other tasks as specified in s. 429.255
888 ~~s. 400.4255~~.
889 (b) An extended congregate care license shall be issued to
890 facilities providing, directly or through contract, services
891 beyond those authorized in paragraph (a), including acts
892 performed pursuant to part I of chapter 464 by persons licensed
893 thereunder, and supportive services defined by rule to persons
894 who otherwise would be disqualified from continued residence in
895 a facility licensed under this part.
896 1. In order for extended congregate care services to be
897 provided in a facility licensed under this part, the agency must
898 first determine that all requirements established in law and
899 rule are met and must specifically designate, on the facility's
900 license, that such services may be provided and whether the
901 designation applies to all or part of a facility. Such
902 designation may be made at the time of initial licensure or
903 relicensure, or upon request in writing by a licensee under this
904 part. Notification of approval or denial of such request shall
905 be made within 90 days after receipt of such request and all
906 necessary documentation. Existing facilities qualifying to
907 provide extended congregate care services must have maintained a
908 standard license and may not have been subject to administrative
909 sanctions during the previous 2 years, or since initial
910 licensure if the facility has been licensed for less than 2
911 years, for any of the following reasons:
912 a. A class I or class II violation;

913 b. Three or more repeat or recurring class III violations
914 of identical or similar resident care standards as specified in
915 rule from which a pattern of noncompliance is found by the
916 agency;
917 c. Three or more class III violations that were not
918 corrected in accordance with the corrective action plan approved
919 by the agency;
920 d. Violation of resident care standards resulting in a
921 requirement to employ the services of a consultant pharmacist or
922 consultant dietitian;
923 e. Denial, suspension, or revocation of a license for
924 another facility under this part in which the applicant for an
925 extended congregate care license has at least 25 percent
926 ownership interest; or
927 f. Imposition of a moratorium on admissions or initiation
928 of injunctive proceedings.
929 2. Facilities that are licensed to provide extended
930 congregate care services shall maintain a written progress
931 report on each person who receives such services, which report
932 describes the type, amount, duration, scope, and outcome of
933 services that are rendered and the general status of the
934 resident's health. A registered nurse, or appropriate designee,
935 representing the agency shall visit such facilities at least
936 quarterly to monitor residents who are receiving extended
937 congregate care services and to determine if the facility is in
938 compliance with this part and with rules that relate to extended
939 congregate care. One of these visits may be in conjunction with
940 the regular survey. The monitoring visits may be provided

941 through contractual arrangements with appropriate community
942 agencies. A registered nurse shall serve as part of the team
943 that inspects such facility. The agency may waive one of the
944 required yearly monitoring visits for a facility that has been
945 licensed for at least 24 months to provide extended congregate
946 care services, if, during the inspection, the registered nurse
947 determines that extended congregate care services are being
948 provided appropriately, and if the facility has no class I or
949 class II violations and no uncorrected class III violations.
950 Before such decision is made, the agency shall consult with the
951 long-term care ombudsman council for the area in which the
952 facility is located to determine if any complaints have been
953 made and substantiated about the quality of services or care.
954 The agency may not waive one of the required yearly monitoring
955 visits if complaints have been made and substantiated.
956 3. Facilities that are licensed to provide extended
957 congregate care services shall:
958 a. Demonstrate the capability to meet unanticipated
959 resident service needs.
960 b. Offer a physical environment that promotes a homelike
961 setting, provides for resident privacy, promotes resident
962 independence, and allows sufficient congregate space as defined
963 by rule.
964 c. Have sufficient staff available, taking into account
965 the physical plant and firesafety features of the building, to
966 assist with the evacuation of residents in an emergency, as
967 necessary.

968 d. Adopt and follow policies and procedures that maximize
969 resident independence, dignity, choice, and decisionmaking to
970 permit residents to age in place to the extent possible, so that
971 moves due to changes in functional status are minimized or
972 avoided.
973 e. Allow residents or, if applicable, a resident's
974 representative, designee, surrogate, guardian, or attorney in
975 fact to make a variety of personal choices, participate in
976 developing service plans, and share responsibility in
977 decisionmaking.
978 f. Implement the concept of managed risk.
979 g. Provide, either directly or through contract, the
980 services of a person licensed pursuant to part I of chapter 464.
981 h. In addition to the training mandated in s. 429.52 ~~s.~~
982 ~~400.452~~, provide specialized training as defined by rule for
983 facility staff.
984 4. Facilities licensed to provide extended congregate care
985 services are exempt from the criteria for continued residency as
986 set forth in rules adopted under s. 429.41 ~~s. 400.441~~.
987 Facilities so licensed shall adopt their own requirements within
988 guidelines for continued residency set forth by the department
989 in rule. However, such facilities may not serve residents who
990 require 24-hour nursing supervision. Facilities licensed to
991 provide extended congregate care services shall provide each
992 resident with a written copy of facility policies governing
993 admission and retention.
994 5. The primary purpose of extended congregate care
995 services is to allow residents, as they become more impaired,

996 the option of remaining in a familiar setting from which they
997 would otherwise be disqualified for continued residency. A
998 facility licensed to provide extended congregate care services
999 may also admit an individual who exceeds the admission criteria
1000 for a facility with a standard license, if the individual is
1001 determined appropriate for admission to the extended congregate
1002 care facility.
1003 6. Before admission of an individual to a facility
1004 licensed to provide extended congregate care services, the
1005 individual must undergo a medical examination as provided in s.
1006 429.26(4) ~~s. 400.426(4)~~ and the facility must develop a
1007 preliminary service plan for the individual.
1008 7. When a facility can no longer provide or arrange for
1009 services in accordance with the resident's service plan and
1010 needs and the facility's policy, the facility shall make
1011 arrangements for relocating the person in accordance with s.
1012 429.28(1)(k) ~~s. 400.428(1)(k)~~.
1013 8. Failure to provide extended congregate care services
1014 may result in denial of extended congregate care license
1015 renewal.
1016 9. No later than January 1 of each year, the department,
1017 in consultation with the agency, shall prepare and submit to the
1018 Governor, the President of the Senate, the Speaker of the House
1019 of Representatives, and the chairs of appropriate legislative
1020 committees, a report on the status of, and recommendations
1021 related to, extended congregate care services. The status report
1022 must include, but need not be limited to, the following
1023 information:

1024 a. A description of the facilities licensed to provide
1025 such services, including total number of beds licensed under
1026 this part.
1027 b. The number and characteristics of residents receiving
1028 such services.
1029 c. The types of services rendered that could not be
1030 provided through a standard license.
1031 d. An analysis of deficiencies cited during licensure
1032 inspections.
1033 e. The number of residents who required extended
1034 congregate care services at admission and the source of
1035 admission.
1036 f. Recommendations for statutory or regulatory changes.
1037 g. The availability of extended congregate care to state
1038 clients residing in facilities licensed under this part and in
1039 need of additional services, and recommendations for
1040 appropriations to subsidize extended congregate care services
1041 for such persons.
1042 h. Such other information as the department considers
1043 appropriate.
1044 (c) A limited nursing services license shall be issued to
1045 a facility that provides services beyond those authorized in
1046 paragraph (a) and as specified in this paragraph.
1047 1. In order for limited nursing services to be provided in
1048 a facility licensed under this part, the agency must first
1049 determine that all requirements established in law and rule are
1050 met and must specifically designate, on the facility's license,
1051 that such services may be provided. Such designation may be made

1052 at the time of initial licensure or relicensure, or upon request
1053 in writing by a licensee under this part. Notification of
1054 approval or denial of such request shall be made within 90 days
1055 after receipt of such request and all necessary documentation.
1056 Existing facilities qualifying to provide limited nursing
1057 services shall have maintained a standard license and may not
1058 have been subject to administrative sanctions that affect the
1059 health, safety, and welfare of residents for the previous 2
1060 years or since initial licensure if the facility has been
1061 licensed for less than 2 years.
1062 2. Facilities that are licensed to provide limited nursing
1063 services shall maintain a written progress report on each person
1064 who receives such nursing services, which report describes the
1065 type, amount, duration, scope, and outcome of services that are
1066 rendered and the general status of the resident's health. A
1067 registered nurse representing the agency shall visit such
1068 facilities at least twice a year to monitor residents who are
1069 receiving limited nursing services and to determine if the
1070 facility is in compliance with applicable provisions of this
1071 part and with related rules. The monitoring visits may be
1072 provided through contractual arrangements with appropriate
1073 community agencies. A registered nurse shall also serve as part
1074 of the team that inspects such facility.
1075 3. A person who receives limited nursing services under
1076 this part must meet the admission criteria established by the
1077 agency for assisted living facilities. When a resident no
1078 longer meets the admission criteria for a facility licensed
1079 under this part, arrangements for relocating the person shall be

1080 made in accordance with s. 429.28(1)(k) ~~s. 400.428(1)(k)~~, unless
1081 the facility is licensed to provide extended congregate care
1082 services.
1083 (4)(a) The biennial license fee required of a facility is
1084 $300 per license, with an additional fee of $50 per resident
1085 based on the total licensed resident capacity of the facility,
1086 except that no additional fee will be assessed for beds
1087 designated for recipients of optional state supplementation
1088 payments provided for in s. 409.212. The total fee may not
1089 exceed $10,000, no part of which shall be returned to the
1090 facility. The agency shall adjust the per bed license fee and
1091 the total licensure fee annually by not more than the change in
1092 the consumer price index based on the 12 months immediately
1093 preceding the increase.
1094 (b) In addition to the total fee assessed under paragraph
1095 (a), the agency shall require facilities that are licensed to
1096 provide extended congregate care services under this part to pay
1097 an additional fee per licensed facility. The amount of the
1098 biennial fee shall be $400 per license, with an additional fee
1099 of $10 per resident based on the total licensed resident
1100 capacity of the facility. No part of this fee shall be returned
1101 to the facility. The agency may adjust the per bed license fee
1102 and the annual license fee once each year by not more than the
1103 average rate of inflation for the 12 months immediately
1104 preceding the increase.
1105 (c) In addition to the total fee assessed under paragraph
1106 (a), the agency shall require facilities that are licensed to
1107 provide limited nursing services under this part to pay an

1108 additional fee per licensed facility. The amount of the
1109 biennial fee shall be $250 per license, with an additional fee
1110 of $10 per resident based on the total licensed resident
1111 capacity of the facility. No part of this fee shall be returned
1112 to the facility. The agency may adjust the per bed license fee
1113 and the biennial license fee once each year by not more than the
1114 average rate of inflation for the 12 months immediately
1115 preceding the increase.
1116 (5) Counties or municipalities applying for licenses under
1117 this part are exempt from the payment of license fees.
1118 (6) The license shall be displayed in a conspicuous place
1119 inside the facility.
1120 (7) A license shall be valid only in the possession of the
1121 individual, firm, partnership, association, or corporation to
1122 which it is issued and shall not be subject to sale, assignment,
1123 or other transfer, voluntary or involuntary; nor shall a license
1124 be valid for any premises other than that for which originally
1125 issued.
1126 (8) A fee may be charged to a facility requesting a
1127 duplicate license. The fee shall not exceed the actual cost of
1128 duplication and postage.
1129 Section 33. Section 400.4071, Florida Statutes, is
1130 renumbered as section 429.071, Florida Statutes, and amended to
1131 read:
1132 429.071 ~~400.4071~~ Intergenerational respite care assisted
1133 living facility pilot program.--
1134 (1) It is the intent of the Legislature to establish a
1135 pilot program to:

1136 (a) Facilitate the receipt of in-home, family-based care
1137 by minors and adults with disabilities and elderly persons with
1138 special needs through respite care for up to 14 days.
1139 (b) Prevent caregiver "burnout," in which the caregiver's
1140 health declines and he or she is unable to continue to provide
1141 care so that the only option for the person with disabilities or
1142 special needs is to receive institutional care.
1143 (c) Foster the development of intergenerational respite
1144 care assisted living facilities to temporarily care for minors
1145 and adults with disabilities and elderly persons with special
1146 needs in the same facility and to give caregivers the time they
1147 need for rejuvenation and healing.
1148 (2) The Agency for Health Care Administration shall
1149 establish a 5-year pilot program, which shall license an
1150 intergenerational respite care assisted living facility that
1151 will provide temporary personal, respite, and custodial care to
1152 minors and adults with disabilities and elderly persons with
1153 special needs who do not require 24-hour nursing services. The
1154 intergenerational respite care assisted living facility must:
1155 (a) Meet all applicable requirements and standards
1156 contained in this part ~~III of this chapter~~, except that, for
1157 purposes of this section, the term "resident" means a person of
1158 any age temporarily residing in and receiving care from the
1159 facility.
1160 (b) Provide respite care services for minors and adults
1161 with disabilities and elderly persons with special needs for a
1162 period of at least 24 hours but not for more than 14 consecutive
1163 days.

1164 (c) Provide a facility or facilities in which minors and
1165 adults reside in distinct and separate living units.
1166 (d) Provide a facility that has a maximum of 48 beds, is
1167 located in Miami-Dade County, and is operated by a not-for-
1168 profit entity.
1169 (3) The agency may establish policies necessary to achieve
1170 the objectives specific to the pilot program and may adopt rules
1171 necessary to implement the program.
1172 (4) After 4 years, the agency shall present its report on
1173 the effectiveness of the pilot program to the President of the
1174 Senate and the Speaker of the House of Representatives and its
1175 recommendation as to whether the Legislature should make the
1176 program permanent.
1177 Section 34. Section 400.408, Florida Statutes, is
1178 renumbered as section 429.08, Florida Statutes, and amended to
1179 read:
1180 429.08 ~~400.408~~ Unlicensed facilities; referral of person
1181 for residency to unlicensed facility; penalties; verification of
1182 licensure status.--
1183 (1)(a) It is unlawful to own, operate, or maintain an
1184 assisted living facility without obtaining a license under this
1185 part.
1186 (b) Except as provided under paragraph (d), any person who
1187 owns, operates, or maintains an unlicensed assisted living
1188 facility commits a felony of the third degree, punishable as
1189 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of
1190 continued operation is a separate offense.

1191 (c) Any person found guilty of violating paragraph (a) a
1192 second or subsequent time commits a felony of the second degree,
1193 punishable as provided under s. 775.082, s. 775.083, or s.
1194 775.084. Each day of continued operation is a separate offense.
1195 (d) Any person who owns, operates, or maintains an
1196 unlicensed assisted living facility due to a change in this part
1197 or a modification in department rule within 6 months after the
1198 effective date of such change and who, within 10 working days
1199 after receiving notification from the agency, fails to cease
1200 operation or apply for a license under this part commits a
1201 felony of the third degree, punishable as provided in s.
1202 775.082, s. 775.083, or s. 775.084. Each day of continued
1203 operation is a separate offense.
1204 (e) Any facility that fails to cease operation after
1205 agency notification may be fined for each day of noncompliance
1206 pursuant to s. 429.19 ~~s. 400.419~~.
1207 (f) When a licensee has an interest in more than one
1208 assisted living facility, and fails to license any one of these
1209 facilities, the agency may revoke the license, impose a
1210 moratorium, or impose a fine pursuant to s. 429.19 ~~s. 400.419~~,
1211 on any or all of the licensed facilities until such time as the
1212 unlicensed facility is licensed or ceases operation.
1213 (g) If the agency determines that an owner is operating or
1214 maintaining an assisted living facility without obtaining a
1215 license and determines that a condition exists in the facility
1216 that poses a threat to the health, safety, or welfare of a
1217 resident of the facility, the owner is subject to the same

1218 actions and fines imposed against a licensed facility as
1219 specified in ss. 429.14 and 429.19 ~~ss. 400.414 and 400.419~~.
1220 (h) Any person aware of the operation of an unlicensed
1221 assisted living facility must report that facility to the
1222 agency. The agency shall provide to the department's elder
1223 information and referral providers a list, by county, of
1224 licensed assisted living facilities, to assist persons who are
1225 considering an assisted living facility placement in locating a
1226 licensed facility.
1227 (i) Each field office of the Agency for Health Care
1228 Administration shall establish a local coordinating workgroup
1229 which includes representatives of local law enforcement
1230 agencies, state attorneys, the Medicaid Fraud Control Unit of
1231 the Department of Legal Affairs, local fire authorities, the
1232 Department of Children and Family Services, the district long-
1233 term care ombudsman council, and the district human rights
1234 advocacy committee to assist in identifying the operation of
1235 unlicensed facilities and to develop and implement a plan to
1236 ensure effective enforcement of state laws relating to such
1237 facilities. The workgroup shall report its findings, actions,
1238 and recommendations semiannually to the Director of Health
1239 Facility Regulation of the agency.
1240 (2) It is unlawful to knowingly refer a person for
1241 residency to an unlicensed assisted living facility; to an
1242 assisted living facility the license of which is under denial or
1243 has been suspended or revoked; or to an assisted living facility
1244 that has a moratorium on admissions. Any person who violates

1245 this subsection commits a noncriminal violation, punishable by a
1246 fine not exceeding $500 as provided in s. 775.083.
1247 (a) Any health care practitioner, as defined in s.
1248 456.001, who is aware of the operation of an unlicensed facility
1249 shall report that facility to the agency. Failure to report a
1250 facility that the practitioner knows or has reasonable cause to
1251 suspect is unlicensed shall be reported to the practitioner's
1252 licensing board.
1253 (b) Any hospital or community mental health center
1254 licensed under chapter 395 or chapter 394 which knowingly
1255 discharges a patient or client to an unlicensed facility is
1256 subject to sanction by the agency.
1257 (c) Any employee of the agency or department, or the
1258 Department of Children and Family Services, who knowingly refers
1259 a person for residency to an unlicensed facility; to a facility
1260 the license of which is under denial or has been suspended or
1261 revoked; or to a facility that has a moratorium on admissions is
1262 subject to disciplinary action by the agency or department, or
1263 the Department of Children and Family Services.
1264 (d) The employer of any person who is under contract with
1265 the agency or department, or the Department of Children and
1266 Family Services, and who knowingly refers a person for residency
1267 to an unlicensed facility; to a facility the license of which is
1268 under denial or has been suspended or revoked; or to a facility
1269 that has a moratorium on admissions shall be fined and required
1270 to prepare a corrective action plan designed to prevent such
1271 referrals.

1272 (e) The agency shall provide the department and the
1273 Department of Children and Family Services with a list of
1274 licensed facilities within each county and shall update the list
1275 at least quarterly.
1276 (f) At least annually, the agency shall notify, in
1277 appropriate trade publications, physicians licensed under
1278 chapter 458 or chapter 459, hospitals licensed under chapter
1279 395, nursing home facilities licensed under part II of ~~this~~
1280 chapter 400, and employees of the agency or the department, or
1281 the Department of Children and Family Services, who are
1282 responsible for referring persons for residency, that it is
1283 unlawful to knowingly refer a person for residency to an
1284 unlicensed assisted living facility and shall notify them of the
1285 penalty for violating such prohibition. The department and the
1286 Department of Children and Family Services shall, in turn,
1287 notify service providers under contract to the respective
1288 departments who have responsibility for resident referrals to
1289 facilities. Further, the notice must direct each noticed
1290 facility and individual to contact the appropriate agency office
1291 in order to verify the licensure status of any facility prior to
1292 referring any person for residency. Each notice must include the
1293 name, telephone number, and mailing address of the appropriate
1294 office to contact.
1295 Section 35. Section 400.411, Florida Statutes, is
1296 renumbered as section 429.11, Florida Statutes, and amended to
1297 read:
1298 429.11 ~~400.411~~ Initial application for license;
1299 provisional license.--

1300 (1) Application for a license shall be made to the agency
1301 on forms furnished by it and shall be accompanied by the
1302 appropriate license fee.
1303 (2) The applicant may be an individual owner, a
1304 corporation, a partnership, a firm, an association, or a
1305 governmental entity.
1306 (3) The application must be signed by the applicant under
1307 oath and must contain the following:
1308 (a) The name, address, date of birth, and social security
1309 number of the applicant and the name by which the facility is to
1310 be known. If the applicant is a firm, partnership, or
1311 association, the application shall contain the name, address,
1312 date of birth, and social security number of every member
1313 thereof. If the applicant is a corporation, the application
1314 shall contain the corporation's name and address; the name,
1315 address, date of birth, and social security number of each of
1316 its directors and officers; and the name and address of each
1317 person having at least a 5-percent ownership interest in the
1318 corporation.
1319 (b) The name and address of any professional service,
1320 firm, association, partnership, or corporation that is to
1321 provide goods, leases, or services to the facility if a 5-
1322 percent or greater ownership interest in the service, firm,
1323 association, partnership, or corporation is owned by a person
1324 whose name must be listed on the application under paragraph
1325 (a).
1326 (c) The name and address of any long-term care facility
1327 with which the applicant, administrator, or financial officer

1328 has been affiliated through ownership or employment within 5
1329 years of the date of this license application; and a signed
1330 affidavit disclosing any financial or ownership interest that
1331 the applicant, or any person listed in paragraph (a), holds or
1332 has held within the last 5 years in any facility licensed under
1333 this part, or in any other entity licensed by this state or
1334 another state to provide health or residential care, which
1335 facility or entity closed or ceased to operate as a result of
1336 financial problems, or has had a receiver appointed or a license
1337 denied, suspended or revoked, or was subject to a moratorium on
1338 admissions, or has had an injunctive proceeding initiated
1339 against it.
1340 (d) A description and explanation of any exclusions,
1341 permanent suspensions, or terminations of the applicant from the
1342 Medicare or Medicaid programs. Proof of compliance with
1343 disclosure of ownership and control interest requirements of the
1344 Medicaid or Medicare programs shall be accepted in lieu of this
1345 submission.
1346 (e) The names and addresses of persons of whom the agency
1347 may inquire as to the character, reputation, and financial
1348 responsibility of the owner and, if different from the
1349 applicant, the administrator and financial officer.
1350 (f) Identification of all other homes or facilities,
1351 including the addresses and the license or licenses under which
1352 they operate, if applicable, which are currently operated by the
1353 applicant or administrator and which provide housing, meals, and
1354 personal services to residents.

1355 (g) The location of the facility for which a license is
1356 sought and documentation, signed by the appropriate local
1357 government official, which states that the applicant has met
1358 local zoning requirements.
1359 (h) The name, address, date of birth, social security
1360 number, education, and experience of the administrator, if
1361 different from the applicant.
1362 (4) The applicant shall furnish satisfactory proof of
1363 financial ability to operate and conduct the facility in
1364 accordance with the requirements of this part. A certificate of
1365 authority, pursuant to chapter 651, may be provided as proof of
1366 financial ability.
1367 (5) If the applicant is a continuing care facility
1368 certified under chapter 651, a copy of the facility's
1369 certificate of authority must be provided.
1370 (6) The applicant shall provide proof of liability
1371 insurance as defined in s. 624.605.
1372 (7) If the applicant is a community residential home, the
1373 applicant must provide proof that it has met the requirements
1374 specified in chapter 419.
1375 (8) The applicant must provide the agency with proof of
1376 legal right to occupy the property.
1377 (9) The applicant must furnish proof that the facility has
1378 received a satisfactory firesafety inspection. The local
1379 authority having jurisdiction or the State Fire Marshal must
1380 conduct the inspection within 30 days after written request by
1381 the applicant.

1382 (10) The applicant must furnish documentation of a
1383 satisfactory sanitation inspection of the facility by the county
1384 health department.
1385 (11) The applicant must furnish proof of compliance with
1386 level 2 background screening as required under s. 429.174 ~~s.~~
1387 ~~400.4174~~.
1388 (12) A provisional license may be issued to an applicant
1389 making initial application for licensure or making application
1390 for a change of ownership. A provisional license shall be
1391 limited in duration to a specific period of time not to exceed 6
1392 months, as determined by the agency.
1393 (13) A county or municipality may not issue an
1394 occupational license that is being obtained for the purpose of
1395 operating a facility regulated under this part without first
1396 ascertaining that the applicant has been licensed to operate
1397 such facility at the specified location or locations by the
1398 agency. The agency shall furnish to local agencies responsible
1399 for issuing occupational licenses sufficient instruction for
1400 making such determinations.
1401 Section 36. Section 400.412, Florida Statutes, is
1402 renumbered as section 429.12, Florida Statutes, and amended to
1403 read:
1404 429.12 ~~400.412~~ Sale or transfer of ownership of a
1405 facility.--It is the intent of the Legislature to protect the
1406 rights of the residents of an assisted living facility when the
1407 facility is sold or the ownership thereof is transferred.
1408 Therefore, whenever a facility is sold or the ownership thereof
1409 is transferred, including leasing:

1410 (1) The transferee shall make application to the agency
1411 for a new license at least 60 days before the date of transfer
1412 of ownership. The application must comply with the provisions
1413 of s. 429.11 ~~s. 400.411~~.
1414 (2)(a) The transferor shall notify the agency in writing
1415 at least 60 days before the date of transfer of ownership.
1416 (b) The new owner shall notify the residents, in writing,
1417 of the transfer of ownership within 7 days of his or her receipt
1418 of the license.
1419 (3) The transferor shall be responsible and liable for:
1420 (a) The lawful operation of the facility and the welfare
1421 of the residents domiciled in the facility until the date the
1422 transferee is licensed by the agency.
1423 (b) Any and all penalties imposed against the facility for
1424 violations occurring before the date of transfer of ownership
1425 unless the penalty imposed is a moratorium on admissions or
1426 denial of licensure. The moratorium on admissions or denial of
1427 licensure remains in effect after the transfer of ownership,
1428 unless the agency has approved the transferee's corrective
1429 action plan or the conditions which created the moratorium or
1430 denial have been corrected, and may be grounds for denial of
1431 license to the transferee in accordance with chapter 120.
1432 (c) Any outstanding liability to the state, unless the
1433 transferee has agreed, as a condition of sale or transfer, to
1434 accept the outstanding liabilities and to guarantee payment
1435 therefor; except that, if the transferee fails to meet these
1436 obligations, the transferor shall remain liable for the
1437 outstanding liability.

1438 (4) The transferor of a facility the license of which is
1439 denied pending an administrative hearing shall, as a part of the
1440 written transfer-of-ownership contract, advise the transferee
1441 that a plan of correction must be submitted by the transferee
1442 and approved by the agency at least 7 days before the transfer
1443 of ownership and that failure to correct the condition which
1444 resulted in the moratorium on admissions or denial of licensure
1445 is grounds for denial of the transferee's license.
1446 (5) The transferee must provide the agency with proof of
1447 legal right to occupy the property before a license may be
1448 issued. Proof may include, but is not limited to, copies of
1449 warranty deeds, or copies of lease or rental agreements,
1450 contracts for deeds, quitclaim deeds, or other such
1451 documentation.
1452 Section 37. Section 400.414, Florida Statutes, is
1453 renumbered as section 429.14, Florida Statutes, and amended to
1454 read:
1455 429.14 ~~400.414~~ Denial, revocation, or suspension of
1456 license; imposition of administrative fine; grounds.--
1457 (1) The agency may deny, revoke, or suspend any license
1458 issued under this part, or impose an administrative fine in the
1459 manner provided in chapter 120, for any of the following actions
1460 by an assisted living facility, for the actions of any person
1461 subject to level 2 background screening under s. 429.174 ~~s.~~
1462 ~~400.4174~~, or for the actions of any facility employee:
1463 (a) An intentional or negligent act seriously affecting
1464 the health, safety, or welfare of a resident of the facility.

1465 (b) The determination by the agency that the owner lacks
1466 the financial ability to provide continuing adequate care to
1467 residents.
1468 (c) Misappropriation or conversion of the property of a
1469 resident of the facility.
1470 (d) Failure to follow the criteria and procedures provided
1471 under part I of chapter 394 relating to the transportation,
1472 voluntary admission, and involuntary examination of a facility
1473 resident.
1474 (e) A citation of any of the following deficiencies as
1475 defined in s. 429.19 ~~s. 400.419~~:
1476 1. One or more cited class I deficiencies.
1477 2. Three or more cited class II deficiencies.
1478 3. Five or more cited class III deficiencies that have
1479 been cited on a single survey and have not been corrected within
1480 the times specified.
1481 (f) A determination that a person subject to level 2
1482 background screening under s. 429.174(1) ~~s. 400.4174(1)~~ does not
1483 meet the screening standards of s. 435.04 or that the facility
1484 is retaining an employee subject to level 1 background screening
1485 standards under s. 429.174(2) ~~s. 400.4174(2)~~ who does not meet
1486 the screening standards of s. 435.03 and for whom exemptions
1487 from disqualification have not been provided by the agency.
1488 (g) A determination that an employee, volunteer,
1489 administrator, or owner, or person who otherwise has access to
1490 the residents of a facility does not meet the criteria specified
1491 in s. 435.03(2), and the owner or administrator has not taken
1492 action to remove the person. Exemptions from disqualification

1493 may be granted as set forth in s. 435.07. No administrative
1494 action may be taken against the facility if the person is
1495 granted an exemption.
1496 (h) Violation of a moratorium.
1497 (i) Failure of the license applicant, the licensee during
1498 relicensure, or a licensee that holds a provisional license to
1499 meet the minimum license requirements of this part, or related
1500 rules, at the time of license application or renewal.
1501 (j) A fraudulent statement or omission of any material
1502 fact on an application for a license or any other document
1503 required by the agency, including the submission of a license
1504 application that conceals the fact that any board member,
1505 officer, or person owning 5 percent or more of the facility may
1506 not meet the background screening requirements of s. 429.174 ~~s.~~
1507 ~~400.4174~~, or that the applicant has been excluded, permanently
1508 suspended, or terminated from the Medicaid or Medicare programs.
1509 (k) An intentional or negligent life-threatening act in
1510 violation of the uniform firesafety standards for assisted
1511 living facilities or other firesafety standards that threatens
1512 the health, safety, or welfare of a resident of a facility, as
1513 communicated to the agency by the local authority having
1514 jurisdiction or the State Fire Marshal.
1515 (l) Exclusion, permanent suspension, or termination from
1516 the Medicare or Medicaid programs.
1517 (m) Knowingly operating any unlicensed facility or
1518 providing without a license any service that must be licensed
1519 under this chapter or chapter 400.

1520 (n) Any act constituting a ground upon which application
1521 for a license may be denied.
1522
1523 Administrative proceedings challenging agency action under this
1524 subsection shall be reviewed on the basis of the facts and
1525 conditions that resulted in the agency action.
1526 (2) Upon notification by the local authority having
1527 jurisdiction or by the State Fire Marshal, the agency may deny
1528 or revoke the license of an assisted living facility that fails
1529 to correct cited fire code violations that affect or threaten
1530 the health, safety, or welfare of a resident of a facility.
1531 (3) The agency may deny a license to any applicant or to
1532 any officer or board member of an applicant who is a firm,
1533 corporation, partnership, or association or who owns 5 percent
1534 or more of the facility, if the applicant, officer, or board
1535 member has or had a 25-percent or greater financial or ownership
1536 interest in any other facility licensed under this part, or in
1537 any entity licensed by this state or another state to provide
1538 health or residential care, which facility or entity during the
1539 5 years prior to the application for a license closed due to
1540 financial inability to operate; had a receiver appointed or a
1541 license denied, suspended, or revoked; was subject to a
1542 moratorium on admissions; had an injunctive proceeding initiated
1543 against it; or has an outstanding fine assessed under this
1544 chapter <u>or chapter 400</u>.
1545 (4) The agency shall deny or revoke the license of an
1546 assisted living facility that has two or more class I violations
1547 that are similar or identical to violations identified by the

1548 agency during a survey, inspection, monitoring visit, or
1549 complaint investigation occurring within the previous 2 years.
1550 (5) An action taken by the agency to suspend, deny, or
1551 revoke a facility's license under this part, in which the agency
1552 claims that the facility owner or an employee of the facility
1553 has threatened the health, safety, or welfare of a resident of
1554 the facility be heard by the Division of Administrative Hearings
1555 of the Department of Management Services within 120 days after
1556 receipt of the facility's request for a hearing, unless that
1557 time limitation is waived by both parties. The administrative
1558 law judge must render a decision within 30 days after receipt of
1559 a proposed recommended order.
1560 (6) The agency shall provide to the Division of Hotels and
1561 Restaurants of the Department of Business and Professional
1562 Regulation, on a monthly basis, a list of those assisted living
1563 facilities that have had their licenses denied, suspended, or
1564 revoked or that are involved in an appellate proceeding pursuant
1565 to s. 120.60 related to the denial, suspension, or revocation of
1566 a license.
1567 (7) Agency notification of a license suspension or
1568 revocation, or denial of a license renewal, shall be posted and
1569 visible to the public at the facility.
1570 (8) The agency may issue a temporary license pending final
1571 disposition of a proceeding involving the suspension or
1572 revocation of an assisted living facility license.
1573 Section 38. Section 400.415, Florida Statutes, is
1574 renumbered as section 429.15, Florida Statutes, and amended to
1575 read:

1576 429.15 ~~400.415~~ Moratorium on admissions; notice.--The
1577 agency may impose an immediate moratorium on admissions to any
1578 assisted living facility if the agency determines that any
1579 condition in the facility presents a threat to the health,
1580 safety, or welfare of the residents in the facility.
1581 (1) A facility the license of which is denied, revoked, or
1582 suspended pursuant to s. 429.14 ~~s. 400.414~~ may be subject to
1583 immediate imposition of a moratorium on admissions to run
1584 concurrently with licensure denial, revocation, or suspension.
1585 (2) When a moratorium is placed on a facility, notice of
1586 the moratorium shall be posted and visible to the public at the
1587 facility until the moratorium is lifted.
1588 (3) The department may by rule establish conditions that
1589 constitute grounds for imposing a moratorium on a facility and
1590 procedures for imposing and lifting a moratorium, as necessary
1591 to administer this section.
1592 Section 39. Section 400.417, Florida Statutes, is
1593 renumbered as section 429.17, Florida Statutes, and amended to
1594 read:
1595 429.17 ~~400.417~~ Expiration of license; renewal; conditional
1596 license.--
1597 (1) Biennial licenses, unless sooner suspended or revoked,
1598 shall expire 2 years from the date of issuance. Limited nursing,
1599 extended congregate care, and limited mental health licenses
1600 shall expire at the same time as the facility's standard
1601 license, regardless of when issued. The agency shall notify the
1602 facility at least 120 days prior to expiration that a renewal
1603 license is necessary to continue operation. The notification

1604 must be provided electronically or by mail delivery. Ninety days
1605 prior to the expiration date, an application for renewal shall
1606 be submitted to the agency. Fees must be prorated. The failure
1607 to file a timely renewal application shall result in a late fee
1608 charged to the facility in an amount equal to 50 percent of the
1609 current fee.
1610 (2) A license shall be renewed within 90 days upon the
1611 timely filing of an application on forms furnished by the agency
1612 and the provision of satisfactory proof of ability to operate
1613 and conduct the facility in accordance with the requirements of
1614 this part and adopted rules, including proof that the facility
1615 has received a satisfactory firesafety inspection, conducted by
1616 the local authority having jurisdiction or the State Fire
1617 Marshal, within the preceding 12 months and an affidavit of
1618 compliance with the background screening requirements of s.
1619 429.174 ~~s. 400.4174~~.
1620 (3) An applicant for renewal of a license who has complied
1621 with the provisions of s. 429.11 ~~s. 400.411~~ with respect to
1622 proof of financial ability to operate shall not be required to
1623 provide further proof unless the facility or any other facility
1624 owned or operated in whole or in part by the same person has
1625 demonstrated financial instability as provided under s.
1626 429.47(2) ~~s. 400.447(2)~~ or unless the agency suspects that the
1627 facility is not financially stable as a result of the annual
1628 survey or complaints from the public or a report from the State
1629 Long-Term Care Ombudsman Council. Each facility must report to
1630 the agency any adverse court action concerning the facility's
1631 financial viability, within 7 days after its occurrence. The

1632 agency shall have access to books, records, and any other
1633 financial documents maintained by the facility to the extent
1634 necessary to determine the facility's financial stability. A
1635 license for the operation of a facility shall not be renewed if
1636 the licensee has any outstanding fines assessed pursuant to this
1637 part which are in final order status.
1638 (4) A licensee against whom a revocation or suspension
1639 proceeding is pending at the time of license renewal may be
1640 issued a conditional license effective until final disposition
1641 by the agency. If judicial relief is sought from the final
1642 disposition, the court having jurisdiction may issue a
1643 conditional license for the duration of the judicial proceeding.
1644 (5) A conditional license may be issued to an applicant
1645 for license renewal if the applicant fails to meet all standards
1646 and requirements for licensure. A conditional license issued
1647 under this subsection shall be limited in duration to a specific
1648 period of time not to exceed 6 months, as determined by the
1649 agency, and shall be accompanied by an agency-approved plan of
1650 correction.
1651 (6) When an extended care or limited nursing license is
1652 requested during a facility's biennial license period, the fee
1653 shall be prorated in order to permit the additional license to
1654 expire at the end of the biennial license period. The fee shall
1655 be calculated as of the date the additional license application
1656 is received by the agency.
1657 (7) The department may by rule establish renewal
1658 procedures, identify forms, and specify documentation necessary
1659 to administer this section.

1660 Section 40. Section 400.4174, Florida Statutes, is
1661 renumbered as section 429.174, Florida Statutes, and amended to
1662 read:
1663 429.174 ~~400.4174~~ Background screening; exemptions.--
1664 (1)(a) Level 2 background screening must be conducted on
1665 each of the following persons, who shall be considered employees
1666 for the purposes of conducting screening under chapter 435:
1667 1. The facility owner if an individual, the administrator,
1668 and the financial officer.
1669 2. An officer or board member if the facility owner is a
1670 firm, corporation, partnership, or association, or any person
1671 owning 5 percent or more of the facility if the agency has
1672 probable cause to believe that such person has been convicted of
1673 any offense prohibited by s. 435.04. For each officer, board
1674 member, or person owning 5 percent or more who has been
1675 convicted of any such offense, the facility shall submit to the
1676 agency a description and explanation of the conviction at the
1677 time of license application. This subparagraph does not apply to
1678 a board member of a not-for-profit corporation or organization
1679 if the board member serves solely in a voluntary capacity, does
1680 not regularly take part in the day-to-day operational decisions
1681 of the corporation or organization, receives no remuneration for
1682 his or her services, and has no financial interest and has no
1683 family members with a financial interest in the corporation or
1684 organization, provided that the board member and facility submit
1685 a statement affirming that the board member's relationship to
1686 the facility satisfies the requirements of this subparagraph.

1687 (b) Proof of compliance with level 2 screening standards
1688 which has been submitted within the previous 5 years to meet any
1689 facility or professional licensure requirements of the agency or
1690 the Department of Health satisfies the requirements of this
1691 subsection, provided that such proof is accompanied, under
1692 penalty of perjury, by an affidavit of compliance with the
1693 provisions of chapter 435. Proof of compliance with the
1694 background screening requirements of the Financial Services
1695 Commission and the Office of Insurance Regulation for applicants
1696 for a certificate of authority to operate a continuing care
1697 retirement community under chapter 651, submitted within the
1698 last 5 years, satisfies the Department of Law Enforcement and
1699 Federal Bureau of Investigation portions of a level 2 background
1700 check.
1701 (c) The agency may grant a provisional license to a
1702 facility applying for an initial license when each individual
1703 required by this subsection to undergo screening has completed
1704 the Department of Law Enforcement background checks, but has not
1705 yet received results from the Federal Bureau of Investigation,
1706 or when a request for an exemption from disqualification has
1707 been submitted to the agency pursuant to s. 435.07, but a
1708 response has not been issued.
1709 (2) The owner or administrator of an assisted living
1710 facility must conduct level 1 background screening, as set forth
1711 in chapter 435, on all employees hired on or after October 1,
1712 1998, who perform personal services as defined in s. 429.02(17)
1713 ~~s. 400.402(17)~~. The agency may exempt an individual from

1714 employment disqualification as set forth in chapter 435. Such
1715 persons shall be considered as having met this requirement if:
1716 (a) Proof of compliance with level 1 screening
1717 requirements obtained to meet any professional license
1718 requirements in this state is provided and accompanied, under
1719 penalty of perjury, by a copy of the person's current
1720 professional license and an affidavit of current compliance with
1721 the background screening requirements.
1722 (b) The person required to be screened has been
1723 continuously employed in the same type of occupation for which
1724 the person is seeking employment without a breach in service
1725 which exceeds 180 days, and proof of compliance with the level 1
1726 screening requirement which is no more than 2 years old is
1727 provided. Proof of compliance shall be provided directly from
1728 one employer or contractor to another, and not from the person
1729 screened. Upon request, a copy of screening results shall be
1730 provided by the employer retaining documentation of the
1731 screening to the person screened.
1732 (c) The person required to be screened is employed by a
1733 corporation or business entity or related corporation or
1734 business entity that owns, operates, or manages more than one
1735 facility or agency licensed under this chapter, and for whom a
1736 level 1 screening was conducted by the corporation or business
1737 entity as a condition of initial or continued employment.
1738 Section 41. Section 400.4176, Florida Statutes, is
1739 renumbered as section 429.176, Florida Statutes, and amended to
1740 read:

1741 429.176 ~~400.4176~~ Notice of change of administrator.--If,
1742 during the period for which a license is issued, the owner
1743 changes administrators, the owner must notify the agency of the
1744 change within 10 days and provide documentation within 90 days
1745 that the new administrator has completed the applicable core
1746 educational requirements under s. 429.52 ~~s. 400.452~~. Background
1747 screening shall be completed on any new administrator as
1748 specified in s. 429.174 ~~s. 400.4174~~.
1749 Section 42. Section 400.4178, Florida Statutes, is
1750 renumbered as section 429.178, Florida Statutes, and amended to
1751 read:
1752 429.178 ~~400.4178~~ Special care for persons with Alzheimer's
1753 disease or other related disorders.--
1754 (1) A facility which advertises that it provides special
1755 care for persons with Alzheimer's disease or other related
1756 disorders must meet the following standards of operation:
1757 (a)1. If the facility has 17 or more residents, have an
1758 awake staff member on duty at all hours of the day and night; or
1759 2. If the facility has fewer than 17 residents, have an
1760 awake staff member on duty at all hours of the day and night or
1761 have mechanisms in place to monitor and ensure the safety of the
1762 facility's residents.
1763 (b) Offer activities specifically designed for persons who
1764 are cognitively impaired.
1765 (c) Have a physical environment that provides for the
1766 safety and welfare of the facility's residents.
1767 (d) Employ staff who have completed the training and
1768 continuing education required in subsection (2).

1769 (2)(a) An individual who is employed by a facility that
1770 provides special care for residents with Alzheimer's disease or
1771 other related disorders, and who has regular contact with such
1772 residents, must complete up to 4 hours of initial dementia-
1773 specific training developed or approved by the department. The
1774 training shall be completed within 3 months after beginning
1775 employment and shall satisfy the core training requirements of
1776 s. 429.52(2)(g) ~~s. 400.452(2)(g)~~.
1777 (b) A direct caregiver who is employed by a facility that
1778 provides special care for residents with Alzheimer's disease or
1779 other related disorders, and who provides direct care to such
1780 residents, must complete the required initial training and 4
1781 additional hours of training developed or approved by the
1782 department. The training shall be completed within 9 months
1783 after beginning employment and shall satisfy the core training
1784 requirements of s. 429.52(2)(g) ~~s. 400.452(2)(g)~~.
1785 (c) An individual who is employed by a facility that
1786 provides special care for residents with Alzheimer's disease or
1787 other related disorders, but who only has incidental contact
1788 with such residents, must be given, at a minimum, general
1789 information on interacting with individuals with Alzheimer's
1790 disease or other related disorders, within 3 months after
1791 beginning employment.
1792 (3) In addition to the training required under subsection
1793 (2), a direct caregiver must participate in a minimum of 4
1794 contact hours of continuing education each calendar year. The
1795 continuing education must include one or more topics included in
1796 the dementia-specific training developed or approved by the

1797 department, in which the caregiver has not received previous
1798 training.
1799 (4) Upon completing any training listed in subsection (2),
1800 the employee or direct caregiver shall be issued a certificate
1801 that includes the name of the training provider, the topic
1802 covered, and the date and signature of the training provider.
1803 The certificate is evidence of completion of training in the
1804 identified topic, and the employee or direct caregiver is not
1805 required to repeat training in that topic if the employee or
1806 direct caregiver changes employment to a different facility.
1807 The employee or direct caregiver must comply with other
1808 applicable continuing education requirements.
1809 (5) The department, or its designee, shall approve the
1810 initial and continuing education courses and providers.
1811 (6) The department shall keep a current list of providers
1812 who are approved to provide initial and continuing education for
1813 staff of facilities that provide special care for persons with
1814 Alzheimer's disease or other related disorders.
1815 (7) Any facility more than 90 percent of whose residents
1816 receive monthly optional supplementation payments is not
1817 required to pay for the training and education programs required
1818 under this section. A facility that has one or more such
1819 residents shall pay a reduced fee that is proportional to the
1820 percentage of such residents in the facility. A facility that
1821 does not have any residents who receive monthly optional
1822 supplementation payments must pay a reasonable fee, as
1823 established by the department, for such training and education
1824 programs.

1825 (8) The department shall adopt rules to establish
1826 standards for trainers and training and to implement this
1827 section.
1828 Section 43. Section 400.418, Florida Statutes, is
1829 renumbered as section 429.18, Florida Statutes, and amended to
1830 read:
1831 429.18 ~~400.418~~ Disposition of fees and administrative
1832 fines.--
1833 (1) Income from license fees, inspection fees, late fees,
1834 and administrative fines generated pursuant to ss. 429.07,
1835 429.08, 429.17, 429.19, and 429.31 ~~ss. 400.407, 400.408,~~
1836 ~~400.417, 400.419, and 400.431~~ shall be deposited in the Health
1837 Care Trust Fund administered by the agency. Such funds shall be
1838 directed to and used by the agency for the following purposes:
1839 (a) Up to 50 percent of the trust funds accrued each
1840 fiscal year under this part may be used to offset the expenses
1841 of receivership, pursuant to s. 429.22 ~~s. 400.422~~, if the court
1842 determines that the income and assets of the facility are
1843 insufficient to provide for adequate management and operation.
1844 (b) An amount of $5,000 of the trust funds accrued each
1845 year under this part shall be allocated to pay for inspection-
1846 related physical and mental health examinations requested by the
1847 agency pursuant to s. 429.26 ~~s. 400.426~~ for residents who are
1848 either recipients of supplemental security income or have
1849 monthly incomes not in excess of the maximum combined federal
1850 and state cash subsidies available to supplemental security
1851 income recipients, as provided for in s. 409.212. Such funds

1852 shall only be used where the resident is ineligible for
1853 Medicaid.
1854 (c) Any trust funds accrued each year under this part and
1855 not used for the purposes specified in paragraphs (a) and (b)
1856 shall be used to offset the costs of the licensure program,
1857 including the costs of conducting background investigations,
1858 verifying information submitted, defraying the costs of
1859 processing the names of applicants, and conducting inspections
1860 and monitoring visits pursuant to this part.
1861 (2) Income from fees generated pursuant to s. 429.41(5) ~~s.~~
1862 ~~400.441(5)~~ shall be deposited in the Health Care Trust Fund and
1863 used to offset the costs of printing and postage.
1864 Section 44. Section 400.419, Florida Statutes, is
1865 renumbered as section 429.19, Florida Statutes, and amended to
1866 read:
1867 429.19 ~~400.419~~ Violations; imposition of administrative
1868 fines; grounds.--
1869 (1) The agency shall impose an administrative fine in the
1870 manner provided in chapter 120 for any of the actions or
1871 violations as set forth within this section by an assisted
1872 living facility, for the actions of any person subject to level
1873 2 background screening under s. 429.174 ~~s. 400.4174~~, for the
1874 actions of any facility employee, or for an intentional or
1875 negligent act seriously affecting the health, safety, or welfare
1876 of a resident of the facility.
1877 (2) Each violation of this part and adopted rules shall be
1878 classified according to the nature of the violation and the
1879 gravity of its probable effect on facility residents. The agency

1880 shall indicate the classification on the written notice of the
1881 violation as follows:
1882 (a) Class "I" violations are those conditions or
1883 occurrences related to the operation and maintenance of a
1884 facility or to the personal care of residents which the agency
1885 determines present an imminent danger to the residents or guests
1886 of the facility or a substantial probability that death or
1887 serious physical or emotional harm would result therefrom. The
1888 condition or practice constituting a class I violation shall be
1889 abated or eliminated within 24 hours, unless a fixed period, as
1890 determined by the agency, is required for correction. The agency
1891 shall impose an administrative fine for a cited class I
1892 violation in an amount not less than $5,000 and not exceeding
1893 $10,000 for each violation. A fine may be levied notwithstanding
1894 the correction of the violation.
1895 (b) Class "II" violations are those conditions or
1896 occurrences related to the operation and maintenance of a
1897 facility or to the personal care of residents which the agency
1898 determines directly threaten the physical or emotional health,
1899 safety, or security of the facility residents, other than class
1900 I violations. The agency shall impose an administrative fine for
1901 a cited class II violation in an amount not less than $1,000 and
1902 not exceeding $5,000 for each violation. A fine shall be levied
1903 notwithstanding the correction of the violation.
1904 (c) Class "III" violations are those conditions or
1905 occurrences related to the operation and maintenance of a
1906 facility or to the personal care of residents which the agency
1907 determines indirectly or potentially threaten the physical or

1908 emotional health, safety, or security of facility residents,
1909 other than class I or class II violations. The agency shall
1910 impose an administrative fine for a cited class III violation in
1911 an amount not less than $500 and not exceeding $1,000 for each
1912 violation. A citation for a class III violation must specify the
1913 time within which the violation is required to be corrected. If
1914 a class III violation is corrected within the time specified, no
1915 fine may be imposed, unless it is a repeated offense.
1916 (d) Class "IV" violations are those conditions or
1917 occurrences related to the operation and maintenance of a
1918 building or to required reports, forms, or documents that do not
1919 have the potential of negatively affecting residents. These
1920 violations are of a type that the agency determines do not
1921 threaten the health, safety, or security of residents of the
1922 facility. The agency shall impose an administrative fine for a
1923 cited class IV violation in an amount not less than $100 and not
1924 exceeding $200 for each violation. A citation for a class IV
1925 violation must specify the time within which the violation is
1926 required to be corrected. If a class IV violation is corrected
1927 within the time specified, no fine shall be imposed. Any class
1928 IV violation that is corrected during the time an agency survey
1929 is being conducted will be identified as an agency finding and
1930 not as a violation.
1931 (3) In determining if a penalty is to be imposed and in
1932 fixing the amount of the fine, the agency shall consider the
1933 following factors:
1934 (a) The gravity of the violation, including the
1935 probability that death or serious physical or emotional harm to

1936 a resident will result or has resulted, the severity of the
1937 action or potential harm, and the extent to which the provisions
1938 of the applicable laws or rules were violated.
1939 (b) Actions taken by the owner or administrator to correct
1940 violations.
1941 (c) Any previous violations.
1942 (d) The financial benefit to the facility of committing or
1943 continuing the violation.
1944 (e) The licensed capacity of the facility.
1945 (4) Each day of continuing violation after the date fixed
1946 for termination of the violation, as ordered by the agency,
1947 constitutes an additional, separate, and distinct violation.
1948 (5) Any action taken to correct a violation shall be
1949 documented in writing by the owner or administrator of the
1950 facility and verified through followup visits by agency
1951 personnel. The agency may impose a fine and, in the case of an
1952 owner-operated facility, revoke or deny a facility's license
1953 when a facility administrator fraudulently misrepresents action
1954 taken to correct a violation.
1955 (6) For fines that are upheld following administrative or
1956 judicial review, the violator shall pay the fine, plus interest
1957 at the rate as specified in s. 55.03, for each day beyond the
1958 date set by the agency for payment of the fine.
1959 (7) Any unlicensed facility that continues to operate
1960 after agency notification is subject to a $1,000 fine per day.
1961 (8) Any licensed facility whose owner or administrator
1962 concurrently operates an unlicensed facility shall be subject to
1963 an administrative fine of $5,000 per day.

1964 (9) Any facility whose owner fails to apply for a change-
1965 of-ownership license in accordance with s. 429.12 ~~s. 400.412~~ and
1966 operates the facility under the new ownership is subject to a
1967 fine of $5,000.
1968 (10) In addition to any administrative fines imposed, the
1969 agency may assess a survey fee, equal to the lesser of one half
1970 of the facility's biennial license and bed fee or $500, to cover
1971 the cost of conducting initial complaint investigations that
1972 result in the finding of a violation that was the subject of the
1973 complaint or monitoring visits conducted under s. 429.28(3)(c)
1974 ~~s. 400.428(3)(c)~~ to verify the correction of the violations.
1975 (11) The agency, as an alternative to or in conjunction
1976 with an administrative action against a facility for violations
1977 of this part and adopted rules, shall make a reasonable attempt
1978 to discuss each violation and recommended corrective action with
1979 the owner or administrator of the facility, prior to written
1980 notification. The agency, instead of fixing a period within
1981 which the facility shall enter into compliance with standards,
1982 may request a plan of corrective action from the facility which
1983 demonstrates a good faith effort to remedy each violation by a
1984 specific date, subject to the approval of the agency.
1985 (12) Administrative fines paid by any facility under this
1986 section shall be deposited into the Health Care Trust Fund and
1987 expended as provided in s. 429.18 ~~s. 400.418~~.
1988 (13) The agency shall develop and disseminate an annual
1989 list of all facilities sanctioned or fined $5,000 or more for
1990 violations of state standards, the number and class of
1991 violations involved, the penalties imposed, and the current

1992 status of cases. The list shall be disseminated, at no charge,
1993 to the Department of Elderly Affairs, the Department of Health,
1994 the Department of Children and Family Services, the area
1995 agencies on aging, the Florida Statewide Advocacy Council, and
1996 the state and local ombudsman councils. The Department of
1997 Children and Family Services shall disseminate the list to
1998 service providers under contract to the department who are
1999 responsible for referring persons to a facility for residency.
2000 The agency may charge a fee commensurate with the cost of
2001 printing and postage to other interested parties requesting a
2002 copy of this list.
2003 Section 45. Section 400.42, Florida Statutes, is
2004 renumbered as section 429.20, Florida Statutes, and amended to
2005 read:
2006 429.20 ~~400.42~~ Certain solicitation prohibited; third-party
2007 supplementation.--
2008 (1) A person may not, in connection with the solicitation
2009 of contributions by or on behalf of an assisted living facility
2010 or facilities, misrepresent or mislead any person, by any
2011 manner, means, practice, or device whatsoever, to believe that
2012 the receipts of such solicitation will be used for charitable
2013 purposes, if that is not the fact.
2014 (2) Solicitation of contributions of any kind in a
2015 threatening, coercive, or unduly forceful manner by or on behalf
2016 of an assisted living facility or facilities by any agent,
2017 employee, owner, or representative of any assisted living
2018 facility or facilities is grounds for denial, suspension, or
2019 revocation of the license of the assisted living facility or

2020 facilities by or on behalf of which such contributions were
2021 solicited.
2022 (3) The admission or maintenance of assisted living
2023 facility residents whose care is supported, in whole or in part,
2024 by state funds may not be conditioned upon the receipt of any
2025 manner of contribution or donation from any person. The
2026 solicitation or receipt of contributions in violation of this
2027 subsection is grounds for denial, suspension, or revocation of
2028 license, as provided in s. 429.14 ~~s. 400.414~~, for any assisted
2029 living facility by or on behalf of which such contributions were
2030 solicited.
2031 (4) An assisted living facility may accept additional
2032 supplementation from third parties on behalf of residents
2033 receiving optional state supplementation in accordance with s.
2034 409.212.
2035 Section 46. Section 400.422, Florida Statutes, is
2036 renumbered as section 429.22, Florida Statutes, and amended to
2037 read:
2038 429.22 ~~400.422~~ Receivership proceedings.--
2039 (1) As an alternative to or in conjunction with an
2040 injunctive proceeding, the agency may petition a court of
2041 competent jurisdiction for the appointment of a receiver, if
2042 suitable alternate placements are not available, when any of the
2043 following conditions exist:
2044 (a) The facility is operating without a license and
2045 refuses to make application for a license as required by ss.
2046 429.07 and 429.08 ~~ss. 400.407 and 400.408~~.

2047 (b) The facility is closing or has informed the agency
2048 that it intends to close and adequate arrangements have not been
2049 made for relocation of the residents within 7 days, exclusive of
2050 weekends and holidays, of the closing of the facility.
2051 (c) The agency determines there exist in the facility
2052 conditions which present an imminent danger to the health,
2053 safety, or welfare of the residents of the facility or a
2054 substantial probability that death or serious physical harm
2055 would result therefrom.
2056 (d) The facility cannot meet its financial obligation for
2057 providing food, shelter, care, and utilities.
2058 (2) Petitions for receivership shall take precedence over
2059 other court business unless the court determines that some other
2060 pending proceeding, having similar statutory precedence, shall
2061 have priority. A hearing shall be conducted within 5 days of
2062 the filing of the petition, at which time all interested parties
2063 shall have the opportunity to present evidence pertaining to the
2064 petition. The agency shall notify, by certified mail, the owner
2065 or administrator of the facility named in the petition and the
2066 facility resident or, if applicable, the resident's
2067 representative or designee, or the resident's surrogate,
2068 guardian, or attorney in fact, of its filing, the substance of
2069 the violation, and the date and place set for the hearing. The
2070 court shall grant the petition only upon finding that the
2071 health, safety, or welfare of facility residents would be
2072 threatened if a condition existing at the time the petition was
2073 filed is permitted to continue. A receiver shall not be
2074 appointed ex parte unless the court determines that one or more

2075 of the conditions in subsection (1) exist; that the facility
2076 owner or administrator cannot be found; that all reasonable
2077 means of locating the owner or administrator and notifying him
2078 or her of the petition and hearing have been exhausted; or that
2079 the owner or administrator after notification of the hearing
2080 chooses not to attend. After such findings, the court may
2081 appoint any qualified person as a receiver, except it may not
2082 appoint any owner or affiliate of the facility which is in
2083 receivership. The receiver may be selected from a list of
2084 persons qualified to act as receivers developed by the agency
2085 and presented to the court with each petition for receivership.
2086 Under no circumstances may the agency or designated agency
2087 employee be appointed as a receiver for more than 60 days;
2088 however, the receiver may petition the court, one time only, for
2089 a 30-day extension. The court shall grant the extension upon a
2090 showing of good cause.
2091 (3) The receiver must make provisions for the continued
2092 health, safety, and welfare of all residents of the facility
2093 and:
2094 (a) Shall exercise those powers and perform those duties
2095 set out by the court.
2096 (b) Shall operate the facility in such a manner as to
2097 assure safety and adequate health care for the residents.
2098 (c) Shall take such action as is reasonably necessary to
2099 protect or conserve the assets or property of the facility for
2100 which the receiver is appointed, or the proceeds from any
2101 transfer thereof, and may use them only in the performance of

2102 the powers and duties set forth in this section and by order of
2103 the court.
2104 (d) May use the building, fixtures, furnishings, and any
2105 accompanying consumable goods in the provision of care and
2106 services to residents and to any other persons receiving
2107 services from the facility at the time the petition for
2108 receivership was filed. The receiver shall collect payments for
2109 all goods and services provided to residents or others during
2110 the period of the receivership at the same rate of payment
2111 charged by the owners at the time the petition for receivership
2112 was filed, or at a fair and reasonable rate otherwise approved
2113 by the court.
2114 (e) May correct or eliminate any deficiency in the
2115 structure or furnishings of the facility which endangers the
2116 safety or health of residents while they remain in the facility,
2117 if the total cost of correction does not exceed $10,000. The
2118 court may order expenditures for this purpose in excess of
2119 $10,000 on application from the receiver after notice to the
2120 owner and a hearing.
2121 (f) May let contracts and hire agents and employees to
2122 carry out the powers and duties of the receiver.
2123 (g) Shall honor all leases, mortgages, and secured
2124 transactions governing the building in which the facility is
2125 located and all goods and fixtures in the building of which the
2126 receiver has taken possession, but only to the extent of
2127 payments which, in the case of a rental agreement, are for the
2128 use of the property during the period of the receivership, or

2129 which, in the case of a purchase agreement, become due during
2130 the period of the receivership.
2131 (h) Shall have full power to direct and manage and to
2132 discharge employees of the facility, subject to any contract
2133 rights they may have. The receiver shall pay employees at the
2134 rate of compensation, including benefits, approved by the court.
2135 A receivership does not relieve the owner of any obligation to
2136 employees made prior to the appointment of a receiver and not
2137 carried out by the receiver.
2138 (i) Shall be entitled to and take possession of all
2139 property or assets of residents which are in the possession of a
2140 facility or its owner. The receiver shall preserve all property,
2141 assets, and records of residents of which the receiver takes
2142 possession and shall provide for the prompt transfer of the
2143 property, assets, and records to the new placement of any
2144 transferred resident. An inventory list certified by the owner
2145 and receiver shall be made immediately at the time the receiver
2146 takes possession of the facility.
2147 (4)(a) A person who is served with notice of an order of
2148 the court appointing a receiver and of the receiver's name and
2149 address shall be liable to pay the receiver for any goods or
2150 services provided by the receiver after the date of the order if
2151 the person would have been liable for the goods or services as
2152 supplied by the owner. The receiver shall give a receipt for
2153 each payment and shall keep a copy of each receipt on file. The
2154 receiver shall deposit accounts received in a separate account
2155 and shall use this account for all disbursements.

2156 (b) The receiver may bring an action to enforce the
2157 liability created by paragraph (a).
2158 (c) A payment to the receiver of any sum owing to the
2159 facility or its owner shall discharge any obligation to the
2160 facility to the extent of the payment.
2161 (5)(a) A receiver may petition the court that he or she
2162 not be required to honor any lease, mortgage, secured
2163 transaction, or other wholly or partially executory contract
2164 entered into by the owner of the facility if the rent, price, or
2165 rate of interest required to be paid under the agreement was
2166 substantially in excess of a reasonable rent, price, or rate of
2167 interest at the time the contract was entered into, or if any
2168 material provision of the agreement was unreasonable, when
2169 compared to contracts negotiated under similar conditions. Any
2170 relief in this form provided by the court shall be limited to
2171 the life of the receivership, unless otherwise determined by the
2172 court.
2173 (b) If the receiver is in possession of real estate or
2174 goods subject to a lease, mortgage, or security interest which
2175 the receiver has obtained a court order to avoid under paragraph
2176 (a), and if the real estate or goods are necessary for the
2177 continued operation of the facility under this section, the
2178 receiver may apply to the court to set a reasonable rental,
2179 price, or rate of interest to be paid by the receiver during the
2180 duration of the receivership. The court shall hold a hearing on
2181 the application within 15 days. The receiver shall send notice
2182 of the application to any known persons who own the property
2183 involved at least 10 days prior to the hearing. Payment by the

2184 receiver of the amount determined by the court to be reasonable
2185 is a defense to any action against the receiver for payment or
2186 for possession of the goods or real estate subject to the lease,
2187 security interest, or mortgage involved by any person who
2188 received such notice, but the payment does not relieve the owner
2189 of the facility of any liability for the difference between the
2190 amount paid by the receiver and the amount due under the
2191 original lease, security interest, or mortgage involved.
2192 (6) The court shall set the compensation of the receiver,
2193 which will be considered a necessary expense of a receivership.
2194 (7) A receiver may be held liable in a personal capacity
2195 only for the receiver's own gross negligence, intentional acts,
2196 or breach of fiduciary duty.
2197 (8) The court may require a receiver to post a bond.
2198 (9) The court may direct the agency to allocate funds from
2199 the Health Care Trust Fund to the receiver, subject to the
2200 provisions of s. 429.18(1) ~~s. 400.418(1)~~.
2201 (10) The court may terminate a receivership when:
2202 (a) The court determines that the receivership is no
2203 longer necessary because the conditions which gave rise to the
2204 receivership no longer exist or the agency grants the facility a
2205 new license; or
2206 (b) All of the residents in the facility have been
2207 transferred or discharged.
2208 (11) Within 30 days after termination, the receiver shall
2209 give the court a complete accounting of all property of which
2210 the receiver has taken possession, of all funds collected, and
2211 of the expenses of the receivership.

2212 (12) Nothing in this section shall be deemed to relieve
2213 any owner, administrator, or employee of a facility placed in
2214 receivership of any civil or criminal liability incurred, or any
2215 duty imposed by law, by reason of acts or omissions of the
2216 owner, administrator, or employee prior to the appointment of a
2217 receiver; nor shall anything contained in this section be
2218 construed to suspend during the receivership any obligation of
2219 the owner, administrator, or employee for payment of taxes or
2220 other operating and maintenance expenses of the facility or of
2221 the owner, administrator, employee, or any other person for the
2222 payment of mortgages or liens. The owner shall retain the right
2223 to sell or mortgage any facility under receivership, subject to
2224 approval of the court which ordered the receivership.
2225 Section 47. Section 400.424, Florida Statutes, is
2226 renumbered as section 429.24, Florida Statutes, and amended to
2227 read:
2228 429.24 ~~400.424~~ Contracts.--
2229 (1) The presence of each resident in a facility shall be
2230 covered by a contract, executed at the time of admission or
2231 prior thereto, between the licensee and the resident or his or
2232 her designee or legal representative. Each party to the contract
2233 shall be provided with a duplicate original thereof, and the
2234 licensee shall keep on file in the facility all such contracts.
2235 The licensee may not destroy or otherwise dispose of any such
2236 contract until 5 years after its expiration.
2237 (2) Each contract must contain express provisions
2238 specifically setting forth the services and accommodations to be
2239 provided by the facility; the rates or charges; provision for at

2240 least 30 days' written notice of a rate increase; the rights,
2241 duties, and obligations of the residents, other than those
2242 specified in s. 429.28 ~~s. 400.428~~; and other matters that the
2243 parties deem appropriate. Whenever money is deposited or
2244 advanced by a resident in a contract as security for performance
2245 of the contract agreement or as advance rent for other than the
2246 next immediate rental period:
2247 (a) Such funds shall be deposited in a banking institution
2248 in this state that is located, if possible, in the same
2249 community in which the facility is located; shall be kept
2250 separate from the funds and property of the facility; may not be
2251 represented as part of the assets of the facility on financial
2252 statements; and shall be used, or otherwise expended, only for
2253 the account of the resident.
2254 (b) The licensee shall, within 30 days of receipt of
2255 advance rent or a security deposit, notify the resident or
2256 residents in writing of the manner in which the licensee is
2257 holding the advance rent or security deposit and state the name
2258 and address of the depository where the moneys are being held.
2259 The licensee shall notify residents of the facility's policy on
2260 advance deposits.
2261 (3)(a) The contract shall include a refund policy to be
2262 implemented at the time of a resident's transfer, discharge, or
2263 death. The refund policy shall provide that the resident or
2264 responsible party is entitled to a prorated refund based on the
2265 daily rate for any unused portion of payment beyond the
2266 termination date after all charges, including the cost of
2267 damages to the residential unit resulting from circumstances

2268 other than normal use, have been paid to the licensee. For the
2269 purpose of this paragraph, the termination date shall be the
2270 date the unit is vacated by the resident and cleared of all
2271 personal belongings. If the amount of belongings does not
2272 preclude renting the unit, the facility may clear the unit and
2273 charge the resident or his or her estate for moving and storing
2274 the items at a rate equal to the actual cost to the facility,
2275 not to exceed 20 percent of the regular rate for the unit,
2276 provided that 14 days' advance written notification is given.
2277 If the resident's possessions are not claimed within 45 days
2278 after notification, the facility may dispose of them. The
2279 contract shall also specify any other conditions under which
2280 claims will be made against the refund due the resident. Except
2281 in the case of death or a discharge due to medical reasons, the
2282 refunds shall be computed in accordance with the notice of
2283 relocation requirements specified in the contract. However, a
2284 resident may not be required to provide the licensee with more
2285 than 30 days' notice of termination. If after a contract is
2286 terminated, the facility intends to make a claim against a
2287 refund due the resident, the facility shall notify the resident
2288 or responsible party in writing of the claim and shall provide
2289 said party with a reasonable time period of no less than 14
2290 calendar days to respond. The facility shall provide a refund
2291 to the resident or responsible party within 45 days after the
2292 transfer, discharge, or death of the resident. The agency shall
2293 impose a fine upon a facility that fails to comply with the
2294 refund provisions of the paragraph, which fine shall be equal to
2295 three times the amount due to the resident. One-half of the fine

2296 shall be remitted to the resident or his or her estate, and the
2297 other half to the Health Care Trust Fund to be used for the
2298 purpose specified in s. 429.18 ~~s. 400.418~~.
2299 (b) If a licensee agrees to reserve a bed for a resident
2300 who is admitted to a medical facility, including, but not
2301 limited to, a nursing home, health care facility, or psychiatric
2302 facility, the resident or his or her responsible party shall
2303 notify the licensee of any change in status that would prevent
2304 the resident from returning to the facility. Until such notice
2305 is received, the agreed-upon daily rate may be charged by the
2306 licensee.
2307 (c) The purpose of any advance payment and a refund policy
2308 for such payment, including any advance payment for housing,
2309 meals, or personal services, shall be covered in the contract.
2310 (4) The contract shall state whether or not the facility
2311 is affiliated with any religious organization and, if so, which
2312 organization and its general responsibility to the facility.
2313 (5) Neither the contract nor any provision thereof
2314 relieves any licensee of any requirement or obligation imposed
2315 upon it by this part or rules adopted under this part.
2316 (6) In lieu of the provisions of this section, facilities
2317 certified under chapter 651 shall comply with the requirements
2318 of s. 651.055.
2319 (7) Notwithstanding the provisions of this section,
2320 facilities which consist of 60 or more apartments may require
2321 refund policies and termination notices in accordance with the
2322 provisions of part II of chapter 83, provided that the lease is
2323 terminated automatically without financial penalty in the event

2324 of a resident's death or relocation due to psychiatric
2325 hospitalization or to medical reasons which necessitate services
2326 or care beyond which the facility is licensed to provide. The
2327 date of termination in such instances shall be the date the unit
2328 is fully vacated. A lease may be substituted for the contract
2329 if it meets the disclosure requirements of this section. For
2330 the purpose of this section, the term "apartment" means a room
2331 or set of rooms with a kitchen or kitchenette and lavatory
2332 located within one or more buildings containing other similar or
2333 like residential units.
2334 (8) The department may by rule clarify terms, establish
2335 procedures, clarify refund policies and contract provisions, and
2336 specify documentation as necessary to administer this section.
2337 Section 48. Section 400.4255, Florida Statutes, is
2338 renumbered as section 429.255, Florida Statutes, and amended to
2339 read:
2340 429.255 ~~400.4255~~ Use of personnel; emergency care.--
2341 (1)(a) Persons under contract to the facility, facility
2342 staff, or volunteers, who are licensed according to part I of
2343 chapter 464, or those persons exempt under s. 464.022(1), and
2344 others as defined by rule, may administer medications to
2345 residents, take residents' vital signs, manage individual weekly
2346 pill organizers for residents who self-administer medication,
2347 give prepackaged enemas ordered by a physician, observe
2348 residents, document observations on the appropriate resident's
2349 record, report observations to the resident's physician, and
2350 contract or allow residents or a resident's representative,
2351 designee, surrogate, guardian, or attorney in fact to contract

2352 with a third party, provided residents meet the criteria for
2353 appropriate placement as defined in s. 429.26 ~~s. 400.426~~.
2354 Nursing assistants certified pursuant to part II of chapter 464
2355 may take residents' vital signs as directed by a licensed nurse
2356 or physician.
2357 (b) All staff in facilities licensed under this part shall
2358 exercise their professional responsibility to observe residents,
2359 to document observations on the appropriate resident's record,
2360 and to report the observations to the resident's physician.
2361 However, the owner or administrator of the facility shall be
2362 responsible for determining that the resident receiving services
2363 is appropriate for residence in the facility.
2364 (c) In an emergency situation, licensed personnel may
2365 carry out their professional duties pursuant to part I of
2366 chapter 464 until emergency medical personnel assume
2367 responsibility for care.
2368 (2) In facilities licensed to provide extended congregate
2369 care, persons under contract to the facility, facility staff, or
2370 volunteers, who are licensed according to part I of chapter 464,
2371 or those persons exempt under s. 464.022(1), or those persons
2372 certified as nursing assistants pursuant to part II of chapter
2373 464, may also perform all duties within the scope of their
2374 license or certification, as approved by the facility
2375 administrator and pursuant to this part.
2376 (3) Facility staff may withhold or withdraw
2377 cardiopulmonary resuscitation if presented with an order not to
2378 resuscitate executed pursuant to s. 401.45. The department shall
2379 adopt rules providing for the implementation of such orders.

2380 Facility staff and facilities shall not be subject to criminal
2381 prosecution or civil liability, nor be considered to have
2382 engaged in negligent or unprofessional conduct, for withholding
2383 or withdrawing cardiopulmonary resuscitation pursuant to such an
2384 order and rules adopted by the department. The absence of an
2385 order to resuscitate executed pursuant to s. 401.45 does not
2386 preclude a physician from withholding or withdrawing
2387 cardiopulmonary resuscitation as otherwise permitted by law.
2388 Section 49. Section 400.4256, Florida Statutes, is
2389 renumbered as section 429.256, Florida Statutes, and amended to
2390 read:
2391 429.256 ~~400.4256~~ Assistance with self-administration of
2392 medication.--
2393 (1) For the purposes of this section, the term:
2394 (a) "Informed consent" means advising the resident, or the
2395 resident's surrogate, guardian, or attorney in fact, that an
2396 assisted living facility is not required to have a licensed
2397 nurse on staff, that the resident may be receiving assistance
2398 with self-administration of medication from an unlicensed
2399 person, and that such assistance, if provided by an unlicensed
2400 person, will or will not be overseen by a licensed nurse.
2401 (b) "Unlicensed person" means an individual not currently
2402 licensed to practice nursing or medicine who is employed by or
2403 under contract to an assisted living facility and who has
2404 received training with respect to assisting with the self-
2405 administration of medication in an assisted living facility as
2406 provided under s. 429.52 ~~s. 400.452~~ prior to providing such
2407 assistance as described in this section.

2408 (2) Residents who are capable of self-administering their
2409 own medications without assistance shall be encouraged and
2410 allowed to do so. However, an unlicensed person may, consistent
2411 with a dispensed prescription's label or the package directions
2412 of an over-the-counter medication, assist a resident whose
2413 condition is medically stable with the self-administration of
2414 routine, regularly scheduled medications that are intended to be
2415 self-administered. Assistance with self-medication by an
2416 unlicensed person may occur only upon a documented request by,
2417 and the written informed consent of, a resident or the
2418 resident's surrogate, guardian, or attorney in fact. For the
2419 purposes of this section, self-administered medications include
2420 both legend and over-the-counter oral dosage forms, topical
2421 dosage forms and topical ophthalmic, otic, and nasal dosage
2422 forms including solutions, suspensions, sprays, and inhalers.
2423 (3) Assistance with self-administration of medication
2424 includes:
2425 (a) Taking the medication, in its previously dispensed,
2426 properly labeled container, from where it is stored, and
2427 bringing it to the resident.
2428 (b) In the presence of the resident, reading the label,
2429 opening the container, removing a prescribed amount of
2430 medication from the container, and closing the container.
2431 (c) Placing an oral dosage in the resident's hand or
2432 placing the dosage in another container and helping the resident
2433 by lifting the container to his or her mouth.
2434 (d) Applying topical medications.
2435 (e) Returning the medication container to proper storage.

2436 (f) Keeping a record of when a resident receives
2437 assistance with self-administration under this section.
2438 (4) Assistance with self-administration does not include:
2439 (a) Mixing, compounding, converting, or calculating
2440 medication doses, except for measuring a prescribed amount of
2441 liquid medication or breaking a scored tablet or crushing a
2442 tablet as prescribed.
2443 (b) The preparation of syringes for injection or the
2444 administration of medications by any injectable route.
2445 (c) Administration of medications through intermittent
2446 positive pressure breathing machines or a nebulizer.
2447 (d) Administration of medications by way of a tube
2448 inserted in a cavity of the body.
2449 (e) Administration of parenteral preparations.
2450 (f) Irrigations or debriding agents used in the treatment
2451 of a skin condition.
2452 (g) Rectal, urethral, or vaginal preparations.
2453 (h) Medications ordered by the physician or health care
2454 professional with prescriptive authority to be given "as
2455 needed," unless the order is written with specific parameters
2456 that preclude independent judgment on the part of the unlicensed
2457 person, and at the request of a competent resident.
2458 (i) Medications for which the time of administration, the
2459 amount, the strength of dosage, the method of administration, or
2460 the reason for administration requires judgment or discretion on
2461 the part of the unlicensed person.

2462 (5) Assistance with the self-administration of medication
2463 by an unlicensed person as described in this section shall not
2464 be considered administration as defined in s. 465.003.
2465 (6) The department may by rule establish facility
2466 procedures and interpret terms as necessary to implement this
2467 section.
2468 Section 50. Section 400.426, Florida Statutes, is
2469 renumbered as section 429.26, Florida Statutes, and amended to
2470 read:
2471 429.26 ~~400.426~~ Appropriateness of placements; examinations
2472 of residents.--
2473 (1) The owner or administrator of a facility is
2474 responsible for determining the appropriateness of admission of
2475 an individual to the facility and for determining the continued
2476 appropriateness of residence of an individual in the facility.
2477 A determination shall be based upon an assessment of the
2478 strengths, needs, and preferences of the resident, the care and
2479 services offered or arranged for by the facility in accordance
2480 with facility policy, and any limitations in law or rule related
2481 to admission criteria or continued residency for the type of
2482 license held by the facility under this part. A resident may
2483 not be moved from one facility to another without consultation
2484 with and agreement from the resident or, if applicable, the
2485 resident's representative or designee or the resident's family,
2486 guardian, surrogate, or attorney in fact. In the case of a
2487 resident who has been placed by the department or the Department
2488 of Children and Family Services, the administrator must notify
2489 the appropriate contact person in the applicable department.

2490 (2) A physician or nurse practitioner who is employed by
2491 an assisted living facility to provide an initial examination
2492 for admission purposes may not have financial interest in the
2493 facility.
2494 (3) Persons licensed under part I of chapter 464 who are
2495 employed by or under contract with a facility shall, on a
2496 routine basis or at least monthly, perform a nursing assessment
2497 of the residents for whom they are providing nursing services
2498 ordered by a physician, except administration of medication, and
2499 shall document such assessment, including any substantial
2500 changes in a resident's status which may necessitate relocation
2501 to a nursing home, hospital, or specialized health care
2502 facility. Such records shall be maintained in the facility for
2503 inspection by the agency and shall be forwarded to the
2504 resident's case manager, if applicable.
2505 (4) If possible, each resident shall have been examined by
2506 a licensed physician or a licensed nurse practitioner within 60
2507 days before admission to the facility. The signed and completed
2508 medical examination report shall be submitted to the owner or
2509 administrator of the facility who shall use the information
2510 contained therein to assist in the determination of the
2511 appropriateness of the resident's admission and continued stay
2512 in the facility. The medical examination report shall become a
2513 permanent part of the record of the resident at the facility and
2514 shall be made available to the agency during inspection or upon
2515 request. An assessment that has been completed through the
2516 Comprehensive Assessment and Review for Long-Term Care Services
2517 (CARES) Program fulfills the requirements for a medical

2518 examination under this subsection and s. 429.07(3)(b)6. ~~s.~~
2519 ~~400.407(3)(b)6.~~
2520 (5) Except as provided in s. 429.07 ~~s. 400.407~~, if a
2521 medical examination has not been completed within 60 days before
2522 the admission of the resident to the facility, a licensed
2523 physician or licensed nurse practitioner shall examine the
2524 resident and complete a medical examination form provided by the
2525 agency within 30 days following the admission to the facility to
2526 enable the facility owner or administrator to determine the
2527 appropriateness of the admission. The medical examination form
2528 shall become a permanent part of the record of the resident at
2529 the facility and shall be made available to the agency during
2530 inspection by the agency or upon request.
2531 (6) Any resident accepted in a facility and placed by the
2532 department or the Department of Children and Family Services
2533 shall have been examined by medical personnel within 30 days
2534 before placement in the facility. The examination shall include
2535 an assessment of the appropriateness of placement in a facility.
2536 The findings of this examination shall be recorded on the
2537 examination form provided by the agency. The completed form
2538 shall accompany the resident and shall be submitted to the
2539 facility owner or administrator. Additionally, in the case of a
2540 mental health resident, the Department of Children and Family
2541 Services must provide documentation that the individual has been
2542 assessed by a psychiatrist, clinical psychologist, clinical
2543 social worker, or psychiatric nurse, or an individual who is
2544 supervised by one of these professionals, and determined to be
2545 appropriate to reside in an assisted living facility. The

2546 documentation must be in the facility within 30 days after the
2547 mental health resident has been admitted to the facility. An
2548 evaluation completed upon discharge from a state mental hospital
2549 meets the requirements of this subsection related to
2550 appropriateness for placement as a mental health resident
2551 providing it was completed within 90 days prior to admission to
2552 the facility. The applicable department shall provide to the
2553 facility administrator any information about the resident that
2554 would help the administrator meet his or her responsibilities
2555 under subsection (1). Further, department personnel shall
2556 explain to the facility operator any special needs of the
2557 resident and advise the operator whom to call should problems
2558 arise. The applicable department shall advise and assist the
2559 facility administrator where the special needs of residents who
2560 are recipients of optional state supplementation require such
2561 assistance.
2562 (7) The facility must notify a licensed physician when a
2563 resident exhibits signs of dementia or cognitive impairment or
2564 has a change of condition in order to rule out the presence of
2565 an underlying physiological condition that may be contributing
2566 to such dementia or impairment. The notification must occur
2567 within 30 days after the acknowledgment of such signs by
2568 facility staff. If an underlying condition is determined to
2569 exist, the facility shall arrange, with the appropriate health
2570 care provider, the necessary care and services to treat the
2571 condition.
2572 (8) The Department of Children and Family Services may
2573 require an examination for supplemental security income and

2574 optional state supplementation recipients residing in facilities
2575 at any time and shall provide the examination whenever a
2576 resident's condition requires it. Any facility administrator;
2577 personnel of the agency, the department, or the Department of
2578 Children and Family Services; or long-term care ombudsman
2579 council member who believes a resident needs to be evaluated
2580 shall notify the resident's case manager, who shall take
2581 appropriate action. A report of the examination findings shall
2582 be provided to the resident's case manager and the facility
2583 administrator to help the administrator meet his or her
2584 responsibilities under subsection (1).
2585 (9) If, at any time after admission to a facility, a
2586 resident appears to need care beyond that which the facility is
2587 licensed to provide, the agency shall require the resident to be
2588 physically examined by a licensed physician or licensed nurse
2589 practitioner. This examination shall, to the extent possible,
2590 be performed by the resident's preferred physician or nurse
2591 practitioner and shall be paid for by the resident with personal
2592 funds, except as provided in s. 429.18(1)(b) ~~s. 400.418(1)(b)~~.
2593 Following this examination, the examining physician or licensed
2594 nurse practitioner shall complete and sign a medical form
2595 provided by the agency. The completed medical form shall be
2596 submitted to the agency within 30 days after the date the
2597 facility owner or administrator is notified by the agency that
2598 the physical examination is required. After consultation with
2599 the physician or licensed nurse practitioner who performed the
2600 examination, a medical review team designated by the agency
2601 shall then determine whether the resident is appropriately

2602 residing in the facility. The medical review team shall base
2603 its decision on a comprehensive review of the resident's
2604 physical and functional status, including the resident's
2605 preferences, and not on an isolated health-related problem. In
2606 the case of a mental health resident, if the resident appears to
2607 have needs in addition to those identified in the community
2608 living support plan, the agency may require an evaluation by a
2609 mental health professional, as determined by the Department of
2610 Children and Family Services. A facility may not be required to
2611 retain a resident who requires more services or care than the
2612 facility is able to provide in accordance with its policies and
2613 criteria for admission and continued residency. Members of the
2614 medical review team making the final determination may not
2615 include the agency personnel who initially questioned the
2616 appropriateness of a resident's placement. Such determination is
2617 final and binding upon the facility and the resident. Any
2618 resident who is determined by the medical review team to be
2619 inappropriately residing in a facility shall be given 30 days'
2620 written notice to relocate by the owner or administrator, unless
2621 the resident's continued residence in the facility presents an
2622 imminent danger to the health, safety, or welfare of the
2623 resident or a substantial probability exists that death or
2624 serious physical harm would result to the resident if allowed to
2625 remain in the facility.
2626 (10) A terminally ill resident who no longer meets the
2627 criteria for continued residency may remain in the facility if
2628 the arrangement is mutually agreeable to the resident and the
2629 facility; additional care is rendered through a licensed

2630 hospice, and the resident is under the care of a physician who
2631 agrees that the physical needs of the resident are being met.
2632 (11) Facilities licensed to provide extended congregate
2633 care services shall promote aging in place by determining
2634 appropriateness of continued residency based on a comprehensive
2635 review of the resident's physical and functional status; the
2636 ability of the facility, family members, friends, or any other
2637 pertinent individuals or agencies to provide the care and
2638 services required; and documentation that a written service plan
2639 consistent with facility policy has been developed and
2640 implemented to ensure that the resident's needs and preferences
2641 are addressed.
2642 (12) No resident who requires 24-hour nursing supervision,
2643 except for a resident who is an enrolled hospice patient
2644 pursuant to part IV ~~VI~~ of ~~this~~ chapter 400, shall be retained in
2645 a facility licensed under this part.
2646 Section 51. Section 400.427, Florida Statutes, is
2647 renumbered as section 429.27, Florida Statutes, and amended to
2648 read:
2649 429.27 ~~400.427~~ Property and personal affairs of
2650 residents.--
2651 (1)(a) A resident shall be given the option of using his
2652 or her own belongings, as space permits; choosing his or her
2653 roommate; and, whenever possible, unless the resident is
2654 adjudicated incompetent or incapacitated under state law,
2655 managing his or her own affairs.
2656 (b) The admission of a resident to a facility and his or
2657 her presence therein shall not confer on the facility or its

2658 owner, administrator, employees, or representatives any
2659 authority to manage, use, or dispose of any property of the
2660 resident; nor shall such admission or presence confer on any of
2661 such persons any authority or responsibility for the personal
2662 affairs of the resident, except that which may be necessary for
2663 the safe management of the facility or for the safety of the
2664 resident.
2665 (2) A facility, or an owner, administrator, employee, or
2666 representative thereof, may not act as the guardian, trustee, or
2667 conservator for any resident of the assisted living facility or
2668 any of such resident's property. An owner, administrator, or
2669 staff member, or representative thereof, may not act as a
2670 competent resident's payee for social security, veteran's, or
2671 railroad benefits without the consent of the resident. Any
2672 facility whose owner, administrator, or staff, or representative
2673 thereof, serves as representative payee for any resident of the
2674 facility shall file a surety bond with the agency in an amount
2675 equal to twice the average monthly aggregate income or personal
2676 funds due to residents, or expendable for their account, which
2677 are received by a facility. Any facility whose owner,
2678 administrator, or staff, or a representative thereof, is granted
2679 power of attorney for any resident of the facility shall file a
2680 surety bond with the agency for each resident for whom such
2681 power of attorney is granted. The surety bond shall be in an
2682 amount equal to twice the average monthly income of the
2683 resident, plus the value of any resident's property under the
2684 control of the attorney in fact. The bond shall be executed by
2685 the facility as principal and a licensed surety company. The

2686 bond shall be conditioned upon the faithful compliance of the
2687 facility with this section and shall run to the agency for the
2688 benefit of any resident who suffers a financial loss as a result
2689 of the misuse or misappropriation by a facility of funds held
2690 pursuant to this subsection. Any surety company that cancels or
2691 does not renew the bond of any licensee shall notify the agency
2692 in writing not less than 30 days in advance of such action,
2693 giving the reason for the cancellation or nonrenewal. Any
2694 facility owner, administrator, or staff, or representative
2695 thereof, who is granted power of attorney for any resident of
2696 the facility shall, on a monthly basis, be required to provide
2697 the resident a written statement of any transaction made on
2698 behalf of the resident pursuant to this subsection, and a copy
2699 of such statement given to the resident shall be retained in
2700 each resident's file and available for agency inspection.
2701 (3) A facility, upon mutual consent with the resident,
2702 shall provide for the safekeeping in the facility of personal
2703 effects not in excess of $500 and funds of the resident not in
2704 excess of $200 cash, and shall keep complete and accurate
2705 records of all such funds and personal effects received. If a
2706 resident is absent from a facility for 24 hours or more, the
2707 facility may provide for the safekeeping of the resident's
2708 personal effects in excess of $500.
2709 (4) Any funds or other property belonging to or due to a
2710 resident, or expendable for his or her account, which is
2711 received by a facility shall be trust funds which shall be kept
2712 separate from the funds and property of the facility and other
2713 residents or shall be specifically credited to such resident.

2714 Such trust funds shall be used or otherwise expended only for
2715 the account of the resident. At least once every 3 months,
2716 unless upon order of a court of competent jurisdiction, the
2717 facility shall furnish the resident and his or her guardian,
2718 trustee, or conservator, if any, a complete and verified
2719 statement of all funds and other property to which this
2720 subsection applies, detailing the amount and items received,
2721 together with their sources and disposition. In any event, the
2722 facility shall furnish such statement annually and upon the
2723 discharge or transfer of a resident. Any governmental agency or
2724 private charitable agency contributing funds or other property
2725 to the account of a resident shall also be entitled to receive
2726 such statement annually and upon the discharge or transfer of
2727 the resident.
2728 (5) Any personal funds available to facility residents may
2729 be used by residents as they choose to obtain clothing, personal
2730 items, leisure activities, and other supplies and services for
2731 their personal use. A facility may not demand, require, or
2732 contract for payment of all or any part of the personal funds in
2733 satisfaction of the facility rate for supplies and services
2734 beyond that amount agreed to in writing and may not levy an
2735 additional charge to the individual or the account for any
2736 supplies or services that the facility has agreed by contract to
2737 provide as part of the standard monthly rate. Any service or
2738 supplies provided by the facility which are charged separately
2739 to the individual or the account may be provided only with the
2740 specific written consent of the individual, who shall be
2741 furnished in advance of the provision of the services or

2742 supplies with an itemized written statement to be attached to
2743 the contract setting forth the charges for the services or
2744 supplies.
2745 (6)(a) In addition to any damages or civil penalties to
2746 which a person is subject, any person who:
2747 1. Intentionally withholds a resident's personal funds,
2748 personal property, or personal needs allowance, or who demands,
2749 beneficially receives, or contracts for payment of all or any
2750 part of a resident's personal property or personal needs
2751 allowance in satisfaction of the facility rate for supplies and
2752 services; or
2753 2. Borrows from or pledges any personal funds of a
2754 resident, other than the amount agreed to by written contract
2755 under s. 429.24 ~~s. 400.424~~,
2756
2757 commits a misdemeanor of the first degree, punishable as
2758 provided in s. 775.082 or s. 775.083.
2759 (b) Any facility owner, administrator, or staff, or
2760 representative thereof, who is granted power of attorney for any
2761 resident of the facility and who misuses or misappropriates
2762 funds obtained through this power commits a felony of the third
2763 degree, punishable as provided in s. 775.082, s. 775.083, or s.
2764 775.084.
2765 (7) In the event of the death of a resident, a licensee
2766 shall return all refunds, funds, and property held in trust to
2767 the resident's personal representative, if one has been
2768 appointed at the time the facility disburses such funds, and, if
2769 not, to the resident's spouse or adult next of kin named in a

2770 beneficiary designation form provided by the facility to the
2771 resident. If the resident has no spouse or adult next of kin or
2772 such person cannot be located, funds due the resident shall be
2773 placed in an interest-bearing account, and all property held in
2774 trust by the facility shall be safeguarded until such time as
2775 the funds and property are disbursed pursuant to the Florida
2776 Probate Code. Such funds shall be kept separate from the funds
2777 and property of the facility and other residents of the
2778 facility. If the funds of the deceased resident are not
2779 disbursed pursuant to the Florida Probate Code within 2 years
2780 after the resident's death, the funds shall be deposited in the
2781 Health Care Trust Fund administered by the agency.
2782 (8) The department may by rule clarify terms and specify
2783 procedures and documentation necessary to administer the
2784 provisions of this section relating to the proper management of
2785 residents' funds and personal property and the execution of
2786 surety bonds.
2787 Section 52. Section 400.428, Florida Statutes, is
2788 renumbered as section 429.28, Florida Statutes, and amended to
2789 read:
2790 429.28 ~~400.428~~ Resident bill of rights.--
2791 (1) No resident of a facility shall be deprived of any
2792 civil or legal rights, benefits, or privileges guaranteed by
2793 law, the Constitution of the State of Florida, or the
2794 Constitution of the United States as a resident of a facility.
2795 Every resident of a facility shall have the right to:
2796 (a) Live in a safe and decent living environment, free
2797 from abuse and neglect.

2798 (b) Be treated with consideration and respect and with due
2799 recognition of personal dignity, individuality, and the need for
2800 privacy.
2801 (c) Retain and use his or her own clothes and other
2802 personal property in his or her immediate living quarters, so as
2803 to maintain individuality and personal dignity, except when the
2804 facility can demonstrate that such would be unsafe, impractical,
2805 or an infringement upon the rights of other residents.
2806 (d) Unrestricted private communication, including
2807 receiving and sending unopened correspondence, access to a
2808 telephone, and visiting with any person of his or her choice, at
2809 any time between the hours of 9 a.m. and 9 p.m. at a minimum.
2810 Upon request, the facility shall make provisions to extend
2811 visiting hours for caregivers and out-of-town guests, and in
2812 other similar situations.
2813 (e) Freedom to participate in and benefit from community
2814 services and activities and to achieve the highest possible
2815 level of independence, autonomy, and interaction within the
2816 community.
2817 (f) Manage his or her financial affairs unless the
2818 resident or, if applicable, the resident's representative,
2819 designee, surrogate, guardian, or attorney in fact authorizes
2820 the administrator of the facility to provide safekeeping for
2821 funds as provided in s. 429.27 ~~s. 400.427~~.
2822 (g) Share a room with his or her spouse if both are
2823 residents of the facility.

2824 (h) Reasonable opportunity for regular exercise several
2825 times a week and to be outdoors at regular and frequent
2826 intervals except when prevented by inclement weather.
2827 (i) Exercise civil and religious liberties, including the
2828 right to independent personal decisions. No religious beliefs
2829 or practices, nor any attendance at religious services, shall be
2830 imposed upon any resident.
2831 (j) Access to adequate and appropriate health care
2832 consistent with established and recognized standards within the
2833 community.
2834 (k) At least 45 days' notice of relocation or termination
2835 of residency from the facility unless, for medical reasons, the
2836 resident is certified by a physician to require an emergency
2837 relocation to a facility providing a more skilled level of care
2838 or the resident engages in a pattern of conduct that is harmful
2839 or offensive to other residents. In the case of a resident who
2840 has been adjudicated mentally incapacitated, the guardian shall
2841 be given at least 45 days' notice of a nonemergency relocation
2842 or residency termination. Reasons for relocation shall be set
2843 forth in writing. In order for a facility to terminate the
2844 residency of an individual without notice as provided herein,
2845 the facility shall show good cause in a court of competent
2846 jurisdiction.
2847 (l) Present grievances and recommend changes in policies,
2848 procedures, and services to the staff of the facility, governing
2849 officials, or any other person without restraint, interference,
2850 coercion, discrimination, or reprisal. Each facility shall
2851 establish a grievance procedure to facilitate the residents'

2852 exercise of this right. This right includes access to ombudsman
2853 volunteers and advocates and the right to be a member of, to be
2854 active in, and to associate with advocacy or special interest
2855 groups.
2856 (2) The administrator of a facility shall ensure that a
2857 written notice of the rights, obligations, and prohibitions set
2858 forth in this part is posted in a prominent place in each
2859 facility and read or explained to residents who cannot read.
2860 This notice shall include the name, address, and telephone
2861 numbers of the local ombudsman council and central abuse hotline
2862 and, when applicable, the Advocacy Center for Persons with
2863 Disabilities, Inc., and the Florida local advocacy council,
2864 where complaints may be lodged. The facility must ensure a
2865 resident's access to a telephone to call the local ombudsman
2866 council, central abuse hotline, Advocacy Center for Persons with
2867 Disabilities, Inc., and the Florida local advocacy council.
2868 (3)(a) The agency shall conduct a survey to determine
2869 general compliance with facility standards and compliance with
2870 residents' rights as a prerequisite to initial licensure or
2871 licensure renewal.
2872 (b) In order to determine whether the facility is
2873 adequately protecting residents' rights, the biennial survey
2874 shall include private informal conversations with a sample of
2875 residents and consultation with the ombudsman council in the
2876 planning and service area in which the facility is located to
2877 discuss residents' experiences within the facility.
2878 (c) During any calendar year in which no survey is
2879 conducted, the agency shall conduct at least one monitoring

2880 visit of each facility cited in the previous year for a class I
2881 or class II violation, or more than three uncorrected class III
2882 violations.
2883 (d) The agency may conduct periodic followup inspections
2884 as necessary to monitor the compliance of facilities with a
2885 history of any class I, class II, or class III violations that
2886 threaten the health, safety, or security of residents.
2887 (e) The agency may conduct complaint investigations as
2888 warranted to investigate any allegations of noncompliance with
2889 requirements required under this part or rules adopted under
2890 this part.
2891 (4) The facility shall not hamper or prevent residents
2892 from exercising their rights as specified in this section.
2893 (5) No facility or employee of a facility may serve notice
2894 upon a resident to leave the premises or take any other
2895 retaliatory action against any person who:
2896 (a) Exercises any right set forth in this section.
2897 (b) Appears as a witness in any hearing, inside or outside
2898 the facility.
2899 (c) Files a civil action alleging a violation of the
2900 provisions of this part or notifies a state attorney or the
2901 Attorney General of a possible violation of such provisions.
2902 (6) Any facility which terminates the residency of an
2903 individual who participated in activities specified in
2904 subsection (5) shall show good cause in a court of competent
2905 jurisdiction.
2906 (7) Any person who submits or reports a complaint
2907 concerning a suspected violation of the provisions of this part

2908 or concerning services and conditions in facilities, or who
2909 testifies in any administrative or judicial proceeding arising
2910 from such a complaint, shall have immunity from any civil or
2911 criminal liability therefor, unless such person has acted in bad
2912 faith or with malicious purpose or the court finds that there
2913 was a complete absence of a justiciable issue of either law or
2914 fact raised by the losing party.
2915 Section 53. Section 400.429, Florida Statutes, is
2916 renumbered as section 429.29, Florida Statutes, and amended to
2917 read:
2918 429.29 ~~400.429~~ Civil actions to enforce rights.--
2919 (1) Any person or resident whose rights as specified in
2920 this part are violated shall have a cause of action. The action
2921 may be brought by the resident or his or her guardian, or by a
2922 person or organization acting on behalf of a resident with the
2923 consent of the resident or his or her guardian, or by the
2924 personal representative of the estate of a deceased resident
2925 regardless of the cause of death. If the action alleges a claim
2926 for the resident's rights or for negligence that caused the
2927 death of the resident, the claimant shall be required to elect
2928 either survival damages pursuant to s. 46.021 or wrongful death
2929 damages pursuant to s. 768.21. If the action alleges a claim for
2930 the resident's rights or for negligence that did not cause the
2931 death of the resident, the personal representative of the estate
2932 may recover damages for the negligence that caused injury to the
2933 resident. The action may be brought in any court of competent
2934 jurisdiction to enforce such rights and to recover actual
2935 damages, and punitive damages for violation of the rights of a

2936 resident or negligence. Any resident who prevails in seeking
2937 injunctive relief or a claim for an administrative remedy is
2938 entitled to recover the costs of the action and a reasonable
2939 attorney's fee assessed against the defendant not to exceed
2940 $25,000. Fees shall be awarded solely for the injunctive or
2941 administrative relief and not for any claim or action for
2942 damages whether such claim or action is brought together with a
2943 request for an injunction or administrative relief or as a
2944 separate action, except as provided under s. 768.79 or the
2945 Florida Rules of Civil Procedure. Sections 429.29-429.298
2946 ~~400.429-400.4303~~ provide the exclusive remedy for a cause of
2947 action for recovery of damages for the personal injury or death
2948 of a resident arising out of negligence or a violation of rights
2949 specified in s. 429.28 ~~s. 400.428~~. This section does not
2950 preclude theories of recovery not arising out of negligence or
2951 s. 429.28 ~~s. 400.428~~ which are available to a resident or to the
2952 agency. The provisions of chapter 766 do not apply to any cause
2953 of action brought under ss. 429.29-429.298 ~~ss. 400.429-400.4303~~.
2954 (2) In any claim brought pursuant to this part alleging a
2955 violation of resident's rights or negligence causing injury to
2956 or the death of a resident, the claimant shall have the burden
2957 of proving, by a preponderance of the evidence, that:
2958 (a) The defendant owed a duty to the resident;
2959 (b) The defendant breached the duty to the resident;
2960 (c) The breach of the duty is a legal cause of loss,
2961 injury, death, or damage to the resident; and
2962 (d) The resident sustained loss, injury, death, or damage
2963 as a result of the breach.

2964
2965 Nothing in this part shall be interpreted to create strict
2966 liability. A violation of the rights set forth in s. 429.28 ~~s.~~
2967 ~~400.428~~ or in any other standard or guidelines specified in this
2968 part or in any applicable administrative standard or guidelines
2969 of this state or a federal regulatory agency shall be evidence
2970 of negligence but shall not be considered negligence per se.
2971 (3) In any claim brought pursuant to this section, a
2972 licensee, person, or entity shall have a duty to exercise
2973 reasonable care. Reasonable care is that degree of care which a
2974 reasonably careful licensee, person, or entity would use under
2975 like circumstances.
2976 (4) In any claim for resident's rights violation or
2977 negligence by a nurse licensed under part I of chapter 464, such
2978 nurse shall have the duty to exercise care consistent with the
2979 prevailing professional standard of care for a nurse. The
2980 prevailing professional standard of care for a nurse shall be
2981 that level of care, skill, and treatment which, in light of all
2982 relevant surrounding circumstances, is recognized as acceptable
2983 and appropriate by reasonably prudent similar nurses.
2984 (5) Discovery of financial information for the purpose of
2985 determining the value of punitive damages may not be had unless
2986 the plaintiff shows the court by proffer or evidence in the
2987 record that a reasonable basis exists to support a claim for
2988 punitive damages.
2989 (6) In addition to any other standards for punitive
2990 damages, any award of punitive damages must be reasonable in
2991 light of the actual harm suffered by the resident and the

2992 egregiousness of the conduct that caused the actual harm to the
2993 resident.
2994 (7) The resident or the resident's legal representative
2995 shall serve a copy of any complaint alleging in whole or in part
2996 a violation of any rights specified in this part to the Agency
2997 for Health Care Administration at the time of filing the initial
2998 complaint with the clerk of the court for the county in which
2999 the action is pursued. The requirement of providing a copy of
3000 the complaint to the agency does not impair the resident's legal
3001 rights or ability to seek relief for his or her claim.
3002 Section 54. Section 400.4293, Florida Statutes, is
3003 renumbered as section 429.293, Florida Statutes, and amended to
3004 read:
3005 429.293 ~~400.4293~~ Presuit notice; investigation;
3006 notification of violation of residents' rights or alleged
3007 negligence; claims evaluation procedure; informal discovery;
3008 review; settlement offer; mediation.--
3009 (1) As used in this section, the term:
3010 (a) "Claim for residents' rights violation or negligence"
3011 means a negligence claim alleging injury to or the death of a
3012 resident arising out of an asserted violation of the rights of a
3013 resident under s. 429.28 ~~s. 400.428~~ or an asserted deviation
3014 from the applicable standard of care.
3015 (b) "Insurer" means any self-insurer authorized under s.
3016 627.357, liability insurance carrier, joint underwriting
3017 association, or uninsured prospective defendant.
3018 (2) Prior to filing a claim for a violation of a
3019 resident's rights or a claim for negligence, a claimant alleging

3020 injury to or the death of a resident shall notify each
3021 prospective defendant by certified mail, return receipt
3022 requested, of an asserted violation of a resident's rights
3023 provided in s. 429.28 ~~s. 400.428~~ or deviation from the standard
3024 of care. Such notification shall include an identification of
3025 the rights the prospective defendant has violated and the
3026 negligence alleged to have caused the incident or incidents and
3027 a brief description of the injuries sustained by the resident
3028 which are reasonably identifiable at the time of notice. The
3029 notice shall contain a certificate of counsel that counsel's
3030 reasonable investigation gave rise to a good faith belief that
3031 grounds exist for an action against each prospective defendant.
3032 (3)(a) No suit may be filed for a period of 75 days after
3033 notice is mailed to any prospective defendant. During the 75-day
3034 period, the prospective defendants or their insurers shall
3035 conduct an evaluation of the claim to determine the liability of
3036 each defendant and to evaluate the damages of the claimants.
3037 Each defendant or insurer of the defendant shall have a
3038 procedure for the prompt evaluation of claims during the 75-day
3039 period. The procedure shall include one or more of the
3040 following:
3041 1. Internal review by a duly qualified facility risk
3042 manager or claims adjuster;
3043 2. Internal review by counsel for each prospective
3044 defendant;
3045 3. A quality assurance committee authorized under any
3046 applicable state or federal statutes or regulations; or

3047 4. Any other similar procedure that fairly and promptly
3048 evaluates the claims.
3049
3050 Each defendant or insurer of the defendant shall evaluate the
3051 claim in good faith.
3052 (b) At or before the end of the 75 days, the defendant or
3053 insurer of the defendant shall provide the claimant with a
3054 written response:
3055 1. Rejecting the claim; or
3056 2. Making a settlement offer.
3057 (c) The response shall be delivered to the claimant if not
3058 represented by counsel or to the claimant's attorney, by
3059 certified mail, return receipt requested. Failure of the
3060 prospective defendant or insurer of the defendant to reply to
3061 the notice within 75 days after receipt shall be deemed a
3062 rejection of the claim for purposes of this section.
3063 (4) The notification of a violation of a resident's rights
3064 or alleged negligence shall be served within the applicable
3065 statute of limitations period; however, during the 75-day
3066 period, the statute of limitations is tolled as to all
3067 prospective defendants. Upon stipulation by the parties, the 75-
3068 day period may be extended and the statute of limitations is
3069 tolled during any such extension. Upon receiving written notice
3070 by certified mail, return receipt requested, of termination of
3071 negotiations in an extended period, the claimant shall have 60
3072 days or the remainder of the period of the statute of
3073 limitations, whichever is greater, within which to file suit.

3074 (5) No statement, discussion, written document, report, or
3075 other work product generated by presuit claims evaluation
3076 procedures under this section is discoverable or admissible in
3077 any civil action for any purpose by the opposing party. All
3078 participants, including, but not limited to, physicians,
3079 investigators, witnesses, and employees or associates of the
3080 defendant, are immune from civil liability arising from
3081 participation in the presuit claims evaluation procedure. Any
3082 licensed physician or registered nurse may be retained by either
3083 party to provide an opinion regarding the reasonable basis of
3084 the claim. The presuit opinions of the expert are not
3085 discoverable or admissible in any civil action for any purpose
3086 by the opposing party.
3087 (6) Upon receipt by a prospective defendant of a notice of
3088 claim, the parties shall make discoverable information available
3089 without formal discovery as provided in subsection (7).
3090 (7) Informal discovery may be used by a party to obtain
3091 unsworn statements and the production of documents or things, as
3092 follows:
3093 (a) Unsworn statements.--Any party may require other
3094 parties to appear for the taking of an unsworn statement. Such
3095 statements may be used only for the purpose of claims evaluation
3096 and are not discoverable or admissible in any civil action for
3097 any purpose by any party. A party seeking to take the unsworn
3098 statement of any party must give reasonable notice in writing to
3099 all parties. The notice must state the time and place for taking
3100 the statement and the name and address of the party to be
3101 examined. Unless otherwise impractical, the examination of any

3102 party must be done at the same time by all other parties. Any
3103 party may be represented by counsel at the taking of an unsworn
3104 statement. An unsworn statement may be recorded electronically,
3105 stenographically, or on videotape. The taking of unsworn
3106 statements is subject to the provisions of the Florida Rules of
3107 Civil Procedure and may be terminated for abuses.
3108 (b) Documents or things.--Any party may request discovery
3109 of relevant documents or things. The documents or things must be
3110 produced, at the expense of the requesting party, within 20 days
3111 after the date of receipt of the request. A party is required to
3112 produce relevant and discoverable documents or things within
3113 that party's possession or control, if in good faith it can
3114 reasonably be done within the timeframe of the claims evaluation
3115 process.
3116 (8) Each request for and notice concerning informal
3117 discovery pursuant to this section must be in writing, and a
3118 copy thereof must be sent to all parties. Such a request or
3119 notice must bear a certificate of service identifying the name
3120 and address of the person to whom the request or notice is
3121 served, the date of the request or notice, and the manner of
3122 service thereof.
3123 (9) If a prospective defendant makes a written settlement
3124 offer, the claimant shall have 15 days from the date of receipt
3125 to accept the offer. An offer shall be deemed rejected unless
3126 accepted by delivery of a written notice of acceptance.
3127 (10) To the extent not inconsistent with this part, the
3128 provisions of the Florida Mediation Code, Florida Rules of Civil
3129 Procedure, shall be applicable to such proceedings.

3130 (11) Within 30 days after the claimant's receipt of
3131 defendant's response to the claim, the parties or their
3132 designated representatives shall meet in mediation to discuss
3133 the issues of liability and damages in accordance with the
3134 mediation rules of practice and procedures adopted by the
3135 Supreme Court. Upon stipulation of the parties, this 30-day
3136 period may be extended and the statute of limitations is tolled
3137 during the mediation and any such extension. At the conclusion
3138 of mediation, the claimant shall have 60 days or the remainder
3139 of the period of the statute of limitations, whichever is
3140 greater, within which to file suit.
3141 Section 55. Section 400.431, Florida Statutes, is
3142 renumbered as section 429.31, Florida Statutes, and amended to
3143 read:
3144 429.31 ~~400.431~~ Closing of facility; notice; penalty.--
3145 (1) Whenever a facility voluntarily discontinues
3146 operation, it shall inform the agency in writing at least 90
3147 days prior to the discontinuance of operation. The facility
3148 shall also inform each resident or the next of kin, legal
3149 representative, or agency acting on each resident's behalf, of
3150 the fact and the proposed time of such discontinuance, following
3151 the notification requirements provided in s. 429.28(1)(k) ~~s.~~
3152 ~~400.428(1)(k)~~. In the event a resident has no person to
3153 represent him or her, the facility shall be responsible for
3154 referral to an appropriate social service agency for placement.
3155 (2) Immediately upon the notice by the agency of the
3156 voluntary or involuntary termination of such operation, the
3157 agency shall monitor the transfer of residents to other

3158 facilities and ensure that residents' rights are being
3159 protected. The department, in consultation with the Department
3160 of Children and Family Services, shall specify procedures for
3161 ensuring that all residents who receive services are
3162 appropriately relocated.
3163 (3) All charges shall be prorated as of the date on which
3164 the facility discontinues operation, and if any payments have
3165 been made in advance, the payments for services not received
3166 shall be refunded to the resident or the resident's guardian
3167 within 10 working days of voluntary or involuntary closure of
3168 the facility, whether or not such refund is requested by the
3169 resident or guardian.
3170 (4) Immediately upon discontinuance of the operation of a
3171 facility, the owner shall surrender the license therefor to the
3172 agency, and the license shall be canceled.
3173 (5) The agency may levy a fine in an amount no greater
3174 than $5,000 upon each person or business entity that owns any
3175 interest in a facility that terminates operation without
3176 providing notice to the agency and the residents of the facility
3177 at least 30 days before operation ceases. This fine shall not
3178 be levied against any facility involuntarily closed at the
3179 initiation of the agency. The agency shall use the proceeds of
3180 the fines to operate the facility until all residents of the
3181 facility are relocated and shall deposit any balance of the
3182 proceeds into the Health Care Trust Fund established pursuant to
3183 s. 429.18 ~~s. 400.418~~.

3184 Section 56. Section 400.441, Florida Statutes, is
3185 renumbered as section 429.41, Florida Statutes, and amended to
3186 read:
3187 429.41 ~~400.441~~ Rules establishing standards.--
3188 (1) It is the intent of the Legislature that rules
3189 published and enforced pursuant to this section shall include
3190 criteria by which a reasonable and consistent quality of
3191 resident care and quality of life may be ensured and the results
3192 of such resident care may be demonstrated. Such rules shall
3193 also ensure a safe and sanitary environment that is residential
3194 and noninstitutional in design or nature. It is further
3195 intended that reasonable efforts be made to accommodate the
3196 needs and preferences of residents to enhance the quality of
3197 life in a facility. In order to provide safe and sanitary
3198 facilities and the highest quality of resident care
3199 accommodating the needs and preferences of residents, the
3200 department, in consultation with the agency, the Department of
3201 Children and Family Services, and the Department of Health,
3202 shall adopt rules, policies, and procedures to administer this
3203 part, which must include reasonable and fair minimum standards
3204 in relation to:
3205 (a) The requirements for and maintenance of facilities,
3206 not in conflict with the provisions of chapter 553, relating to
3207 plumbing, heating, cooling, lighting, ventilation, living space,
3208 and other housing conditions, which will ensure the health,
3209 safety, and comfort of residents and protection from fire
3210 hazard, including adequate provisions for fire alarm and other
3211 fire protection suitable to the size of the structure. Uniform

3212 firesafety standards shall be established and enforced by the
3213 State Fire Marshal in cooperation with the agency, the
3214 department, and the Department of Health.
3215 1. Evacuation capability determination.--
3216 a. The provisions of the National Fire Protection
3217 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used
3218 for determining the ability of the residents, with or without
3219 staff assistance, to relocate from or within a licensed facility
3220 to a point of safety as provided in the fire codes adopted
3221 herein. An evacuation capability evaluation for initial
3222 licensure shall be conducted within 6 months after the date of
3223 licensure. For existing licensed facilities that are not
3224 equipped with an automatic fire sprinkler system, the
3225 administrator shall evaluate the evacuation capability of
3226 residents at least annually. The evacuation capability
3227 evaluation for each facility not equipped with an automatic fire
3228 sprinkler system shall be validated, without liability, by the
3229 State Fire Marshal, by the local fire marshal, or by the local
3230 authority having jurisdiction over firesafety, before the
3231 license renewal date. If the State Fire Marshal, local fire
3232 marshal, or local authority having jurisdiction over firesafety
3233 has reason to believe that the evacuation capability of a
3234 facility as reported by the administrator may have changed, it
3235 may, with assistance from the facility administrator, reevaluate
3236 the evacuation capability through timed exiting drills.
3237 Translation of timed fire exiting drills to evacuation
3238 capability may be determined:
3239 (I) Three minutes or less: prompt.

3240 (II) More than 3 minutes, but not more than 13 minutes:
3241 slow.
3242 (III) More than 13 minutes: impractical.
3243 b. The Office of the State Fire Marshal shall provide or
3244 cause the provision of training and education on the proper
3245 application of Chapter 5, NFPA 101A, 1995 edition, to its
3246 employees, to staff of the Agency for Health Care Administration
3247 who are responsible for regulating facilities under this part,
3248 and to local governmental inspectors. The Office of the State
3249 Fire Marshal shall provide or cause the provision of this
3250 training within its existing budget, but may charge a fee for
3251 this training to offset its costs. The initial training must be
3252 delivered within 6 months after July 1, 1995, and as needed
3253 thereafter.
3254 c. The Office of the State Fire Marshal, in cooperation
3255 with provider associations, shall provide or cause the provision
3256 of a training program designed to inform facility operators on
3257 how to properly review bid documents relating to the
3258 installation of automatic fire sprinklers. The Office of the
3259 State Fire Marshal shall provide or cause the provision of this
3260 training within its existing budget, but may charge a fee for
3261 this training to offset its costs. The initial training must be
3262 delivered within 6 months after July 1, 1995, and as needed
3263 thereafter.
3264 d. The administrator of a licensed facility shall sign an
3265 affidavit verifying the number of residents occupying the
3266 facility at the time of the evacuation capability evaluation.
3267 2. Firesafety requirements.--

3268 a. Except for the special applications provided herein,
3269 effective January 1, 1996, the provisions of the National Fire
3270 Protection Association, Life Safety Code, NFPA 101, 1994
3271 edition, Chapter 22 for new facilities and Chapter 23 for
3272 existing facilities shall be the uniform fire code applied by
3273 the State Fire Marshal for assisted living facilities, pursuant
3274 to s. 633.022.
3275 b. Any new facility, regardless of size, that applies for
3276 a license on or after January 1, 1996, must be equipped with an
3277 automatic fire sprinkler system. The exceptions as provided in
3278 section 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein,
3279 apply to any new facility housing eight or fewer residents. On
3280 July 1, 1995, local governmental entities responsible for the
3281 issuance of permits for construction shall inform, without
3282 liability, any facility whose permit for construction is
3283 obtained prior to January 1, 1996, of this automatic fire
3284 sprinkler requirement. As used in this part, the term "a new
3285 facility" does not mean an existing facility that has undergone
3286 change of ownership.
3287 c. Notwithstanding any provision of s. 633.022 or of the
3288 National Fire Protection Association, NFPA 101A, Chapter 5, 1995
3289 edition, to the contrary, any existing facility housing eight or
3290 fewer residents is not required to install an automatic fire
3291 sprinkler system, nor to comply with any other requirement in
3292 Chapter 23, NFPA 101, 1994 edition, that exceeds the firesafety
3293 requirements of NFPA 101, 1988 edition, that applies to this
3294 size facility, unless the facility has been classified as
3295 impractical to evacuate. Any existing facility housing eight or

3296 fewer residents that is classified as impractical to evacuate
3297 must install an automatic fire sprinkler system within the
3298 timeframes granted in this section.
3299 d. Any existing facility that is required to install an
3300 automatic fire sprinkler system under this paragraph need not
3301 meet other firesafety requirements of Chapter 23, NFPA 101, 1994
3302 edition, which exceed the provisions of NFPA 101, 1988 edition.
3303 The mandate contained in this paragraph which requires certain
3304 facilities to install an automatic fire sprinkler system
3305 supersedes any other requirement.
3306 e. This paragraph does not supersede the exceptions
3307 granted in NFPA 101, 1988 edition or 1994 edition.
3308 f. This paragraph does not exempt facilities from other
3309 firesafety provisions adopted under s. 633.022 and local
3310 building code requirements in effect before July 1, 1995.
3311 g. A local government may charge fees only in an amount
3312 not to exceed the actual expenses incurred by local government
3313 relating to the installation and maintenance of an automatic
3314 fire sprinkler system in an existing and properly licensed
3315 assisted living facility structure as of January 1, 1996.
3316 h. If a licensed facility undergoes major reconstruction
3317 or addition to an existing building on or after January 1, 1996,
3318 the entire building must be equipped with an automatic fire
3319 sprinkler system. Major reconstruction of a building means
3320 repair or restoration that costs in excess of 50 percent of the
3321 value of the building as reported on the tax rolls, excluding
3322 land, before reconstruction. Multiple reconstruction projects
3323 within a 5-year period the total costs of which exceed 50

3324 percent of the initial value of the building at the time the
3325 first reconstruction project was permitted are to be considered
3326 as major reconstruction. Application for a permit for an
3327 automatic fire sprinkler system is required upon application for
3328 a permit for a reconstruction project that creates costs that go
3329 over the 50-percent threshold.
3330 i. Any facility licensed before January 1, 1996, that is
3331 required to install an automatic fire sprinkler system shall
3332 ensure that the installation is completed within the following
3333 timeframes based upon evacuation capability of the facility as
3334 determined under subparagraph 1.:
3335 (I) Impractical evacuation capability, 24 months.
3336 (II) Slow evacuation capability, 48 months.
3337 (III) Prompt evacuation capability, 60 months.
3338
3339 The beginning date from which the deadline for the automatic
3340 fire sprinkler installation requirement must be calculated is
3341 upon receipt of written notice from the local fire official that
3342 an automatic fire sprinkler system must be installed. The local
3343 fire official shall send a copy of the document indicating the
3344 requirement of a fire sprinkler system to the Agency for Health
3345 Care Administration.
3346 j. It is recognized that the installation of an automatic
3347 fire sprinkler system may create financial hardship for some
3348 facilities. The appropriate local fire official shall, without
3349 liability, grant two 1-year extensions to the timeframes for
3350 installation established herein, if an automatic fire sprinkler
3351 installation cost estimate and proof of denial from two

3352 financial institutions for a construction loan to install the
3353 automatic fire sprinkler system are submitted. However, for any
3354 facility with a class I or class II, or a history of uncorrected
3355 class III, firesafety deficiencies, an extension must not be
3356 granted. The local fire official shall send a copy of the
3357 document granting the time extension to the Agency for Health
3358 Care Administration.
3359 k. A facility owner whose facility is required to be
3360 equipped with an automatic fire sprinkler system under Chapter
3361 23, NFPA 101, 1994 edition, as adopted herein, must disclose to
3362 any potential buyer of the facility that an installation of an
3363 automatic fire sprinkler requirement exists. The sale of the
3364 facility does not alter the timeframe for the installation of
3365 the automatic fire sprinkler system.
3366 l. Existing facilities required to install an automatic
3367 fire sprinkler system as a result of construction-type
3368 restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted
3369 herein, or evacuation capability requirements shall be notified
3370 by the local fire official in writing of the automatic fire
3371 sprinkler requirement, as well as the appropriate date for final
3372 compliance as provided in this subparagraph. The local fire
3373 official shall send a copy of the document to the Agency for
3374 Health Care Administration.
3375 m. Except in cases of life-threatening fire hazards, if an
3376 existing facility experiences a change in the evacuation
3377 capability, or if the local authority having jurisdiction
3378 identifies a construction-type restriction, such that an

3379 automatic fire sprinkler system is required, it shall be
3380 afforded time for installation as provided in this subparagraph.
3381
3382 Facilities that are fully sprinkled and in compliance with other
3383 firesafety standards are not required to conduct more than one
3384 of the required fire drills between the hours of 11 p.m. and 7
3385 a.m., per year. In lieu of the remaining drills, staff
3386 responsible for residents during such hours may be required to
3387 participate in a mock drill that includes a review of evacuation
3388 procedures. Such standards must be included or referenced in the
3389 rules adopted by the State Fire Marshal. Pursuant to s.
3390 633.022(1)(b), the State Fire Marshal is the final
3391 administrative authority for firesafety standards established
3392 and enforced pursuant to this section. All licensed facilities
3393 must have an annual fire inspection conducted by the local fire
3394 marshal or authority having jurisdiction.
3395 3. Resident elopement requirements.--Facilities are
3396 required to conduct a minimum of two resident elopement
3397 prevention and response drills per year. All administrators and
3398 direct care staff must participate in the drills which shall
3399 include a review of procedures to address resident elopement.
3400 Facilities must document the implementation of the drills and
3401 ensure that the drills are conducted in a manner consistent with
3402 the facility's resident elopement policies and procedures.
3403 (b) The preparation and annual update of a comprehensive
3404 emergency management plan. Such standards must be included in
3405 the rules adopted by the department after consultation with the
3406 Department of Community Affairs. At a minimum, the rules must

3407 provide for plan components that address emergency evacuation
3408 transportation; adequate sheltering arrangements; postdisaster
3409 activities, including provision of emergency power, food, and
3410 water; postdisaster transportation; supplies; staffing;
3411 emergency equipment; individual identification of residents and
3412 transfer of records; communication with families; and responses
3413 to family inquiries. The comprehensive emergency management
3414 plan is subject to review and approval by the local emergency
3415 management agency. During its review, the local emergency
3416 management agency shall ensure that the following agencies, at a
3417 minimum, are given the opportunity to review the plan: the
3418 Department of Elderly Affairs, the Department of Health, the
3419 Agency for Health Care Administration, and the Department of
3420 Community Affairs. Also, appropriate volunteer organizations
3421 must be given the opportunity to review the plan. The local
3422 emergency management agency shall complete its review within 60
3423 days and either approve the plan or advise the facility of
3424 necessary revisions.
3425 (c) The number, training, and qualifications of all
3426 personnel having responsibility for the care of residents. The
3427 rules must require adequate staff to provide for the safety of
3428 all residents. Facilities licensed for 17 or more residents are
3429 required to maintain an alert staff for 24 hours per day.
3430 (d) All sanitary conditions within the facility and its
3431 surroundings which will ensure the health and comfort of
3432 residents. The rules must clearly delineate the
3433 responsibilities of the agency's licensure and survey staff, the
3434 county health departments, and the local authority having

3435 jurisdiction over fire safety and ensure that inspections are
3436 not duplicative. The agency may collect fees for food service
3437 inspections conducted by the county health departments and
3438 transfer such fees to the Department of Health.
3439 (e) License application and license renewal, transfer of
3440 ownership, proper management of resident funds and personal
3441 property, surety bonds, resident contracts, refund policies,
3442 financial ability to operate, and facility and staff records.
3443 (f) Inspections, complaint investigations, moratoriums,
3444 classification of deficiencies, levying and enforcement of
3445 penalties, and use of income from fees and fines.
3446 (g) The enforcement of the resident bill of rights
3447 specified in s. 429.28 ~~s. 400.428~~.
3448 (h) The care and maintenance of residents, which must
3449 include, but is not limited to:
3450 1. The supervision of residents;
3451 2. The provision of personal services;
3452 3. The provision of, or arrangement for, social and
3453 leisure activities;
3454 4. The arrangement for appointments and transportation to
3455 appropriate medical, dental, nursing, or mental health services,
3456 as needed by residents;
3457 5. The management of medication;
3458 6. The nutritional needs of residents;
3459 7. Resident records; and
3460 8. Internal risk management and quality assurance.
3461 (i) Facilities holding a limited nursing, extended
3462 congregate care, or limited mental health license.

3463 (j) The establishment of specific criteria to define
3464 appropriateness of resident admission and continued residency in
3465 a facility holding a standard, limited nursing, extended
3466 congregate care, and limited mental health license.
3467 (k) The use of physical or chemical restraints. The use
3468 of physical restraints is limited to half-bed rails as
3469 prescribed and documented by the resident's physician with the
3470 consent of the resident or, if applicable, the resident's
3471 representative or designee or the resident's surrogate,
3472 guardian, or attorney in fact. The use of chemical restraints
3473 is limited to prescribed dosages of medications authorized by
3474 the resident's physician and must be consistent with the
3475 resident's diagnosis. Residents who are receiving medications
3476 that can serve as chemical restraints must be evaluated by their
3477 physician at least annually to assess:
3478 1. The continued need for the medication.
3479 2. The level of the medication in the resident's blood.
3480 3. The need for adjustments in the prescription.
3481 (l) The establishment of specific policies and procedures
3482 on resident elopement. Facilities shall conduct a minimum of two
3483 resident elopement drills each year. All administrators and
3484 direct care staff shall participate in the drills. Facilities
3485 shall document the drills.
3486 (2) In adopting any rules pursuant to this part, the
3487 department, in conjunction with the agency, shall make distinct
3488 standards for facilities based upon facility size; the types of
3489 care provided; the physical and mental capabilities and needs of
3490 residents; the type, frequency, and amount of services and care

3491 offered; and the staffing characteristics of the facility. Rules
3492 developed pursuant to this section shall not restrict the use of
3493 shared staffing and shared programming in facilities that are
3494 part of retirement communities that provide multiple levels of
3495 care and otherwise meet the requirements of law and rule.
3496 Except for uniform firesafety standards, the department shall
3497 adopt by rule separate and distinct standards for facilities
3498 with 16 or fewer beds and for facilities with 17 or more beds.
3499 The standards for facilities with 16 or fewer beds shall be
3500 appropriate for a noninstitutional residential environment,
3501 provided that the structure is no more than two stories in
3502 height and all persons who cannot exit the facility unassisted
3503 in an emergency reside on the first floor. The department, in
3504 conjunction with the agency, may make other distinctions among
3505 types of facilities as necessary to enforce the provisions of
3506 this part. Where appropriate, the agency shall offer alternate
3507 solutions for complying with established standards, based on
3508 distinctions made by the department and the agency relative to
3509 the physical characteristics of facilities and the types of care
3510 offered therein.
3511 (3) The department shall submit a copy of proposed rules
3512 to the Speaker of the House of Representatives, the President of
3513 the Senate, and appropriate committees of substance for review
3514 and comment prior to the promulgation thereof.
3515 (a) Rules promulgated by the department shall encourage
3516 the development of homelike facilities which promote the
3517 dignity, individuality, personal strengths, and decisionmaking
3518 ability of residents.

3519 (b) The agency, in consultation with the department, may
3520 waive rules promulgated pursuant to this part in order to
3521 demonstrate and evaluate innovative or cost-effective congregate
3522 care alternatives which enable individuals to age in place.
3523 Such waivers may be granted only in instances where there is
3524 reasonable assurance that the health, safety, or welfare of
3525 residents will not be endangered. To apply for a waiver, the
3526 licensee shall submit to the agency a written description of the
3527 concept to be demonstrated, including goals, objectives, and
3528 anticipated benefits; the number and types of residents who will
3529 be affected, if applicable; a brief description of how the
3530 demonstration will be evaluated; and any other information
3531 deemed appropriate by the agency. Any facility granted a waiver
3532 shall submit a report of findings to the agency and the
3533 department within 12 months. At such time, the agency may renew
3534 or revoke the waiver or pursue any regulatory or statutory
3535 changes necessary to allow other facilities to adopt the same
3536 practices. The department may by rule clarify terms and
3537 establish waiver application procedures, criteria for reviewing
3538 waiver proposals, and procedures for reporting findings, as
3539 necessary to implement this subsection.
3540 (4) The agency may use an abbreviated biennial standard
3541 licensure inspection that consists of a review of key quality-
3542 of-care standards in lieu of a full inspection in facilities
3543 which have a good record of past performance. However, a full
3544 inspection shall be conducted in facilities which have had a
3545 history of class I or class II violations, uncorrected class III
3546 violations, confirmed ombudsman council complaints, or confirmed

3547 licensure complaints, within the previous licensure period
3548 immediately preceding the inspection or when a potentially
3549 serious problem is identified during the abbreviated inspection.
3550 The agency, in consultation with the department, shall develop
3551 the key quality-of-care standards with input from the State
3552 Long-Term Care Ombudsman Council and representatives of provider
3553 groups for incorporation into its rules. The department, in
3554 consultation with the agency, shall report annually to the
3555 Legislature concerning its implementation of this subsection.
3556 The report shall include, at a minimum, the key quality-of-care
3557 standards which have been developed; the number of facilities
3558 identified as being eligible for the abbreviated inspection; the
3559 number of facilities which have received the abbreviated
3560 inspection and, of those, the number that were converted to full
3561 inspection; the number and type of subsequent complaints
3562 received by the agency or department on facilities which have
3563 had abbreviated inspections; any recommendations for
3564 modification to this subsection; any plans by the agency to
3565 modify its implementation of this subsection; and any other
3566 information which the department believes should be reported.
3567 (5) A fee shall be charged by the department to any person
3568 requesting a copy of this part or rules promulgated under this
3569 part. Such fees shall not exceed the actual cost of duplication
3570 and postage.
3571 Section 57. Section 400.442, Florida Statutes, is
3572 renumbered as section 429.42, Florida Statutes, and amended to
3573 read:
3574 429.42 ~~400.442~~ Pharmacy and dietary services.--

3575 (1) Any assisted living facility in which the agency has
3576 documented a class I or class II deficiency or uncorrected class
3577 III deficiencies regarding medicinal drugs or over-the-counter
3578 preparations, including their storage, use, delivery, or
3579 administration, or dietary services, or both, during a biennial
3580 survey or a monitoring visit or an investigation in response to
3581 a complaint, shall, in addition to or as an alternative to any
3582 penalties imposed under s. 429.19 ~~s. 400.419~~, be required to
3583 employ the consultant services of a licensed pharmacist, a
3584 licensed registered nurse, or a registered or licensed
3585 dietitian, as applicable. The consultant shall, at a minimum,
3586 provide onsite quarterly consultation until the inspection team
3587 from the agency determines that such consultation services are
3588 no longer required.
3589 (2) A corrective action plan for deficiencies related to
3590 assistance with the self-administration of medication or the
3591 administration of medication must be developed and implemented
3592 by the facility within 48 hours after notification of such
3593 deficiency, or sooner if the deficiency is determined by the
3594 agency to be life-threatening.
3595 (3) The agency shall employ at least two pharmacists
3596 licensed pursuant to chapter 465 among its personnel who
3597 biennially inspect assisted living facilities licensed under
3598 this part, to participate in biennial inspections or consult
3599 with the agency regarding deficiencies relating to medicinal
3600 drugs or over-the-counter preparations.
3601 (4) The department may by rule establish procedures and
3602 specify documentation as necessary to implement this section.

3603 Section 58. Section 400.444, Florida Statutes, is
3604 renumbered as section 429.44, Florida Statutes, and amended to
3605 read:
3606 429.44 ~~400.444~~ Construction and renovation;
3607 requirements.--
3608 (1) The requirements for the construction and renovation
3609 of a facility shall comply with the provisions of chapter 553
3610 which pertain to building construction standards, including
3611 plumbing, electrical code, glass, manufactured buildings,
3612 accessibility for persons with disabilities, and the state
3613 minimum building code and with the provisions of s. 633.022,
3614 which pertain to uniform firesafety standards.
3615 (2) Upon notification by the local authority having
3616 jurisdiction over life-threatening violations which seriously
3617 threaten the health, safety, or welfare of a resident of a
3618 facility, the agency shall take action as specified in s. 429.14
3619 ~~s. 400.414~~.
3620 (3) The department may adopt rules to establish procedures
3621 and specify the documentation necessary to implement this
3622 section.
3623 Section 59. Section 400.447, Florida Statutes, is
3624 renumbered as section 429.47, Florida Statutes, and amended to
3625 read:
3626 429.47 ~~400.447~~ Prohibited acts; penalties for violation.--
3627 (1) It is unlawful for any person or public body to offer
3628 or advertise to the public, in any way by any medium whatever,
3629 personal services as defined in this act, without obtaining a
3630 valid current license. It is unlawful for any holder of a

3631 license issued pursuant to the provisions of this act to
3632 advertise or hold out to the public that it holds a license for
3633 a facility other than that for which it actually holds a
3634 license.
3635 (2) It is unlawful for any holder of a license issued
3636 pursuant to the provisions of this act to withhold from the
3637 agency any evidence of financial instability, including, but not
3638 limited to, bad checks, delinquent accounts, nonpayment of
3639 withholding taxes, unpaid utility expenses, nonpayment for
3640 essential services, or adverse court action concerning the
3641 financial viability of the facility or any other facility
3642 licensed under this part or under part II of chapter 400 ~~or part~~
3643 ~~III of this chapter~~ which is owned by the licensee.
3644 (3) Any person found guilty of violating subsection (1) or
3645 subsection (2) commits a misdemeanor of the second degree,
3646 punishable as provided in s. 775.083. Each day of continuing
3647 violation shall be considered a separate offense.
3648 (4) While a facility is under construction, the owner may
3649 advertise to the public prior to obtaining a license. Facilities
3650 that are certified under chapter 651 shall comply with the
3651 advertising provisions of s. 651.095 rather than those provided
3652 for in this subsection.
3653 (5) A freestanding facility shall not advertise or imply
3654 that any part of it is a nursing home. For the purpose of this
3655 subsection, "freestanding facility" means a facility that is not
3656 operated in conjunction with a nursing home to which residents
3657 of the facility are given priority when nursing care is

3658 required. A person who violates this subsection is subject to
3659 fine as specified in s. 429.19 ~~s. 400.419~~.
3660 (6) Any facility which is affiliated with any religious
3661 organization or which has a name implying religious affiliation
3662 shall include in its advertising whether or not it is affiliated
3663 with any religious organization and, if so, which organization.
3664 (7) A facility licensed under this part which is not part
3665 of a facility authorized under chapter 651 shall include the
3666 facility's license number as given by the agency in all
3667 advertising. A company or person owning more than one facility
3668 shall include at least one license number per advertisement.
3669 All advertising shall include the term "assisted living
3670 facility" before the license number.
3671 Section 60. Section 400.452, Florida Statutes, is
3672 renumbered as section 429.52, Florida Statutes, and amended to
3673 read:
3674 429.52 ~~400.452~~ Staff training and educational programs;
3675 core educational requirement.--
3676 (1) Administrators and other assisted living facility
3677 staff must meet minimum training and education requirements
3678 established by the Department of Elderly Affairs by rule. This
3679 training and education is intended to assist facilities to
3680 appropriately respond to the needs of residents, to maintain
3681 resident care and facility standards, and to meet licensure
3682 requirements.
3683 (2) The department shall establish a competency test and a
3684 minimum required score to indicate successful completion of the
3685 training and educational requirements. The competency test must

3686 be developed by the department in conjunction with the agency
3687 and providers. The required training and education must cover at
3688 least the following topics:
3689 (a) State law and rules relating to assisted living
3690 facilities.
3691 (b) Resident rights and identifying and reporting abuse,
3692 neglect, and exploitation.
3693 (c) Special needs of elderly persons, persons with mental
3694 illness, and persons with developmental disabilities and how to
3695 meet those needs.
3696 (d) Nutrition and food service, including acceptable
3697 sanitation practices for preparing, storing, and serving food.
3698 (e) Medication management, recordkeeping, and proper
3699 techniques for assisting residents with self-administered
3700 medication.
3701 (f) Firesafety requirements, including fire evacuation
3702 drill procedures and other emergency procedures.
3703 (g) Care of persons with Alzheimer's disease and related
3704 disorders.
3705 (3) Effective January 1, 2004, a new facility
3706 administrator must complete the required training and education,
3707 including the competency test, within a reasonable time after
3708 being employed as an administrator, as determined by the
3709 department. Failure to do so is a violation of this part and
3710 subjects the violator to an administrative fine as prescribed in
3711 s. 429.19 ~~s. 400.419~~. Administrators licensed in accordance with
3712 chapter 468, part II, are exempt from this requirement. Other

3713 licensed professionals may be exempted, as determined by the
3714 department by rule.
3715 (4) Administrators are required to participate in
3716 continuing education for a minimum of 12 contact hours every 2
3717 years.
3718 (5) Staff involved with the management of medications and
3719 assisting with the self-administration of medications under s.
3720 429.256 ~~s. 400.4256~~ must complete a minimum of 4 additional
3721 hours of training provided by a registered nurse, licensed
3722 pharmacist, or department staff. The department shall establish
3723 by rule the minimum requirements of this additional training.
3724 (6) Other facility staff shall participate in training
3725 relevant to their job duties as specified by rule of the
3726 department.
3727 (7) If the department or the agency determines that there
3728 are problems in a facility that could be reduced through
3729 specific staff training or education beyond that already
3730 required under this section, the department or the agency may
3731 require, and provide, or cause to be provided, the training or
3732 education of any personal care staff in the facility.
3733 (8) The department shall adopt rules related to these
3734 training requirements, the competency test, necessary
3735 procedures, and competency test fees.
3736 Section 61. Subsections (1), (10), and (18) of section
3737 400.462, Florida Statutes, are amended to read:
3738 400.462 Definitions.--As used in this part, the term:
3739 (1) "Administrator" means a direct employee, as defined in
3740 subsection (9). The administrator must be a licensed physician,

3741 physician assistant, or registered nurse licensed to practice in
3742 this state or an individual having at least 1 year of
3743 supervisory or administrative experience in home health care or
3744 in a facility licensed under chapter 395, ~~or under~~ part II ~~or~~
3745 ~~part III~~ of this chapter, or chapter 429. An administrator may
3746 manage a maximum of five licensed home health agencies located
3747 within one agency service district or within an immediately
3748 contiguous county. If the home health agency is licensed under
3749 this chapter and is part of a retirement community that provides
3750 multiple levels of care, an employee of the retirement community
3751 may administer the home health agency and up to a maximum of
3752 four entities licensed under this chapter or chapter 429 that
3753 are owned, operated, or managed by the same corporate entity. An
3754 administrator shall designate, in writing, for each licensed
3755 entity, a qualified alternate administrator to serve during
3756 absences.
3757 (10) "Director of nursing" means a registered nurse who is
3758 a direct employee, as defined in subsection (9), of the agency
3759 and who is a graduate of an approved school of nursing and is
3760 licensed in this state; who has at least 1 year of supervisory
3761 experience as a registered nurse; and who is responsible for
3762 overseeing the professional nursing and home health aid delivery
3763 of services of the agency. A director of nursing may be the
3764 director of a maximum of five licensed home health agencies
3765 operated by a related business entity and located within one
3766 agency service district or within an immediately contiguous
3767 county. If the home health agency is licensed under this chapter
3768 and is part of a retirement community that provides multiple

3769 levels of care, an employee of the retirement community may
3770 serve as the director of nursing of the home health agency and
3771 of up to four entities licensed under this chapter or chapter
3772 429 which are owned, operated, or managed by the same corporate
3773 entity.
3774 (18) "Nurse registry" means any person that procures,
3775 offers, promises, or attempts to secure health-care-related
3776 contracts for registered nurses, licensed practical nurses,
3777 certified nursing assistants, home health aides, companions, or
3778 homemakers, who are compensated by fees as independent
3779 contractors, including, but not limited to, contracts for the
3780 provision of services to patients and contracts to provide
3781 private duty or staffing services to health care facilities
3782 licensed under chapter 395, ~~or~~ this chapter, or chapter 429 or
3783 other business entities.
3784 Section 62. Paragraphs (h), (i), and (n) of subsection (5)
3785 of section 400.464, Florida Statutes, are amended to read:
3786 400.464 Home health agencies to be licensed; expiration of
3787 license; exemptions; unlawful acts; penalties.--
3788 (5) The following are exempt from the licensure
3789 requirements of this part:
3790 (h) The delivery of assisted living facility services for
3791 which the assisted living facility is licensed under part I ~~III~~
3792 of ~~this~~ chapter 429, to serve its residents in its facility.
3793 (i) The delivery of hospice services for which the hospice
3794 is licensed under part IV ~~VI~~ of this chapter, to serve hospice
3795 patients admitted to its service.

3796 (n) The delivery of adult family care home services for
3797 which the adult family care home is licensed under part II ~~VII~~
3798 of ~~this~~ chapter 429, to serve the residents in its facility.
3799 Section 63. Subsection (2) of section 400.497, Florida
3800 Statutes, is amended to read:
3801 400.497 Rules establishing minimum standards.--The agency
3802 shall adopt, publish, and enforce rules to implement this part,
3803 including, as applicable, ss. 400.506 and 400.509, which must
3804 provide reasonable and fair minimum standards relating to:
3805 (2) Shared staffing. The agency shall allow shared
3806 staffing if the home health agency is part of a retirement
3807 community that provides multiple levels of care, is located on
3808 one campus, is licensed under this chapter or chapter 429, and
3809 otherwise meets the requirements of law and rule.
3810 Section 64. Section 400.552, Florida Statutes, is
3811 renumbered as section 429.903, Florida Statutes, and amended to
3812 read:
3813 429.903 ~~400.552~~ Applicability.--Any facility that comes
3814 within the definition of an adult day care center which is not
3815 exempt under s. 429.905 ~~s. 400.553~~ must be licensed by the
3816 agency as an adult day care center.
3817 Section 65. Section 400.555, Florida Statutes, is
3818 renumbered as section 429.909, Florida Statutes, and amended to
3819 read:
3820 429.909 ~~400.555~~ Application for license.--
3821 (1) An application for a license to operate an adult day
3822 care center must be made to the agency on forms furnished by the
3823 agency and must be accompanied by the appropriate license fee

3824 unless the applicant is exempt from payment of the fee as
3825 provided in s. 429.907(4) ~~s. 400.554(4)~~.
3826 (2) The applicant for licensure must furnish:
3827 (a) A description of the physical and mental capabilities
3828 and needs of the participants to be served and the availability,
3829 frequency, and intensity of basic services and of supportive and
3830 optional services to be provided;
3831 (b) Satisfactory proof of financial ability to operate and
3832 conduct the center in accordance with the requirements of this
3833 part, which must include, in the case of an initial application,
3834 a 1-year operating plan and proof of a 3-month operating reserve
3835 fund; and
3836 (c) Proof of adequate liability insurance coverage.
3837 (d) Proof of compliance with level 2 background screening
3838 as required under s. 429.919 ~~s. 400.5572~~.
3839 (e) A description and explanation of any exclusions,
3840 permanent suspensions, or terminations of the application from
3841 the Medicare or Medicaid programs. Proof of compliance with
3842 disclosure of ownership and control interest requirements of the
3843 Medicare or Medicaid programs shall be accepted in lieu of this
3844 submission.
3845 Section 66. Section 400.556, Florida Statutes, is
3846 renumbered as section 429.911, Florida Statutes, and amended to
3847 read:
3848 429.911 ~~400.556~~ Denial, suspension, revocation of license;
3849 administrative fines; investigations and inspections.--
3850 (1) The agency may deny, revoke, or suspend a license
3851 under this part or may impose an administrative fine against the

3852 owner of an adult day care center or its operator or employee in
3853 the manner provided in chapter 120.
3854 (2) Each of the following actions by the owner of an adult
3855 day care center or by its operator or employee is a ground for
3856 action by the agency against the owner of the center or its
3857 operator or employee:
3858 (a) An intentional or negligent act materially affecting
3859 the health or safety of center participants.
3860 (b) A violation of this part or of any standard or rule
3861 under this part.
3862 (c) A failure of persons subject to level 2 background
3863 screening under s. 429.174(1) ~~s. 400.4174(1)~~ to meet the
3864 screening standards of s. 435.04, or the retention by the center
3865 of an employee subject to level 1 background screening standards
3866 under s. 429.174(2) ~~s. 400.4174(2)~~ who does not meet the
3867 screening standards of s. 435.03 and for whom exemptions from
3868 disqualification have not been provided by the agency.
3869 (d) Failure to follow the criteria and procedures provided
3870 under part I of chapter 394 relating to the transportation,
3871 voluntary admission, and involuntary examination of center
3872 participants.
3873 (e) Multiple or repeated violations of this part or of any
3874 standard or rule adopted under this part.
3875 (f) Exclusion, permanent suspension, or termination of the
3876 owner, if an individual, officer, or board member of the adult
3877 day care center, if the owner is a firm, corporation,
3878 partnership, or association, or any person owning 5 percent or
3879 more of the center, from the Medicare or Medicaid program.

3880 (3) The agency is responsible for all investigations and
3881 inspections conducted pursuant to this part.
3882 Section 67. Section 400.557, Florida Statutes, is
3883 renumbered as section 429.915, Florida Statutes, and amended to
3884 read:
3885 429.915 ~~400.557~~ Expiration of license; renewal;
3886 conditional license or permit.--
3887 (1) A license issued for the operation of an adult day
3888 care center, unless sooner suspended or revoked, expires 2 years
3889 after the date of issuance. The agency shall notify a licensee
3890 at least 120 days before the expiration date that license
3891 renewal is required to continue operation. The notification must
3892 be provided electronically or by mail delivery. At least 90 days
3893 prior to the expiration date, an application for renewal must be
3894 submitted to the agency. A license shall be renewed, upon the
3895 filing of an application on forms furnished by the agency, if
3896 the applicant has first met the requirements of this part and of
3897 the rules adopted under this part. The applicant must file with
3898 the application satisfactory proof of financial ability to
3899 operate the center in accordance with the requirements of this
3900 part and in accordance with the needs of the participants to be
3901 served and an affidavit of compliance with the background
3902 screening requirements of s. 429.919 ~~s. 400.5572~~.
3903 (2) A licensee against whom a revocation or suspension
3904 proceeding is pending at the time for license renewal may be
3905 issued a conditional license effective until final disposition
3906 by the agency of the proceeding. If judicial relief is sought
3907 from the final disposition, the court having jurisdiction may

3908 issue a conditional permit effective for the duration of the
3909 judicial proceeding.
3910 (3) The agency may issue a conditional license to an
3911 applicant for license renewal or change of ownership if the
3912 applicant fails to meet all standards and requirements for
3913 licensure. A conditional license issued under this subsection
3914 must be limited to a specific period not exceeding 6 months, as
3915 determined by the agency, and must be accompanied by an approved
3916 plan of correction.
3917 Section 68. Section 400.5572, Florida Statutes, is
3918 renumbered as section 429.919, Florida Statutes, and amended to
3919 read:
3920 429.919 ~~400.5572~~ Background screening.--
3921 (1)(a) Level 2 background screening must be conducted on
3922 each of the following persons, who shall be considered employees
3923 for the purposes of conducting screening under chapter 435:
3924 1. The adult day care center owner if an individual, the
3925 operator, and the financial officer.
3926 2. An officer or board member if the owner of the adult
3927 day care center is a firm, corporation, partnership, or
3928 association, or any person owning 5 percent or more of the
3929 facility, if the agency has probable cause to believe that such
3930 person has been convicted of any offense prohibited by s.
3931 435.04. For each officer, board member, or person owning 5
3932 percent or more who has been convicted of any such offense, the
3933 facility shall submit to the agency a description and
3934 explanation of the conviction at the time of license
3935 application. This subparagraph does not apply to a board member

3936 of a not-for-profit corporation or organization if the board
3937 member serves solely in a voluntary capacity, does not regularly
3938 take part in the day-to-day operational decisions of the
3939 corporation or organization, receives no remuneration for his or
3940 her services, and has no financial interest and has no family
3941 members with a financial interest in the corporation or
3942 organization, provided that the board member and facility submit
3943 a statement affirming that the board member's relationship to
3944 the facility satisfies the requirements of this subparagraph.
3945 (b) Proof of compliance with level 2 screening standards
3946 which has been submitted within the previous 5 years to meet any
3947 facility or professional licensure requirements of the agency or
3948 the Department of Health satisfies the requirements of this
3949 subsection.
3950 (c) The agency may grant a provisional license to an adult
3951 day care center applying for an initial license when each
3952 individual required by this subsection to undergo screening has
3953 completed the Department of Law Enforcement background check,
3954 but has not yet received results from the Federal Bureau of
3955 Investigation, or when a request for an exemption from
3956 disqualification has been submitted to the agency pursuant to s.
3957 435.07, but a response has not been issued.
3958 (2) The owner or administrator of an adult day care center
3959 must conduct level 1 background screening as set forth in
3960 chapter 435 on all employees hired on or after October 1, 1998,
3961 who provide basic services or supportive and optional services
3962 to the participants. Such persons satisfy this requirement if:

3963 (a) Proof of compliance with level 1 screening
3964 requirements obtained to meet any professional license
3965 requirements in this state is provided and accompanied, under
3966 penalty of perjury, by a copy of the person's current
3967 professional license and an affidavit of current compliance with
3968 the background screening requirements.
3969 (b) The person required to be screened has been
3970 continuously employed, without a breach in service that exceeds
3971 180 days, in the same type of occupation for which the person is
3972 seeking employment and provides proof of compliance with the
3973 level 1 screening requirement which is no more than 2 years old.
3974 Proof of compliance must be provided directly from one employer
3975 or contractor to another, and not from the person screened. Upon
3976 request, a copy of screening results shall be provided to the
3977 person screened by the employer retaining documentation of the
3978 screening.
3979 (c) The person required to be screened is employed by a
3980 corporation or business entity or related corporation or
3981 business entity that owns, operates, or manages more than one
3982 facility or agency licensed under this chapter <u>or under chapter</u>
3983 <u>400</u>, and for whom a level 1 screening was conducted by the
3984 corporation or business entity as a condition of initial or
3985 continued employment.
3986 Section 69. Subsection (5) of section 400.601, Florida
3987 Statutes, is amended to read:
3988 400.601 Definitions.--As used in this part, the term:
3989 (5) "Hospice residential unit" means a homelike living
3990 facility, other than a facility licensed under other parts of

3991 this chapter, ~~or~~ under chapter 395, or under chapter 429, that
3992 is operated by a hospice for the benefit of its patients and is
3993 considered by a patient who lives there to be his or her primary
3994 residence.
3995 Section 70. Section 400.618, Florida Statutes, is
3996 renumbered as section 429.65, Florida Statutes, and amended to
3997 read:
3998 429.65 ~~400.618~~ Definitions.--As used in this part, the
3999 term:
4000 (1) "Activities of daily living" means functions and tasks
4001 for self-care, including eating, bathing, grooming, dressing,
4002 ambulating, and other similar tasks.
4003 (2) "Adult family-care home" means a full-time, family-
4004 type living arrangement, in a private home, under which a person
4005 who owns or rents the home provides room, board, and personal
4006 care, on a 24-hour basis, for no more than five disabled adults
4007 or frail elders who are not relatives. The following family-type
4008 living arrangements are not required to be licensed as an adult
4009 family-care home:
4010 (a) An arrangement whereby the person who owns or rents
4011 the home provides room, board, and personal services for not
4012 more than two adults who do not receive optional state
4013 supplementation under s. 409.212. The person who provides the
4014 housing, meals, and personal care must own or rent the home and
4015 reside therein.
4016 (b) An arrangement whereby the person who owns or rents
4017 the home provides room, board, and personal services only to his
4018 or her relatives.

4019 (c) An establishment that is licensed as an assisted
4020 living facility under this chapter ~~part III~~.
4021 (3) "Agency" means the Agency for Health Care
4022 Administration.
4023 (4) "Aging in place" means remaining in a noninstitutional
4024 living environment despite the physical or mental changes that
4025 may occur in a person who is aging. For aging in place to occur,
4026 needed services are added, increased, or adjusted to compensate
4027 for a person's physical or mental changes.
4028 (5) "Appropriate placement" means that the resident's
4029 needs can be met by the adult family-care home or can be met by
4030 services arranged by the adult family-care home or the resident.
4031 (6) "Chemical restraint" means a pharmacologic drug that
4032 physically limits, restricts, or deprives an individual of
4033 movement or mobility, and is used for discipline or convenience
4034 and not required for the treatment of medical symptoms.
4035 (7) "Department" means the Department of Elderly Affairs.
4036 (8) "Disabled adult" means any person between 18 and 59
4037 years of age, inclusive, who is a resident of the state and who
4038 has one or more permanent physical or mental limitations that
4039 restrict the person's ability to perform the normal activities
4040 of daily living.
4041 (9) "Frail elder" means a functionally impaired elderly
4042 person who is 60 years of age or older and who has physical or
4043 mental limitations that restrict the person's ability to perform
4044 the normal activities of daily living and that impede the
4045 person's capacity to live independently.

4046 (10) "Personal services" or "personal care" includes
4047 individual assistance with or supervision of the activities of
4048 daily living and the self-administration of medication, and
4049 other similar services.
4050 (11) "Provider" means a person who is licensed to operate
4051 an adult family-care home.
4052 (12) "Relative" means an individual who is the father,
4053 mother, son, daughter, brother, sister, grandfather,
4054 grandmother, great-grandfather, great-grandmother, uncle, aunt,
4055 first cousin, nephew, niece, husband, wife, father-in-law,
4056 mother-in-law, son-in-law, daughter-in-law, brother-in-law,
4057 sister-in-law, stepfather, stepmother, stepson, stepdaughter,
4058 stepbrother, stepsister, half brother, or half sister of a
4059 provider.
4060 (13) "Relief person" means an adult designated by the
4061 provider to supervise the residents during the provider's
4062 absence.
4063 (14) "Resident" means a person receiving room, board, and
4064 personal care in an adult family-care home.
4065 Section 71. Section 400.6194, Florida Statutes, is
4066 renumbered as section 429.69, Florida Statutes, and amended to
4067 read:
4068 429.69 ~~400.6194~~ Denial, revocation, or suspension of a
4069 license.--The agency may deny, suspend, or revoke a license for
4070 any of the following reasons:
4071 (1) Failure of any of the persons required to undergo
4072 background screening under s. 429.67 ~~s. 400.619~~ to meet the

4073 level 1 screening standards of s. 435.03, unless an exemption
4074 from disqualification has been provided by the agency.
4075 (2) An intentional or negligent act materially affecting
4076 the health, safety, or welfare of the adult family-care home
4077 residents.
4078 (3) Submission of fraudulent information or omission of
4079 any material fact on a license application or any other document
4080 required by the agency.
4081 (4) Failure to pay an administrative fine assessed under
4082 this part.
4083 (5) A violation of this part or adopted rules which
4084 results in conditions or practices that directly threaten the
4085 physical or emotional health, safety, or welfare of residents.
4086 (6) Failure to correct cited fire code violations that
4087 threaten the health, safety, or welfare of residents.
4088 (7) Failure to submit a completed initial license
4089 application or to complete an application for license renewal
4090 within the specified timeframes.
4091 (8) Exclusion, permanent suspension, or termination of the
4092 provider from the Medicare or Medicaid program.
4093 Section 72. Section 400.621, Florida Statutes, is
4094 renumbered as section 429.73, Florida Statutes, and amended to
4095 read:
4096 429.73 ~~400.621~~ Rules and standards relating to adult
4097 family-care homes.--
4098 (1) The department, in consultation with the Department of
4099 Health, the Department of Children and Family Services, and the
4100 agency shall, by rule, establish minimum standards to ensure the

4101 health, safety, and well-being of each resident in the adult
4102 family-care home. The rules must address:
4103 (a) Requirements for the physical site of the facility and
4104 facility maintenance.
4105 (b) Services that must be provided to all residents of an
4106 adult family-care home and standards for such services, which
4107 must include, but need not be limited to:
4108 1. Room and board.
4109 2. Assistance necessary to perform the activities of daily
4110 living.
4111 3. Assistance necessary to administer medication.
4112 4. Supervision of residents.
4113 5. Health monitoring.
4114 6. Social and leisure activities.
4115 (c) Standards and procedures for license application and
4116 annual license renewal, advertising, proper management of each
4117 resident's funds and personal property and personal affairs,
4118 financial ability to operate, medication management,
4119 inspections, complaint investigations, and facility, staff, and
4120 resident records.
4121 (d) Qualifications, training, standards, and
4122 responsibilities for providers and staff.
4123 (e) Compliance with chapter 419, relating to community
4124 residential homes.
4125 (f) Criteria and procedures for determining the
4126 appropriateness of a resident's placement and continued
4127 residency in an adult family-care home. A resident who requires
4128 24-hour nursing supervision may not be retained in an adult

4129 family-care home unless such resident is an enrolled hospice
4130 patient and the resident's continued residency is mutually
4131 agreeable to the resident and the provider.
4132 (g) Procedures for providing notice and assuring the least
4133 possible disruption of residents' lives when residents are
4134 relocated, an adult family-care home is closed, or the ownership
4135 of an adult family-care home is transferred.
4136 (h) Procedures to protect the residents' rights as
4137 provided in s. 429.85 ~~s. 400.628~~.
4138 (i) Procedures to promote the growth of adult family-care
4139 homes as a component of a long-term care system.
4140 (j) Procedures to promote the goal of aging in place for
4141 residents of adult family-care homes.
4142 (2) The department shall by rule provide minimum standards
4143 and procedures for emergencies. Pursuant to s. 633.022, the
4144 State Fire Marshal, in consultation with the department and the
4145 agency, shall adopt uniform firesafety standards for adult
4146 family-care homes.
4147 (3) The department shall adopt rules providing for the
4148 implementation of orders not to resuscitate. The provider may
4149 withhold or withdraw cardiopulmonary resuscitation if presented
4150 with an order not to resuscitate executed pursuant to s. 401.45.
4151 The provider shall not be subject to criminal prosecution or
4152 civil liability, nor be considered to have engaged in negligent
4153 or unprofessional conduct, for withholding or withdrawing
4154 cardiopulmonary resuscitation pursuant to such an order and
4155 rules adopted by the department.

4156 (4) The provider of any adult family-care home that is in
4157 operation at the time any rules are adopted or amended under
4158 this part may be given a reasonable time, not exceeding 6
4159 months, within which to comply with the new or revised rules and
4160 standards.
4161 Section 73. Section 400.628, Florida Statutes, is
4162 renumbered as section 429.85, Florida Statutes, and amended to
4163 read:
4164 429.85 ~~400.628~~ Residents' bill of rights.--
4165 (1) A resident of an adult family-care home may not be
4166 deprived of any civil or legal rights, benefits, or privileges
4167 guaranteed by law, the State Constitution, or the Constitution
4168 of the United States solely by reason of status as a resident of
4169 the home. Each resident has the right to:
4170 (a) Live in a safe and decent living environment, free
4171 from abuse and neglect.
4172 (b) Be treated with consideration and respect and with due
4173 recognition of personal dignity, individuality, and privacy.
4174 (c) Keep and use the resident's own clothes and other
4175 personal property in the resident's immediate living quarters,
4176 so as to maintain individuality and personal dignity, except
4177 when the provider can demonstrate that to do so would be unsafe
4178 or an infringement upon the rights of other residents.
4179 (d) Have unrestricted private communication, including
4180 receiving and sending unopened correspondence, having access to
4181 a telephone, and visiting with any person of his or her choice,
4182 at any time between the hours of 9 a.m. and 9 p.m. at a minimum.

4183 (e) Be free to participate in and benefit from community
4184 services and activities and to achieve the highest possible
4185 level of independence, autonomy, and interaction within the
4186 community.
4187 (f) Manage the resident's own financial affairs unless the
4188 resident or the resident's guardian authorizes the provider to
4189 provide safekeeping for funds in accordance with procedures
4190 equivalent to those provided in s. 429.27 ~~s. 400.427~~.
4191 (g) Share a room with the resident's spouse if both are
4192 residents of the home.
4193 (h) Have reasonable opportunity for regular exercise
4194 several times a week and to be outdoors at regular and frequent
4195 intervals.
4196 (i) Exercise civil and religious liberties, including the
4197 right to independent personal decisions. Religious beliefs or
4198 practices and attendance at religious services may not be
4199 imposed upon a resident.
4200 (j) Have access to adequate and appropriate health care.
4201 (k) Be free from chemical and physical restraints.
4202 (l) Have at least 30 days' notice of relocation or
4203 termination of residency from the home unless, for medical
4204 reasons, the resident is certified by a physician to require an
4205 emergency relocation to a facility providing a more skilled
4206 level of care or the resident engages in a pattern of conduct
4207 that is harmful or offensive to other residents. If a resident
4208 has been adjudicated mentally incompetent, the resident's
4209 guardian must be given at least 30 days' notice, except in an
4210 emergency, of the relocation of a resident or of the termination

4211 of a residency. The reasons for relocating a resident must be
4212 set forth in writing.
4213 (m) Present grievances and recommend changes to the
4214 provider, to staff, or to any other person without restraint,
4215 interference, coercion, discrimination, or reprisal. This right
4216 includes the right to have access to ombudsman volunteers and
4217 advocates and the right to be a member of, to be active in, and
4218 to associate with advocacy or special interest groups.
4219 (2) The provider shall ensure that residents and their
4220 legal representatives are made aware of the rights, obligations,
4221 and prohibitions set forth in this part. Residents must also be
4222 given the names, addresses, and telephone numbers of the local
4223 ombudsman council and the central abuse hotline where they may
4224 lodge complaints.
4225 (3) The adult family-care home may not hamper or prevent
4226 residents from exercising the rights specified in this section.
4227 (4) A provider or staff of an adult family-care home may
4228 not serve notice upon a resident to leave the premises or take
4229 any other retaliatory action against any person who:
4230 (a) Exercises any right set forth in this section.
4231 (b) Appears as a witness in any hearing, in or out of the
4232 adult family-care home.
4233 (c) Files a civil action alleging a violation of this part
4234 or notifies a state attorney or the Attorney General of a
4235 possible violation of this part.
4236 (5) Any adult family-care home that terminates the
4237 residency of an individual who has participated in activities

4238 specified in subsection (4) must show good cause for the
4239 termination in a court of competent jurisdiction.
4240 (6) Any person who reports a complaint concerning a
4241 suspected violation of this part or the services and conditions
4242 in an adult family-care home, or who testifies in any
4243 administrative or judicial proceeding arising from such a
4244 complaint, is immune from any civil or criminal liability
4245 therefor, unless the person acted in bad faith or with malicious
4246 purpose or the court finds that there was a complete absence of
4247 a justiciable issue of either law or fact raised by the losing
4248 party.
4249 Section 74. Paragraphs (c), (d), (e), and (f) of
4250 subsection (5) of section 400.93, Florida Statutes, are amended
4251 to read:
4252 400.93 Licensure required; exemptions; unlawful acts;
4253 penalties.--
4254 (5) The following are exempt from home medical equipment
4255 provider licensure, unless they have a separate company,
4256 corporation, or division that is in the business of providing
4257 home medical equipment and services for sale or rent to
4258 consumers at their regular or temporary place of residence
4259 pursuant to the provisions of this part:
4260 (c) Assisted living facilities licensed under chapter 429
4261 ~~part III~~, when serving their residents.
4262 (d) Home health agencies licensed under part III ~~IV~~.
4263 (e) Hospices licensed under part IV ~~VI~~.

4264 (f) Intermediate care facilities, homes for special
4265 services, and transitional living facilities licensed under part
4266 V ~~VIII~~.
4267 Section 75. Paragraph (c) of subsection (10) of section
4268 400.962, Florida Statutes, is amended to read:
4269 400.962 License required; license application.--
4270 (10)
4271 (c) Proof of compliance with the level 2 background
4272 screening requirements of chapter 435 which has been submitted
4273 within the previous 5 years in compliance with any other
4274 licensure requirements under this chapter or chapter 429
4275 satisfies the requirements of paragraph (a). Proof of compliance
4276 with background screening which has been submitted within the
4277 previous 5 years to fulfill the requirements of the Financial
4278 Services Commission and the Office of Insurance Regulation under
4279 chapter 651 as part of an application for a certificate of
4280 authority to operate a continuing care retirement community
4281 satisfies the requirements for the Department of Law Enforcement
4282 and Federal Bureau of Investigation background checks.
4283 Section 76. Paragraph (b) of subsection (1) of section
4284 400.980, Florida Statutes, is amended to read:
4285 400.980 Health care services pools.--
4286 (1) As used in this section, the term:
4287 (b) "Health care services pool" means any person, firm,
4288 corporation, partnership, or association engaged for hire in the
4289 business of providing temporary employment in health care
4290 facilities, residential facilities, and agencies for licensed,
4291 certified, or trained health care personnel including, without

4292 limitation, nursing assistants, nurses' aides, and orderlies.
4293 However, the term does not include nursing registries, a
4294 facility licensed under this chapter or chapter 429 ~~400~~, a
4295 health care services pool established within a health care
4296 facility to provide services only within the confines of such
4297 facility, or any individual contractor directly providing
4298 temporary services to a health care facility without use or
4299 benefit of a contracting agent.
4300 Section 77. Paragraphs (a), (b), (c), and (d) of
4301 subsection (4) of section 400.9905, Florida Statutes, are
4302 amended to read:
4303 400.9905 Definitions.--
4304 (4) "Clinic" means an entity at which health care services
4305 are provided to individuals and which tenders charges for
4306 reimbursement for such services, including a mobile clinic and a
4307 portable equipment provider. For purposes of this part, the term
4308 does not include and the licensure requirements of this part do
4309 not apply to:
4310 (a) Entities licensed or registered by the state under
4311 chapter 395; or entities licensed or registered by the state and
4312 providing only health care services within the scope of services
4313 authorized under their respective licenses granted under ss.
4314 383.30-383.335, chapter 390, chapter 394, chapter 397, this
4315 chapter except part X ~~XIII~~, chapter 429, chapter 463, chapter
4316 465, chapter 466, chapter 478, part I of chapter 483, chapter
4317 484, or chapter 651; end-stage renal disease providers
4318 authorized under 42 C.F.R. part 405, subpart U; or providers
4319 certified under 42 C.F.R. part 485, subpart B or subpart H; or

4320 any entity that provides neonatal or pediatric hospital-based
4321 health care services by licensed practitioners solely within a
4322 hospital licensed under chapter 395.
4323 (b) Entities that own, directly or indirectly, entities
4324 licensed or registered by the state pursuant to chapter 395; or
4325 entities that own, directly or indirectly, entities licensed or
4326 registered by the state and providing only health care services
4327 within the scope of services authorized pursuant to their
4328 respective licenses granted under ss. 383.30-383.335, chapter
4329 390, chapter 394, chapter 397, this chapter except part X ~~XIII~~,
4330 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
4331 part I of chapter 483, chapter 484, chapter 651; end-stage renal
4332 disease providers authorized under 42 C.F.R. part 405, subpart
4333 U; or providers certified under 42 C.F.R. part 485, subpart B or
4334 subpart H; or any entity that provides neonatal or pediatric
4335 hospital-based health care services by licensed practitioners
4336 solely within a hospital licensed under chapter 395.
4337 (c) Entities that are owned, directly or indirectly, by an
4338 entity licensed or registered by the state pursuant to chapter
4339 395; or entities that are owned, directly or indirectly, by an
4340 entity licensed or registered by the state and providing only
4341 health care services within the scope of services authorized
4342 pursuant to their respective licenses granted under ss. 383.30-
4343 383.335, chapter 390, chapter 394, chapter 397, this chapter
4344 except part X ~~XIII~~, chapter 429, chapter 463, chapter 465,
4345 chapter 466, chapter 478, part I of chapter 483, chapter 484, or
4346 chapter 651; end-stage renal disease providers authorized under
4347 42 C.F.R. part 405, subpart U; or providers certified under 42

4348 C.F.R. part 485, subpart B or subpart H; or any entity that
4349 provides neonatal or pediatric hospital-based health care
4350 services by licensed practitioners solely within a hospital
4351 under chapter 395.
4352 (d) Entities that are under common ownership, directly or
4353 indirectly, with an entity licensed or registered by the state
4354 pursuant to chapter 395; or entities that are under common
4355 ownership, directly or indirectly, with an entity licensed or
4356 registered by the state and providing only health care services
4357 within the scope of services authorized pursuant to their
4358 respective licenses granted under ss. 383.30-383.335, chapter
4359 390, chapter 394, chapter 397, this chapter except part X ~~XIII~~,
4360 chapter 429, chapter 463, chapter 465, chapter 466, chapter 478,
4361 part I of chapter 483, chapter 484, or chapter 651; end-stage
4362 renal disease providers authorized under 42 C.F.R. part 405,
4363 subpart U; or providers certified under 42 C.F.R. part 485,
4364 subpart B or subpart H; or any entity that provides neonatal or
4365 pediatric hospital-based health care services by licensed
4366 practitioners solely within a hospital licensed under chapter
4367 395.
4368 Section 78. Subsection (12) of section 401.23, Florida
4369 Statutes, is amended to read:
4370 401.23 Definitions.--As used in this part, the term:
4371 (12) "Interfacility transfer" means the transportation by
4372 ambulance of a patient between two facilities licensed under
4373 chapter 393, chapter 395, ~~or~~ chapter 400, or chapter 429,
4374 pursuant to this part.

4375 Section 79. Paragraph (b) of subsection (2) of section
4376 402.164, Florida Statutes, is amended to read:
4377 402.164 Legislative intent; definitions.--
4378 (2) As used in ss. 402.164-402.167, the term:
4379 (b) "Client" means a client as defined in s. 393.063, s.
4380 394.67, s. 397.311, or s. 400.960, a forensic client or client
4381 as defined in s. 916.106, a child or youth as defined in s.
4382 39.01, a child as defined in s. 827.01, a family as defined in
4383 s. 414.0252, a participant as defined in s. 429.901 ~~s. 400.551~~,
4384 a resident as defined in s. 429.02 ~~s. 400.402~~, a Medicaid
4385 recipient or recipient as defined in s. 409.901, a child
4386 receiving child care as defined in s. 402.302, a disabled adult
4387 as defined in s. 410.032 or s. 410.603, or a victim as defined
4388 in s. 39.01 or s. 415.102 as each definition applies within its
4389 respective chapter.
4390 Section 80. Subsection (10) of section 408.032, Florida
4391 Statutes, is amended to read:
4392 408.032 Definitions relating to Health Facility and
4393 Services Development Act.--As used in ss. 408.031-408.045, the
4394 term:
4395 (10) "Hospice" or "hospice program" means a hospice as
4396 defined in part IV ~~VI~~ of chapter 400.
4397 Section 81. Paragraph (b) of subsection (2) of section
4398 408.033, Florida Statutes, is amended to read:
4399 408.033 Local and state health planning.--
4400 (2) FUNDING.--
4401 (b)1. A hospital licensed under chapter 395, a nursing
4402 home licensed under chapter 400, and an assisted living facility

4403 licensed under chapter 429 ~~400~~ shall be assessed an annual fee
4404 based on number of beds.
4405 2. All other facilities and organizations listed in
4406 paragraph (a) shall each be assessed an annual fee of $150.
4407 3. Facilities operated by the Department of Children and
4408 Family Services, the Department of Health, or the Department of
4409 Corrections and any hospital which meets the definition of rural
4410 hospital pursuant to s. 395.602 are exempt from the assessment
4411 required in this subsection.
4412 Section 82. Subsection (2) of section 408.034, Florida
4413 Statutes, is amended to read:
4414 408.034 Duties and responsibilities of agency; rules.--
4415 (2) In the exercise of its authority to issue licenses to
4416 health care facilities and health service providers, as provided
4417 under chapters 393 and~~,~~ 395~~,~~ and parts II and IV ~~VI~~ of chapter
4418 400, the agency may not issue a license to any health care
4419 facility or health service provider that fails to receive a
4420 certificate of need or an exemption for the licensed facility or
4421 service.
4422 Section 83. Subsections (28) and (29) of section 408.07,
4423 Florida Statutes, are amended to read:
4424 408.07 Definitions.--As used in this chapter, with the
4425 exception of ss. 408.031-408.045, the term:
4426 (28) "Home health agency" means an organization licensed
4427 under part III ~~IV~~ of chapter 400.
4428 (29) "Hospice" means an organization licensed under part
4429 IV ~~VI~~ of chapter 400.

4430 Section 84. Subsection (3) of section 408.831, Florida
4431 Statutes, is amended to read:
4432 408.831 Denial, suspension, or revocation of a license,
4433 registration, certificate, or application.--
4434 (3) This section provides standards of enforcement
4435 applicable to all entities licensed or regulated by the Agency
4436 for Health Care Administration. This section controls over any
4437 conflicting provisions of chapters 39, 381, 383, 390, 391, 393,
4438 394, 395, 400, 408, 429, 468, 483, and 641 or rules adopted
4439 pursuant to those chapters.
4440 Section 85. Subsection (2) of section 409.212, Florida
4441 Statutes, is amended to read:
4442 409.212 Optional supplementation.--
4443 (2) The base rate of payment for optional state
4444 supplementation shall be established by the department within
4445 funds appropriated. Additional amounts may be provided for
4446 mental health residents in facilities designed to provide
4447 limited mental health services as provided for in s. 429.075 ~~s.~~
4448 ~~400.4075~~. The base rate of payment does not include the personal
4449 needs allowance.
4450 Section 86. Paragraph (e) of subsection (4) of section
4451 409.221, Florida Statutes, is amended to read:
4452 409.221 Consumer-directed care program.--
4453 (4) CONSUMER-DIRECTED CARE.--
4454 (e) Services.--Consumers shall use the budget allowance
4455 only to pay for home and community-based services that meet the
4456 consumer's long-term care needs and are a cost-efficient use of

4457 funds. Such services may include, but are not limited to, the
4458 following:
4459 1. Personal care.
4460 2. Homemaking and chores, including housework, meals,
4461 shopping, and transportation.
4462 3. Home modifications and assistive devices which may
4463 increase the consumer's independence or make it possible to
4464 avoid institutional placement.
4465 4. Assistance in taking self-administered medication.
4466 5. Day care and respite care services, including those
4467 provided by nursing home facilities pursuant to s. 400.141(6) or
4468 by adult day care facilities licensed pursuant to s. 429.907 ~~s.~~
4469 ~~400.554~~.
4470 6. Personal care and support services provided in an
4471 assisted living facility.
4472 Section 87. Subsection (4) of section 409.905, Florida
4473 Statutes, is amended to read:
4474 409.905 Mandatory Medicaid services.--The agency may make
4475 payments for the following services, which are required of the
4476 state by Title XIX of the Social Security Act, furnished by
4477 Medicaid providers to recipients who are determined to be
4478 eligible on the dates on which the services were provided. Any
4479 service under this section shall be provided only when medically
4480 necessary and in accordance with state and federal law.
4481 Mandatory services rendered by providers in mobile units to
4482 Medicaid recipients may be restricted by the agency. Nothing in
4483 this section shall be construed to prevent or limit the agency
4484 from adjusting fees, reimbursement rates, lengths of stay,

4485 number of visits, number of services, or any other adjustments
4486 necessary to comply with the availability of moneys and any
4487 limitations or directions provided for in the General
4488 Appropriations Act or chapter 216.
4489 (4) HOME HEALTH CARE SERVICES.--The agency shall pay for
4490 nursing and home health aide services, supplies, appliances, and
4491 durable medical equipment, necessary to assist a recipient
4492 living at home. An entity that provides services pursuant to
4493 this subsection shall be licensed under part III ~~IV~~ of chapter
4494 400. These services, equipment, and supplies, or reimbursement
4495 therefor, may be limited as provided in the General
4496 Appropriations Act and do not include services, equipment, or
4497 supplies provided to a person residing in a hospital or nursing
4498 facility.
4499 (a) In providing home health care services, the agency may
4500 require prior authorization of care based on diagnosis.
4501 (b) The agency shall implement a comprehensive utilization
4502 management program that requires prior authorization of all
4503 private duty nursing services, an individualized treatment plan
4504 that includes information about medication and treatment orders,
4505 treatment goals, methods of care to be used, and plans for care
4506 coordination by nurses and other health professionals. The
4507 utilization management program shall also include a process for
4508 periodically reviewing the ongoing use of private duty nursing
4509 services. The assessment of need shall be based on a child's
4510 condition, family support and care supplements, a family's
4511 ability to provide care, and a family's and child's schedule
4512 regarding work, school, sleep, and care for other family

4513 dependents. When implemented, the private duty nursing
4514 utilization management program shall replace the current
4515 authorization program used by the Agency for Health Care
4516 Administration and the Children's Medical Services program of
4517 the Department of Health. The agency may competitively bid on a
4518 contract to select a qualified organization to provide
4519 utilization management of private duty nursing services. The
4520 agency is authorized to seek federal waivers to implement this
4521 initiative.
4522 Section 88. Subsection (14) of section 409.906, Florida
4523 Statutes, is amended to read:
4524 409.906 Optional Medicaid services.--Subject to specific
4525 appropriations, the agency may make payments for services which
4526 are optional to the state under Title XIX of the Social Security
4527 Act and are furnished by Medicaid providers to recipients who
4528 are determined to be eligible on the dates on which the services
4529 were provided. Any optional service that is provided shall be
4530 provided only when medically necessary and in accordance with
4531 state and federal law. Optional services rendered by providers
4532 in mobile units to Medicaid recipients may be restricted or
4533 prohibited by the agency. Nothing in this section shall be
4534 construed to prevent or limit the agency from adjusting fees,
4535 reimbursement rates, lengths of stay, number of visits, or
4536 number of services, or making any other adjustments necessary to
4537 comply with the availability of moneys and any limitations or
4538 directions provided for in the General Appropriations Act or
4539 chapter 216. If necessary to safeguard the state's systems of
4540 providing services to elderly and disabled persons and subject

4541 to the notice and review provisions of s. 216.177, the Governor
4542 may direct the Agency for Health Care Administration to amend
4543 the Medicaid state plan to delete the optional Medicaid service
4544 known as "Intermediate Care Facilities for the Developmentally
4545 Disabled." Optional services may include:
4546 (14) HOSPICE CARE SERVICES.--The agency may pay for all
4547 reasonable and necessary services for the palliation or
4548 management of a recipient's terminal illness, if the services
4549 are provided by a hospice that is licensed under part IV ~~VI~~ of
4550 chapter 400 and meets Medicare certification requirements.
4551 Section 89. Subsection (7) and paragraph (a) of subsection
4552 (8) of section 409.907, Florida Statutes, are amended to read:
4553 409.907 Medicaid provider agreements.--The agency may make
4554 payments for medical assistance and related services rendered to
4555 Medicaid recipients only to an individual or entity who has a
4556 provider agreement in effect with the agency, who is performing
4557 services or supplying goods in accordance with federal, state,
4558 and local law, and who agrees that no person shall, on the
4559 grounds of handicap, race, color, or national origin, or for any
4560 other reason, be subjected to discrimination under any program
4561 or activity for which the provider receives payment from the
4562 agency.
4563 (7) The agency may require, as a condition of
4564 participating in the Medicaid program and before entering into
4565 the provider agreement, that the provider submit information, in
4566 an initial and any required renewal applications, concerning the
4567 professional, business, and personal background of the provider
4568 and permit an onsite inspection of the provider's service

4569 location by agency staff or other personnel designated by the
4570 agency to perform this function. The agency shall perform a
4571 random onsite inspection, within 60 days after receipt of a
4572 fully complete new provider's application, of the provider's
4573 service location prior to making its first payment to the
4574 provider for Medicaid services to determine the applicant's
4575 ability to provide the services that the applicant is proposing
4576 to provide for Medicaid reimbursement. The agency is not
4577 required to perform an onsite inspection of a provider or
4578 program that is licensed by the agency, that provides services
4579 under waiver programs for home and community-based services, or
4580 that is licensed as a medical foster home by the Department of
4581 Children and Family Services. As a continuing condition of
4582 participation in the Medicaid program, a provider shall
4583 immediately notify the agency of any current or pending
4584 bankruptcy filing. Before entering into the provider agreement,
4585 or as a condition of continuing participation in the Medicaid
4586 program, the agency may also require that Medicaid providers
4587 reimbursed on a fee-for-services basis or fee schedule basis
4588 which is not cost-based, post a surety bond not to exceed
4589 $50,000 or the total amount billed by the provider to the
4590 program during the current or most recent calendar year,
4591 whichever is greater. For new providers, the amount of the
4592 surety bond shall be determined by the agency based on the
4593 provider's estimate of its first year's billing. If the
4594 provider's billing during the first year exceeds the bond
4595 amount, the agency may require the provider to acquire an
4596 additional bond equal to the actual billing level of the

4597 provider. A provider's bond shall not exceed $50,000 if a
4598 physician or group of physicians licensed under chapter 458,
4599 chapter 459, or chapter 460 has a 50 percent or greater
4600 ownership interest in the provider or if the provider is an
4601 assisted living facility licensed under ~~part III of~~ chapter 429
4602 ~~400~~. The bonds permitted by this section are in addition to the
4603 bonds referenced in s. 400.179(5)(d). If the provider is a
4604 corporation, partnership, association, or other entity, the
4605 agency may require the provider to submit information concerning
4606 the background of that entity and of any principal of the
4607 entity, including any partner or shareholder having an ownership
4608 interest in the entity equal to 5 percent or greater, and any
4609 treating provider who participates in or intends to participate
4610 in Medicaid through the entity. The information must include:
4611 (a) Proof of holding a valid license or operating
4612 certificate, as applicable, if required by the state or local
4613 jurisdiction in which the provider is located or if required by
4614 the Federal Government.
4615 (b) Information concerning any prior violation, fine,
4616 suspension, termination, or other administrative action taken
4617 under the Medicaid laws, rules, or regulations of this state or
4618 of any other state or the Federal Government; any prior
4619 violation of the laws, rules, or regulations relating to the
4620 Medicare program; any prior violation of the rules or
4621 regulations of any other public or private insurer; and any
4622 prior violation of the laws, rules, or regulations of any
4623 regulatory body of this or any other state.

4624 (c) Full and accurate disclosure of any financial or
4625 ownership interest that the provider, or any principal, partner,
4626 or major shareholder thereof, may hold in any other Medicaid
4627 provider or health care related entity or any other entity that
4628 is licensed by the state to provide health or residential care
4629 and treatment to persons.
4630 (d) If a group provider, identification of all members of
4631 the group and attestation that all members of the group are
4632 enrolled in or have applied to enroll in the Medicaid program.
4633 (8)(a) Each provider, or each principal of the provider if
4634 the provider is a corporation, partnership, association, or
4635 other entity, seeking to participate in the Medicaid program
4636 must submit a complete set of his or her fingerprints to the
4637 agency for the purpose of conducting a criminal history record
4638 check. Principals of the provider include any officer,
4639 director, billing agent, managing employee, or affiliated
4640 person, or any partner or shareholder who has an ownership
4641 interest equal to 5 percent or more in the provider. However, a
4642 director of a not-for-profit corporation or organization is not
4643 a principal for purposes of a background investigation as
4644 required by this section if the director: serves solely in a
4645 voluntary capacity for the corporation or organization, does not
4646 regularly take part in the day-to-day operational decisions of
4647 the corporation or organization, receives no remuneration from
4648 the not-for-profit corporation or organization for his or her
4649 service on the board of directors, has no financial interest in
4650 the not-for-profit corporation or organization, and has no
4651 family members with a financial interest in the not-for-profit

4652 corporation or organization; and if the director submits an
4653 affidavit, under penalty of perjury, to this effect to the
4654 agency and the not-for-profit corporation or organization
4655 submits an affidavit, under penalty of perjury, to this effect
4656 to the agency as part of the corporation's or organization's
4657 Medicaid provider agreement application. Notwithstanding the
4658 above, the agency may require a background check for any person
4659 reasonably suspected by the agency to have been convicted of a
4660 crime. This subsection shall not apply to:
4661 1. A hospital licensed under chapter 395;
4662 2. A nursing home licensed under chapter 400;
4663 3. A hospice licensed under chapter 400;
4664 4. An assisted living facility licensed under chapter 429;
4665 ~~400.~~
4666 5. A unit of local government, except that requirements of
4667 this subsection apply to nongovernmental providers and entities
4668 when contracting with the local government to provide Medicaid
4669 services. The actual cost of the state and national criminal
4670 history record checks must be borne by the nongovernmental
4671 provider or entity; or
4672 6. Any business that derives more than 50 percent of its
4673 revenue from the sale of goods to the final consumer, and the
4674 business or its controlling parent either is required to file a
4675 form 10-K or other similar statement with the Securities and
4676 Exchange Commission or has a net worth of $50 million or more.
4677 Section 90. Paragraph (c) of subsection (5) of section
4678 409.912, Florida Statutes, is amended to read:

4679 409.912 Cost-effective purchasing of health care.--The
4680 agency shall purchase goods and services for Medicaid recipients
4681 in the most cost-effective manner consistent with the delivery
4682 of quality medical care. To ensure that medical services are
4683 effectively utilized, the agency may, in any case, require a
4684 confirmation or second physician's opinion of the correct
4685 diagnosis for purposes of authorizing future services under the
4686 Medicaid program. This section does not restrict access to
4687 emergency services or poststabilization care services as defined
4688 in 42 C.F.R. part 438.114. Such confirmation or second opinion
4689 shall be rendered in a manner approved by the agency. The agency
4690 shall maximize the use of prepaid per capita and prepaid
4691 aggregate fixed-sum basis services when appropriate and other
4692 alternative service delivery and reimbursement methodologies,
4693 including competitive bidding pursuant to s. 287.057, designed
4694 to facilitate the cost-effective purchase of a case-managed
4695 continuum of care. The agency shall also require providers to
4696 minimize the exposure of recipients to the need for acute
4697 inpatient, custodial, and other institutional care and the
4698 inappropriate or unnecessary use of high-cost services. The
4699 agency shall contract with a vendor to monitor and evaluate the
4700 clinical practice patterns of providers in order to identify
4701 trends that are outside the normal practice patterns of a
4702 provider's professional peers or the national guidelines of a
4703 provider's professional association. The vendor must be able to
4704 provide information and counseling to a provider whose practice
4705 patterns are outside the norms, in consultation with the agency,
4706 to improve patient care and reduce inappropriate utilization.

4707 The agency may mandate prior authorization, drug therapy
4708 management, or disease management participation for certain
4709 populations of Medicaid beneficiaries, certain drug classes, or
4710 particular drugs to prevent fraud, abuse, overuse, and possible
4711 dangerous drug interactions. The Pharmaceutical and Therapeutics
4712 Committee shall make recommendations to the agency on drugs for
4713 which prior authorization is required. The agency shall inform
4714 the Pharmaceutical and Therapeutics Committee of its decisions
4715 regarding drugs subject to prior authorization. The agency is
4716 authorized to limit the entities it contracts with or enrolls as
4717 Medicaid providers by developing a provider network through
4718 provider credentialing. The agency may competitively bid single-
4719 source-provider contracts if procurement of goods or services
4720 results in demonstrated cost savings to the state without
4721 limiting access to care. The agency may limit its network based
4722 on the assessment of beneficiary access to care, provider
4723 availability, provider quality standards, time and distance
4724 standards for access to care, the cultural competence of the
4725 provider network, demographic characteristics of Medicaid
4726 beneficiaries, practice and provider-to-beneficiary standards,
4727 appointment wait times, beneficiary use of services, provider
4728 turnover, provider profiling, provider licensure history,
4729 previous program integrity investigations and findings, peer
4730 review, provider Medicaid policy and billing compliance records,
4731 clinical and medical record audits, and other factors. Providers
4732 shall not be entitled to enrollment in the Medicaid provider
4733 network. The agency shall determine instances in which allowing
4734 Medicaid beneficiaries to purchase durable medical equipment and

4735 other goods is less expensive to the Medicaid program than long-
4736 term rental of the equipment or goods. The agency may establish
4737 rules to facilitate purchases in lieu of long-term rentals in
4738 order to protect against fraud and abuse in the Medicaid program
4739 as defined in s. 409.913. The agency may seek federal waivers
4740 necessary to administer these policies.
4741 (5) By December 1, 2005, the Agency for Health Care
4742 Administration, in partnership with the Department of Elderly
4743 Affairs, shall create an integrated, fixed-payment delivery
4744 system for Medicaid recipients who are 60 years of age or older.
4745 The Agency for Health Care Administration shall implement the
4746 integrated system initially on a pilot basis in two areas of the
4747 state. In one of the areas enrollment shall be on a voluntary
4748 basis. The program must transfer all Medicaid services for
4749 eligible elderly individuals who choose to participate into an
4750 integrated-care management model designed to serve Medicaid
4751 recipients in the community. The program must combine all
4752 funding for Medicaid services provided to individuals 60 years
4753 of age or older into the integrated system, including funds for
4754 Medicaid home and community-based waiver services; all Medicaid
4755 services authorized in ss. 409.905 and 409.906, excluding funds
4756 for Medicaid nursing home services unless the agency is able to
4757 demonstrate how the integration of the funds will improve
4758 coordinated care for these services in a less costly manner; and
4759 Medicare coinsurance and deductibles for persons dually eligible
4760 for Medicaid and Medicare as prescribed in s. 409.908(13).
4761 (c) The agency must ensure that the capitation-rate-
4762 setting methodology for the integrated system is actuarially

4763 sound and reflects the intent to provide quality care in the
4764 least restrictive setting. The agency must also require
4765 integrated-system providers to develop a credentialing system
4766 for service providers and to contract with all Gold Seal nursing
4767 homes, where feasible, and exclude, where feasible, chronically
4768 poor-performing facilities and providers as defined by the
4769 agency. The integrated system must provide that if the recipient
4770 resides in a noncontracted residential facility licensed under
4771 chapter 400 or chapter 429 at the time the integrated system is
4772 initiated, the recipient must be permitted to continue to reside
4773 in the noncontracted facility as long as the recipient desires.
4774 The integrated system must also provide that, in the absence of
4775 a contract between the integrated-system provider and the
4776 residential facility licensed under chapter 400 or chapter 429,
4777 current Medicaid rates must prevail. The agency and the
4778 Department of Elderly Affairs must jointly develop procedures to
4779 manage the services provided through the integrated system in
4780 order to ensure quality and recipient choice.
4781 Section 91. Section 410.031, Florida Statutes, is amended
4782 to read:
4783 410.031 Legislative intent.--It is the intent of the
4784 Legislature to encourage the provision of care for disabled
4785 adults in family-type living arrangements in private homes as an
4786 alternative to institutional or nursing home care for such
4787 persons. The provisions of ss. 410.031-410.036 are intended to
4788 be supplemental to the provisions of chapters ~~chapter~~ 400 and
4789 429, relating to the licensing and regulation of nursing homes
4790 and assisted living facilities, and do not exempt any person who

4791 is otherwise subject to regulation under chapter 400 or chapter
4792 429.
4793 Section 92. Section 410.034, Florida Statutes, is amended
4794 to read:
4795 410.034 Department determination of fitness to provide
4796 home care.--In accordance with s. 429.02 ~~s. 400.402~~, a person
4797 caring for an adult who is related to such person by blood or
4798 marriage is not subject to the Assisted Living Facilities Act.
4799 If, however, the person who plans to provide home care under
4800 this act is found by the department to be unable to provide this
4801 care, the department shall notify the person wishing to provide
4802 home care of this determination, and the person shall not be
4803 eligible for subsidy payments under ss. 410.031-410.036.
4804 Section 93. Section 415.1111, Florida Statutes, is amended
4805 to read:
4806 415.1111 Civil actions.--A vulnerable adult who has been
4807 abused, neglected, or exploited as specified in this chapter has
4808 a cause of action against any perpetrator and may recover actual
4809 and punitive damages for such abuse, neglect, or exploitation.
4810 The action may be brought by the vulnerable adult, or that
4811 person's guardian, by a person or organization acting on behalf
4812 of the vulnerable adult with the consent of that person or that
4813 person's guardian, or by the personal representative of the
4814 estate of a deceased victim without regard to whether the cause
4815 of death resulted from the abuse, neglect, or exploitation. The
4816 action may be brought in any court of competent jurisdiction to
4817 enforce such action and to recover actual and punitive damages
4818 for any deprivation of or infringement on the rights of a

4819 vulnerable adult. A party who prevails in any such action may be
4820 entitled to recover reasonable attorney's fees, costs of the
4821 action, and damages. The remedies provided in this section are
4822 in addition to and cumulative with other legal and
4823 administrative remedies available to a vulnerable adult.
4824 Notwithstanding the foregoing, any civil action for damages
4825 against any licensee or entity who establishes, controls,
4826 conducts, manages, or operates a facility licensed under part II
4827 of chapter 400 relating to its operation of the licensed
4828 facility shall be brought pursuant to s. 400.023, or against any
4829 licensee or entity who establishes, controls, conducts, manages,
4830 or operates a facility licensed under part I ~~III~~ of chapter 429
4831 ~~400~~ relating to its operation of the licensed facility shall be
4832 brought pursuant to s. 429.29 ~~s. 400.429~~. Such licensee or
4833 entity shall not be vicariously liable for the acts or omissions
4834 of its employees or agents or any other third party in an action
4835 brought under this section.
4836 Section 94. Paragraph (d) of subsection (1) of section
4837 419.001, Florida Statutes, is amended to read:
4838 419.001 Site selection of community residential homes.--
4839 (1) For the purposes of this section, the following
4840 definitions shall apply:
4841 (d) "Resident" means any of the following: a frail elder
4842 as defined in s. 429.65 ~~s. 400.618~~; a physically disabled or
4843 handicapped person as defined in s. 760.22(7)(a); a
4844 developmentally disabled person as defined in s. 393.063; a
4845 nondangerous mentally ill person as defined in s. 394.455(18);

4846 or a child as defined in s. 39.01(14), s. 984.03(9) or (12), or
4847 s. 985.03(8).
4848 Section 95. Section 430.601, Florida Statutes, is amended
4849 to read:
4850 430.601 Home care for the elderly; legislative intent.--It
4851 is the intent of the Legislature to encourage the provision of
4852 care for the elderly in family-type living arrangements in
4853 private homes as an alternative to institutional or nursing home
4854 care for such persons. The provisions of ss. 430.601-430.606 are
4855 intended to be supplemental to the provisions of chapters
4856 ~~chapter~~ 400 and 429, relating to the licensing and regulation of
4857 nursing homes and assisted living facilities, and do not exempt
4858 any person who is otherwise subject to regulation under those
4859 chapters ~~the provisions of that chapter~~.
4860 Section 96. Subsection (7) of section 430.703, Florida
4861 Statutes, is amended to read:
4862 430.703 Definitions.--As used in this act, the term:
4863 (7) "Other qualified provider" means an entity licensed
4864 under chapter 400 or chapter 429 that demonstrates a long-term
4865 care continuum and meets all requirements pursuant to an
4866 interagency agreement between the agency and the department.
4867 Section 97. Paragraph (a) of subsection (3) of section
4868 435.03, Florida Statutes, is amended to read:
4869 435.03 Level 1 screening standards.--
4870 (3) Standards must also ensure that the person:
4871 (a) For employees and employers licensed or registered
4872 pursuant to chapter 400 or chapter 429, and for employees and
4873 employers of developmental services institutions as defined in

4874 s. 393.063, intermediate care facilities for the developmentally
4875 disabled as defined in s. 393.063, and mental health treatment
4876 facilities as defined in s. 394.455, meets the requirements of
4877 this chapter.
4878 Section 98. Paragraph (a) of subsection (4) of section
4879 435.04, Florida Statutes, is amended to read:
4880 435.04 Level 2 screening standards.--
4881 (4) Standards must also ensure that the person:
4882 (a) For employees or employers licensed or registered
4883 pursuant to chapter 400 <u>or chapter 429</u>, does not have a
4884 confirmed report of abuse, neglect, or exploitation as defined
4885 in s. 415.102(6), which has been uncontested or upheld under s.
4886 415.103.
4887 Section 99. Paragraph (g) of subsection (1) of section
4888 440.13, Florida Statutes, is amended to read:
4889 440.13 Medical services and supplies; penalty for
4890 violations; limitations.--
4891 (1) DEFINITIONS.--As used in this section, the term:
4892 (g) "Health care facility" means any hospital licensed
4893 under chapter 395 and any health care institution licensed under
4894 chapter 400 <u>or chapter 429</u>.
4895 Section 100. Subsection (1) of section 465.0235, Florida
4896 Statutes, is amended to read:
4897 465.0235 Automated pharmacy systems used by long-term care
4898 facilities, hospices, or state correctional institutions.--
4899 (1) A pharmacy may provide pharmacy services to a long-
4900 term care facility or hospice licensed under chapter 400 <u>or</u>
4901 <u>chapter 429</u> or a state correctional institution operated under

4902 chapter 944 through the use of an automated pharmacy system that
4903 need not be located at the same location as the pharmacy.
4904 Section 101. Subsection (8) of section 468.1685, Florida
4905 Statutes, is amended to read:
4906 468.1685 Powers and duties of board and department.--It is
4907 the function and duty of the board, together with the
4908 department, to:
4909 (8) Set up procedures by rule for advising and acting
4910 together with the Department of Health and other boards of other
4911 health professions in matters affecting procedures and methods
4912 for effectively enforcing the purpose of this part and the
4913 administration of chapters ~~chapter~~ 400 and 429.
4914 Section 102. Paragraph (k) of subsection (1) of section
4915 468.505, Florida Statutes, is amended to read:
4916 468.505 Exemptions; exceptions.--
4917 (1) Nothing in this part may be construed as prohibiting
4918 or restricting the practice, services, or activities of:
4919 (k) A person employed by a hospital licensed under chapter
4920 395, ~~or~~ by a nursing home ~~or assisted living facility~~ licensed
4921 under part II ~~or part III~~ of chapter 400, by an assisted living
4922 facility licensed under chapter 429, or by a continuing care
4923 facility certified under chapter 651, if the person is employed
4924 in compliance with the laws and rules adopted thereunder
4925 regarding the operation of its dietetic department.
4926 Section 103. Subsection (11) of section 477.025, Florida
4927 Statutes, is amended to read:
4928 477.025 Cosmetology salons; specialty salons; requisites;
4929 licensure; inspection; mobile cosmetology salons.--

4930 (11) Facilities licensed under part II ~~or part III~~ of
4931 chapter 400 or part I of chapter 429 are ~~shall be~~ exempt from
4932 ~~the provisions of~~ this section, and a cosmetologist licensed
4933 pursuant to s. 477.019 may provide salon services exclusively
4934 for facility residents.
4935 Section 104. Subsection (5) of section 483.285, Florida
4936 Statutes, is amended to read:
4937 483.285 Application of part; exemptions.--This part
4938 applies to all multiphasic health testing centers within the
4939 state, but does not apply to:
4940 (5) A home health agency licensed under part III ~~IV~~ of
4941 chapter 400.
4942 Section 105. Paragraph (a) of subsection (2) of section
4943 509.032, Florida Statutes, is amended to read:
4944 509.032 Duties.--
4945 (2) INSPECTION OF PREMISES.--
4946 (a) The division has responsibility and jurisdiction for
4947 all inspections required by this chapter. The division has
4948 responsibility for quality assurance. Each licensed
4949 establishment shall be inspected at least biannually, except for
4950 transient and nontransient apartments, which shall be inspected
4951 at least annually, and shall be inspected at such other times as
4952 the division determines is necessary to ensure the public's
4953 health, safety, and welfare. The division shall establish a
4954 system to determine inspection frequency. Public lodging units
4955 classified as resort condominiums or resort dwellings are not
4956 subject to this requirement, but shall be made available to the
4957 division upon request. If, during the inspection of a public

4958 lodging establishment classified for renting to transient or
4959 nontransient tenants, an inspector identifies vulnerable adults
4960 who appear to be victims of neglect, as defined in s. 415.102,
4961 or, in the case of a building that is not equipped with
4962 automatic sprinkler systems, tenants or clients who may be
4963 unable to self-preserve in an emergency, the division shall
4964 convene meetings with the following agencies as appropriate to
4965 the individual situation: the Department of Health, the
4966 Department of Elderly Affairs, the area agency on aging, the
4967 local fire marshal, the landlord and affected tenants and
4968 clients, and other relevant organizations, to develop a plan
4969 which improves the prospects for safety of affected residents
4970 and, if necessary, identifies alternative living arrangements
4971 such as facilities licensed under part II ~~or part III~~ of chapter
4972 400 <u>or under chapter 429</u>.
4973 Section 106. Subsection (1) of section 509.241, Florida
4974 Statutes, is amended to read:
4975 509.241 Licenses required; exceptions.--
4976 (1) LICENSES; ANNUAL RENEWALS.--Each public lodging
4977 establishment and public food service establishment shall obtain
4978 a license from the division. Such license may not be transferred
4979 from one place or individual to another. It shall be a
4980 misdemeanor of the second degree, punishable as provided in s.
4981 775.082 or s. 775.083, for such an establishment to operate
4982 without a license. Local law enforcement shall provide immediate
4983 assistance in pursuing an illegally operating establishment. The
4984 division may refuse a license, or a renewal thereof, to any
4985 establishment that is not constructed and maintained in

4986 accordance with law and with the rules of the division. The
4987 division may refuse to issue a license, or a renewal thereof, to
4988 any establishment an operator of which, within the preceding 5
4989 years, has been adjudicated guilty of, or has forfeited a bond
4990 when charged with, any crime reflecting on professional
4991 character, including soliciting for prostitution, pandering,
4992 letting premises for prostitution, keeping a disorderly place,
4993 or illegally dealing in controlled substances as defined in
4994 chapter 893, whether in this state or in any other jurisdiction
4995 within the United States, or has had a license denied, revoked,
4996 or suspended pursuant to s. 429.14 ~~s. 400.414~~. Licenses shall be
4997 renewed annually, and the division shall adopt a rule
4998 establishing a staggered schedule for license renewals. If any
4999 license expires while administrative charges are pending against
5000 the license, the proceedings against the license shall continue
5001 to conclusion as if the license were still in effect.
5002 Section 107. Subsection (1) of section 627.6617, Florida
5003 Statutes, is amended to read:
5004 627.6617 Coverage for home health care services.--
5005 (1) Any group health insurance policy providing coverage
5006 on an expense-incurred basis shall provide coverage for home
5007 health care by a home health care agency licensed pursuant to
5008 part III ~~IV~~ of chapter 400. Such coverage may be limited to home
5009 health care under a plan of treatment prescribed by a licensed
5010 physician. Services may be performed by a registered graduate
5011 nurse, a licensed practical nurse, a physical therapist, a
5012 speech therapist, an occupational therapist, or a home health
5013 aide. Provisions for utilization review may be imposed, provided

5014 that similar provisions apply to all other types of health care
5015 services.
5016 Section 108. Subsection (1) of section 627.732, Florida
5017 Statutes, is amended to read:
5018 627.732 Definitions.--As used in ss. 627.730-627.7405, the
5019 term:
5020 (1) "Broker" means any person not possessing a license
5021 under chapter 395, chapter 400, chapter 429, chapter 458,
5022 chapter 459, chapter 460, chapter 461, or chapter 641 who
5023 charges or receives compensation for any use of medical
5024 equipment and is not the 100-percent owner or the 100-percent
5025 lessee of such equipment. For purposes of this section, such
5026 owner or lessee may be an individual, a corporation, a
5027 partnership, or any other entity and any of its 100-percent-
5028 owned affiliates and subsidiaries. For purposes of this
5029 subsection, the term "lessee" means a long-term lessee under a
5030 capital or operating lease, but does not include a part-time
5031 lessee. The term "broker" does not include a hospital or
5032 physician management company whose medical equipment is
5033 ancillary to the practices managed, a debt collection agency, or
5034 an entity that has contracted with the insurer to obtain a
5035 discounted rate for such services; nor does the term include a
5036 management company that has contracted to provide general
5037 management services for a licensed physician or health care
5038 facility and whose compensation is not materially affected by
5039 the usage or frequency of usage of medical equipment or an
5040 entity that is 100-percent owned by one or more hospitals or

5041 physicians. The term "broker" does not include a person or
5042 entity that certifies, upon request of an insurer, that:
5043 (a) It is a clinic licensed under ss. 400.990-400.995;
5044 (b) It is a 100-percent owner of medical equipment; and
5045 (c) The owner's only part-time lease of medical equipment
5046 for personal injury protection patients is on a temporary basis
5047 not to exceed 30 days in a 12-month period, and such lease is
5048 solely for the purposes of necessary repair or maintenance of
5049 the 100-percent-owned medical equipment or pending the arrival
5050 and installation of the newly purchased or a replacement for the
5051 100-percent-owned medical equipment, or for patients for whom,
5052 because of physical size or claustrophobia, it is determined by
5053 the medical director or clinical director to be medically
5054 necessary that the test be performed in medical equipment that
5055 is open-style. The leased medical equipment cannot be used by
5056 patients who are not patients of the registered clinic for
5057 medical treatment of services. Any person or entity making a
5058 false certification under this subsection commits insurance
5059 fraud as defined in s. 817.234. However, the 30-day period
5060 provided in this paragraph may be extended for an additional 60
5061 days as applicable to magnetic resonance imaging equipment if
5062 the owner certifies that the extension otherwise complies with
5063 this paragraph.
5064 Section 109. Subsection (2) of section 651.011, Florida
5065 Statutes, is amended to read:
5066 651.011 Definitions.--For the purposes of this chapter,
5067 the term:

5068 (2) "Continuing care" or "care" means furnishing pursuant
5069 to a contract shelter and either nursing care or personal
5070 services as defined in s. 429.02 ~~s. 400.402~~, whether such
5071 nursing care or personal services are provided in the facility
5072 or in another setting designated by the contract for continuing
5073 care, to an individual not related by consanguinity or affinity
5074 to the provider furnishing such care, upon payment of an
5075 entrance fee. Other personal services provided shall be
5076 designated in the continuing care contract. Contracts to provide
5077 continuing care include agreements to provide care for any
5078 duration, including contracts that are terminable by either
5079 party.
5080 Section 110. Paragraph (c) of subsection (2) of section
5081 651.022, Florida Statutes, is amended to read:
5082 651.022 Provisional certificate of authority;
5083 application.--
5084 (2) The application for a provisional certificate of
5085 authority shall be on a form prescribed by the commission and
5086 shall contain the following information:
5087 (c)1. Evidence that the applicant is reputable and of
5088 responsible character. If the applicant is a firm, association,
5089 organization, partnership, business trust, corporation, or
5090 company, the form shall require evidence that the members or
5091 shareholders are reputable and of responsible character, and the
5092 person in charge of providing care under a certificate of
5093 authority shall likewise be required to produce evidence of
5094 being reputable and of responsible character.

5095 2. Evidence satisfactory to the office of the ability of
5096 the applicant to comply with the provisions of this chapter and
5097 with rules adopted by the commission pursuant to this chapter.
5098 3. A statement of whether a person identified in the
5099 application for a provisional certificate of authority or the
5100 administrator or manager of the facility, if such person has
5101 been designated, or any such person living in the same location:
5102 a. Has been convicted of a felony or has pleaded nolo
5103 contendere to a felony charge, or has been held liable or has
5104 been enjoined in a civil action by final judgment, if the felony
5105 or civil action involved fraud, embezzlement, fraudulent
5106 conversion, or misappropriation of property.
5107 b. Is subject to a currently effective injunctive or
5108 restrictive order or federal or state administrative order
5109 relating to business activity or health care as a result of an
5110 action brought by a public agency or department, including,
5111 without limitation, an action affecting a license under chapter
5112 400 <u>or chapter 429</u>.
5113
5114 The statement shall set forth the court or agency, the date of
5115 conviction or judgment, and the penalty imposed or damages
5116 assessed, or the date, nature, and issuer of the order. Before
5117 determining whether a provisional certificate of authority is to
5118 be issued, the office may make an inquiry to determine the
5119 accuracy of the information submitted pursuant to subparagraphs
5120 1. and 2.
5121 Section 111. Subsection (6) of section 651.023, Florida
5122 Statutes, is amended to read:

5123 651.023 Certificate of authority; application.--
5124 (6) The timeframes provided under s. 651.022(5) and (6)
5125 apply to applications submitted under s. 651.021(2). The office
5126 may not issue a certificate of authority under this chapter to
5127 any facility which does not have a component which is to be
5128 licensed pursuant to part II ~~or part III~~ of chapter 400 or part
5129 I of chapter 429 or which will not offer personal services or
5130 nursing services through written contractual agreement. Any
5131 written contractual agreement must be disclosed in the
5132 continuing care contract and is subject to the provisions of s.
5133 651.1151, relating to administrative, vendor, and management
5134 contracts.
5135 Section 112. Subsection (8) of section 651.055, Florida
5136 Statutes, is amended to read:
5137 651.055 Contracts; right to rescind.--
5138 (8) The provisions of this section shall control over any
5139 conflicting provisions contained in part II ~~or part III~~ of
5140 chapter 400 or in part I of chapter 429.
5141 Section 113. Subsection (5) of section 651.095, Florida
5142 Statutes, is amended to read:
5143 651.095 Advertisements; requirements; penalties.--
5144 (5) The provisions of this section shall control over any
5145 conflicting provisions contained in part II ~~or part III~~ of
5146 chapter 400 or in part I of chapter 429.
5147 Section 114. Subsections (1), (4), (6), (7), and (8) of
5148 section 651.118, Florida Statutes, are amended to read:
5149 651.118 Agency for Health Care Administration;
5150 certificates of need; sheltered beds; community beds.--

5151 (1) The provisions of this section shall control in the
5152 case of conflict with the provisions of the Health Facility and
5153 Services Development Act, ss. 408.031-408.045; the provisions of
5154 chapter 395; ~~or~~ the provisions of part II ~~parts II and III~~ of
5155 chapter 400; or the provisions of part I of chapter 429.
5156 (4) The Agency for Health Care Administration shall
5157 approve one sheltered nursing home bed for every four proposed
5158 residential units, including those that are licensed under part
5159 I of chapter 429 ~~part III of chapter 400~~, in the continuing care
5160 facility unless the provider demonstrates the need for a lesser
5161 number of sheltered nursing home beds based on proposed
5162 utilization by prospective residents or demonstrates the need
5163 for additional sheltered nursing home beds based on actual
5164 utilization and demand by current residents.
5165 (6) Unless the provider already has a component that is to
5166 be a part of the continuing care facility and that is licensed
5167 under chapter 395, ~~or~~ part II ~~or part III~~ of chapter 400, or
5168 part I of chapter 429 at the time of construction of the
5169 continuing care facility, the provider must construct the
5170 nonnursing home portion of the facility and the nursing home
5171 portion of the facility at the same time. If a provider
5172 constructs less than the number of residential units approved in
5173 the certificate of authority, the number of licensed sheltered
5174 nursing home beds shall be reduced by a proportionate share.
5175 (7) Notwithstanding the provisions of subsection (2), at
5176 the discretion of the continuing care provider, sheltered
5177 nursing home beds may be used for persons who are not residents
5178 of the continuing care facility and who are not parties to a

5179 continuing care contract for a period of up to 5 years after the
5180 date of issuance of the initial nursing home license. A provider
5181 whose 5-year period has expired or is expiring may request the
5182 Agency for Health Care Administration for an extension, not to
5183 exceed 30 percent of the total sheltered nursing home beds, if
5184 the utilization by residents of the nursing home facility in the
5185 sheltered beds will not generate sufficient income to cover
5186 nursing home facility expenses, as evidenced by one of the
5187 following:
5188 (a) The nursing home facility has a net loss for the most
5189 recent fiscal year as determined under generally accepted
5190 accounting principles, excluding the effects of extraordinary or
5191 unusual items, as demonstrated in the most recently audited
5192 financial statement; or
5193 (b) The nursing home facility would have had a pro forma
5194 loss for the most recent fiscal year, excluding the effects of
5195 extraordinary or unusual items, if revenues were reduced by the
5196 amount of revenues from persons in sheltered beds who were not
5197 residents, as reported on by a certified public accountant.
5198
5199 The agency shall be authorized to grant an extension to the
5200 provider based on the evidence required in this subsection. The
5201 agency may request a continuing care facility to use up to 25
5202 percent of the patient days generated by new admissions of
5203 nonresidents during the extension period to serve Medicaid
5204 recipients for those beds authorized for extended use if there
5205 is a demonstrated need in the respective service area and if
5206 funds are available. A provider who obtains an extension is

5207 prohibited from applying for additional sheltered beds under the
5208 provision of subsection (2), unless additional residential units
5209 are built or the provider can demonstrate need by continuing
5210 care facility residents to the Agency for Health Care
5211 Administration. The 5-year limit does not apply to up to five
5212 sheltered beds designated for inpatient hospice care as part of
5213 a contractual arrangement with a hospice licensed under part IV
5214 ~~VI~~ of chapter 400. A continuing care facility that uses such
5215 beds after the 5-year period shall report such use to the Agency
5216 for Health Care Administration. For purposes of this subsection,
5217 "resident" means a person who, upon admission to the continuing
5218 care facility, initially resides in a part of the continuing
5219 care facility not licensed under part II of chapter 400.
5220 (8) A provider may petition the Agency for Health Care
5221 Administration to use a designated number of sheltered nursing
5222 home beds to provide extended congregate care as defined in s.
5223 429.02 ~~s. 400.402~~ if the beds are in a distinct area of the
5224 nursing home which can be adapted to meet the requirements for
5225 extended congregate care. The provider may subsequently use such
5226 beds as sheltered beds after notifying the agency of the
5227 intended change. Any sheltered beds used to provide extended
5228 congregate care pursuant to this subsection may not qualify for
5229 funding under the Medicaid waiver. Any sheltered beds used to
5230 provide extended congregate care pursuant to this subsection may
5231 share common areas, services, and staff with beds designated for
5232 nursing home care, provided that all of the beds are under
5233 common ownership. For the purposes of this subsection, fire and

5234 life safety codes applicable to nursing home facilities shall
5235 apply.
5236 Section 115. Subsection (2) of section 765.1103, Florida
5237 Statutes, is amended to read:
5238 765.1103 Pain management and palliative care.--
5239 (2) Health care providers and practitioners regulated
5240 under chapter 458, chapter 459, or chapter 464 must, as
5241 appropriate, comply with a request for pain management or
5242 palliative care from a patient under their care or, for an
5243 incapacitated patient under their care, from a surrogate, proxy,
5244 guardian, or other representative permitted to make health care
5245 decisions for the incapacitated patient. Facilities regulated
5246 under chapter 395, ~~or~~ chapter 400, or chapter 429 must comply
5247 with the pain management or palliative care measures ordered by
5248 the patient's physician.
5249 Section 116. Subsection (2) of section 765.205, Florida
5250 Statutes, is amended to read:
5251 765.205 Responsibility of the surrogate.--
5252 (2) The surrogate may authorize the release of information
5253 and medical records to appropriate persons to ensure the
5254 continuity of the principal's health care and may authorize the
5255 admission, discharge, or transfer of the principal to or from a
5256 health care facility or other facility or program licensed under
5257 chapter 400 or chapter 429.
5258 Section 117. Subsection (1) of section 768.735, Florida
5259 Statutes, is amended to read:
5260 768.735 Punitive damages; exceptions; limitation.--

5261 (1) Sections 768.72(2)-(4), 768.725, and 768.73 do not
5262 apply to any civil action based upon child abuse, abuse of the
5263 elderly under chapter 415, or abuse of the developmentally
5264 disabled. Such actions are governed by applicable statutes and
5265 controlling judicial precedent. This section does not apply to
5266 claims brought pursuant to s. 400.023 or s. 429.29 ~~s. 400.429~~.
5267 Section 118. Paragraph (h) of subsection (1) of section
5268 893.13, Florida Statutes, is amended to read:
5269 893.13 Prohibited acts; penalties.--
5270 (1)
5271 (h) Except as authorized by this chapter, it is unlawful
5272 for any person to sell, manufacture, or deliver, or possess with
5273 intent to sell, manufacture, or deliver, a controlled substance
5274 in, on, or within 1,000 feet of the real property comprising an
5275 assisted living facility, as that term is used in chapter 429
5276 ~~400~~. Any person who violates this paragraph with respect to:
5277 1. A controlled substance named or described in s.
5278 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
5279 commits a felony of the first degree, punishable as provided in
5280 s. 775.082, s. 775.083, or s. 775.084.
5281 2. A controlled substance named or described in s.
5282 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
5283 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
5284 the second degree, punishable as provided in s. 775.082, s.
5285 775.083, or s. 775.084.
5286 Section 119. Paragraph (a) of subsection (4) of section
5287 943.0585, Florida Statutes, is amended to read:

5288 943.0585 Court-ordered expunction of criminal history
5289 records.--The courts of this state have jurisdiction over their
5290 own procedures, including the maintenance, expunction, and
5291 correction of judicial records containing criminal history
5292 information to the extent such procedures are not inconsistent
5293 with the conditions, responsibilities, and duties established by
5294 this section. Any court of competent jurisdiction may order a
5295 criminal justice agency to expunge the criminal history record
5296 of a minor or an adult who complies with the requirements of
5297 this section. The court shall not order a criminal justice
5298 agency to expunge a criminal history record until the person
5299 seeking to expunge a criminal history record has applied for and
5300 received a certificate of eligibility for expunction pursuant to
5301 subsection (2). A criminal history record that relates to a
5302 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
5303 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
5304 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
5305 s. 916.1075, or a violation enumerated in s. 907.041 may not be
5306 expunged, without regard to whether adjudication was withheld,
5307 if the defendant was found guilty of or pled guilty or nolo
5308 contendere to the offense, or if the defendant, as a minor, was
5309 found to have committed, or pled guilty or nolo contendere to
5310 committing, the offense as a delinquent act. The court may only
5311 order expunction of a criminal history record pertaining to one
5312 arrest or one incident of alleged criminal activity, except as
5313 provided in this section. The court may, at its sole discretion,
5314 order the expunction of a criminal history record pertaining to
5315 more than one arrest if the additional arrests directly relate

5316 to the original arrest. If the court intends to order the
5317 expunction of records pertaining to such additional arrests,
5318 such intent must be specified in the order. A criminal justice
5319 agency may not expunge any record pertaining to such additional
5320 arrests if the order to expunge does not articulate the
5321 intention of the court to expunge a record pertaining to more
5322 than one arrest. This section does not prevent the court from
5323 ordering the expunction of only a portion of a criminal history
5324 record pertaining to one arrest or one incident of alleged
5325 criminal activity. Notwithstanding any law to the contrary, a
5326 criminal justice agency may comply with laws, court orders, and
5327 official requests of other jurisdictions relating to expunction,
5328 correction, or confidential handling of criminal history records
5329 or information derived therefrom. This section does not confer
5330 any right to the expunction of any criminal history record, and
5331 any request for expunction of a criminal history record may be
5332 denied at the sole discretion of the court.
5333 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
5334 criminal history record of a minor or an adult which is ordered
5335 expunged by a court of competent jurisdiction pursuant to this
5336 section must be physically destroyed or obliterated by any
5337 criminal justice agency having custody of such record; except
5338 that any criminal history record in the custody of the
5339 department must be retained in all cases. A criminal history
5340 record ordered expunged that is retained by the department is
5341 confidential and exempt from the provisions of s. 119.07(1) and
5342 s. 24(a), Art. I of the State Constitution and not available to
5343 any person or entity except upon order of a court of competent

5344 jurisdiction. A criminal justice agency may retain a notation
5345 indicating compliance with an order to expunge.
5346 (a) The person who is the subject of a criminal history
5347 record that is expunged under this section or under other
5348 provisions of law, including former s. 893.14, former s. 901.33,
5349 and former s. 943.058, may lawfully deny or fail to acknowledge
5350 the arrests covered by the expunged record, except when the
5351 subject of the record:
5352 1. Is a candidate for employment with a criminal justice
5353 agency;
5354 2. Is a defendant in a criminal prosecution;
5355 3. Concurrently or subsequently petitions for relief under
5356 this section or s. 943.059;
5357 4. Is a candidate for admission to The Florida Bar;
5358 5. Is seeking to be employed or licensed by or to contract
5359 with the Department of Children and Family Services or the
5360 Department of Juvenile Justice or to be employed or used by such
5361 contractor or licensee in a sensitive position having direct
5362 contact with children, the developmentally disabled, the aged,
5363 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
5364 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
5365 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.
5366 985.407, ~~or~~ chapter 400, or chapter 429; or
5367 6. Is seeking to be employed or licensed by the Department
5368 of Education, any district school board, any university
5369 laboratory school, any charter school, any private or parochial
5370 school, or any local governmental entity that licenses child
5371 care facilities.

5372 Section 120. Paragraph (a) of subsection (4) of section
5373 943.059, Florida Statutes, is amended to read:
5374 943.059 Court-ordered sealing of criminal history
5375 records.--The courts of this state shall continue to have
5376 jurisdiction over their own procedures, including the
5377 maintenance, sealing, and correction of judicial records
5378 containing criminal history information to the extent such
5379 procedures are not inconsistent with the conditions,
5380 responsibilities, and duties established by this section. Any
5381 court of competent jurisdiction may order a criminal justice
5382 agency to seal the criminal history record of a minor or an
5383 adult who complies with the requirements of this section. The
5384 court shall not order a criminal justice agency to seal a
5385 criminal history record until the person seeking to seal a
5386 criminal history record has applied for and received a
5387 certificate of eligibility for sealing pursuant to subsection
5388 (2). A criminal history record that relates to a violation of s.
5389 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
5390 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.
5391 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, or
5392 a violation enumerated in s. 907.041 may not be sealed, without
5393 regard to whether adjudication was withheld, if the defendant
5394 was found guilty of or pled guilty or nolo contendere to the
5395 offense, or if the defendant, as a minor, was found to have
5396 committed or pled guilty or nolo contendere to committing the
5397 offense as a delinquent act. The court may only order sealing of
5398 a criminal history record pertaining to one arrest or one
5399 incident of alleged criminal activity, except as provided in

5400 this section. The court may, at its sole discretion, order the
5401 sealing of a criminal history record pertaining to more than one
5402 arrest if the additional arrests directly relate to the original
5403 arrest. If the court intends to order the sealing of records
5404 pertaining to such additional arrests, such intent must be
5405 specified in the order. A criminal justice agency may not seal
5406 any record pertaining to such additional arrests if the order to
5407 seal does not articulate the intention of the court to seal
5408 records pertaining to more than one arrest. This section does
5409 not prevent the court from ordering the sealing of only a
5410 portion of a criminal history record pertaining to one arrest or
5411 one incident of alleged criminal activity. Notwithstanding any
5412 law to the contrary, a criminal justice agency may comply with
5413 laws, court orders, and official requests of other jurisdictions
5414 relating to sealing, correction, or confidential handling of
5415 criminal history records or information derived therefrom. This
5416 section does not confer any right to the sealing of any criminal
5417 history record, and any request for sealing a criminal history
5418 record may be denied at the sole discretion of the court.
5419 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
5420 history record of a minor or an adult which is ordered sealed by
5421 a court of competent jurisdiction pursuant to this section is
5422 confidential and exempt from the provisions of s. 119.07(1) and
5423 s. 24(a), Art. I of the State Constitution and is available only
5424 to the person who is the subject of the record, to the subject's
5425 attorney, to criminal justice agencies for their respective
5426 criminal justice purposes, or to those entities set forth in

5427 subparagraphs (a)1., 4., 5., and 6. for their respective
5428 licensing and employment purposes.
5429 (a) The subject of a criminal history record sealed under
5430 this section or under other provisions of law, including former
5431 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
5432 deny or fail to acknowledge the arrests covered by the sealed
5433 record, except when the subject of the record:
5434 1. Is a candidate for employment with a criminal justice
5435 agency;
5436 2. Is a defendant in a criminal prosecution;
5437 3. Concurrently or subsequently petitions for relief under
5438 this section or s. 943.0585;
5439 4. Is a candidate for admission to The Florida Bar;
5440 5. Is seeking to be employed or licensed by or to contract
5441 with the Department of Children and Family Services or the
5442 Department of Juvenile Justice or to be employed or used by such
5443 contractor or licensee in a sensitive position having direct
5444 contact with children, the developmentally disabled, the aged,
5445 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
5446 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
5447 409.175(2)(i), s. 415.102(4), s. 415.103, s. 916.106(10) and
5448 (13), s. 985.407, ~~or~~ chapter 400, or chapter 429; or
5449 6. Is seeking to be employed or licensed by the Department
5450 of Education, any district school board, any university
5451 laboratory school, any charter school, any private or parochial
5452 school, or any local governmental entity that licenses child
5453 care facilities.

5454 Section 121. The Division of Statutory Revision of the
5455 Office of Legislative Services is requested to prepare a
5456 reviser's bill for introduction at a subsequent session of the
5457 Legislature to conform the Florida Statutes to changes made by
5458 this act.
5459 Section 122. This act shall take effect July 1, 2006.

PCB FFF 06-04

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FFF 06-04 Department of Children & Family Services
SPONSOR(S): Future of Florida's Families Committee
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1034 and SB 1850

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Future of Florida's Families Committee		Davis	Collins
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill amends s. 397.451, F.S., requiring service provider personnel who request an exemption from disqualification to submit the request within a certain time frame after notification of the disqualification. The bill deletes a provision requiring immediate dismissal of the service provider personnel upon disapproval of a request for an exemption. Further, the bill creates language that prohibits the Department of Children and Family Services (DCF) from issuing a regular license to a service provider that fails to provide proof that the background screening information has been submitted.

The bill repeals section 3 of Chapter 2003-279, Laws of Florida. This section deletes provisions relating to the expiration date for the appointment of certain mental health and substance abuse positions to include, the Assistant Secretary of Substance Abuse and Mental Health, the Director of Substance Abuse and the Director of Mental Health. Further, the bill deletes provisions relating to the expiration date for the establishment of a Substance Abuse Program Office and a Mental Health Program Office.

Finally, the bill amends Chapter 394, F.S., pertaining to Marriage and Family Therapists. It defines and adds "Marriage and Family Therapists" to those professionals permitted to initiate involuntary examinations under the provisions of the Baker Act. They may also deem services in a treatment plan, to be clinically appropriate for involuntary outpatient placement.

This bill does not appear to have a fiscal impact on state or local government.

Except as otherwise provided, the bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: This bill provides for new government interference/involvement pertaining to service provider personnel. The Department of Children and Family Services (DCF) may not issue a regular license to any service provider that fails to provide proof that background screening information has been submitted.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Background Screening

Service provider personnel who have been found to have a disqualifying offense (i.e., are found to be in noncompliance with the minimum standards for good moral character), are immediately terminated from employment or placed in positions for which background screening is not required, as per s. 435.06(2), F.S. Specifically, s. 397.451(1)(f), F.S., permits service provider personnel to continue working in positions of trust and responsibility pending disposition of the request for exemption, rather than mandating immediate dismissal, or placement in a position for which background screening is not required.

It is the duty of the Department of Children and Family Services, as delineated in s. 397.321(13), F.S., to ensure that service provider personnel have background checks and meet the minimum standards for employment in statute. However, historically, the department did not have the regulatory authority to withhold the issuance of a regular substance abuse license should the service provider fail to produce proof that background screening information had been submitted.

Mental Health and Substance Abuse

In 2003, legislation was enacted that approved the appointment of an Assistant Secretary for Substance Abuse and Mental Health, who would serve at the pleasure of the Secretary of the Department of Children and Family Services. Further, the legislation permitted the Secretary to appoint a Program Director for Substance Abuse and a Program Director for Mental Health, who would have subsequent line authority over all district substance abuse and mental health program management staff. The legislation directed that mental health institution management staff were to report directly to the Director of Mental Health. The legislation described the roles and responsibilities of the affected staff and directed the Assistant Secretary for Substance Abuse and Mental Health to develop a memorandum of agreement with each district and region administrator, which served to further describe the working relationships within each geographic area. Additionally, the legislation established the creation of a separate Mental Health Program Office and a Substance Abuse Program Office. The legislation was enacted with an expiration date of October 1, 2006, for ss. 20.19(2)(c) and (4)(b)6. and 8., F.S., unless it was reviewed and reenacted by the Legislature before that date.

Marriage and Family Therapists (Baker Act)

Currently, the only professionals who may execute a certificate for an involuntary examination are a physician, clinical psychologist, psychiatric nurse, mental health counselor, or clinical social worker. These professionals are permitted to determine whether services in a treatment plan are clinically appropriate for involuntary outpatient placement.

The DCF has historically opposed adding professionals to those already permitted to initiate involuntary examinations under the provisions of the Baker Act. This opposition was based on the premise that it would increase the number and cost of involuntary examinations and result in the public crisis stabilization units having to operate over licensed capacity. However, SB 700 (Chapter 2004-385, Laws of Florida), adding Mental Health Counselors to the Baker Act, required a pilot study that did not substantiate the department's position.

Effects of the Changes

Background Screening

This bill provides the department with the regulatory authority to withhold the issuance of a regular substance abuse license from service providers who fail to provide proof that background screening information has been submitted for processing. Consequently, this portion of the bill will help to ensure that individuals providing services to children will meet the statutory standards of individuals with good moral character, and will afford the department with the opportunity and authority to provide close scrutiny of providers to ensure compliance with background screening requirements.

Mental Health and Substance Abuse

The bill abrogates the repeal language in ss. 20.19(2)(c) and (4)(b) 6. and 8., F.S., relating to the appointment of certain mental health and substance abuse positions and the establishment of program offices for mental health and substance abuse which expires on October 1, 2006, unless reviewed and reenacted by the Legislature before that date. Repealing this language would permit the continued functioning of the affected positions and program offices.

Marriage and Family Therapists (Baker Act)

This bill allows for Marriage and Family Therapists to be included in the law that provides legal authorization to first line professionals, enabling them to initiate involuntary evaluation proceedings for clients presenting a danger to self and others. As one of three clinical provider groups identified in Chapter 491, F.S., Marriage and Family Therapists are the only clinical provider not authorized to initiate the Baker Act.

Marriage and Family Therapists are essentially treating the same clinical populations as Clinical Social Workers and Mental Health Counselors. However, they must take extra steps to ensure the safety of their clients and the community when initiating an involuntary evaluation. The Florida Association of Marriage and Family Therapy has expressed concern that the lag time that accompanies this process may present disadvantages to their clients and continues to add needless duplication of resources to Florida's communities.

C. SECTION DIRECTORY:

Section1. Amends s. 397.451, F.S., requiring service provider personnel who request an exemption from disqualification to submit the request within a certain time frame after notification of the disqualification.

Section 2. Repeals section 3 of Chapter 2003-279, Laws of Florida, relating to program offices and appointments.

Section 3. Effective July 1, 2006, amends s. 394.455, F.S., providing for a definition of "service providers" and "Marriage and Family Therapist."

Sections 4-6. Effective July 1, 2006, amend ss. 394.463, 394.4655, and 394.467, F.S., providing for Marriage and Family Therapists to be included as first line professionals, enabling them to initiate involuntary evaluation proceedings for clients presenting a danger to self and others.

Section 7. Except as otherwise provided, provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The recent study established in SB 700 (Chapter 2004-385, Laws of Florida), which was initiated to review the fiscal impact and any increase in Baker Act evaluations, has shown that there was no increase in activity or financial burden to the community that was studied.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

Sufficient rulemaking authority exists in present law to authorize implementation of this act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to programs of the Department of Children
3 and Family Services; amending s. 397.451, F.S.; requiring
4 service provider personnel who request an exemption from
5 disqualification to submit the request within a certain
6 time after notification of the disqualification; requiring
7 a service provider to comply with the provisions of s.
8 435.06, F.S.; deleting a provision requiring immediate
9 dismissal of service provider personnel upon disapproval
10 of a request for an exemption; prohibiting the department
11 from issuing a regular license to a service provider that
12 fails to provide proof that background screening
13 information has been submitted; repealing s. 3, ch. 2003-
14 279, Laws of Florida; abrogating the repeal of s.
15 20.19(2)(c) and (4)(b)6. and 8., F.S., relating to the
16 appointment of certain mental health and substance abuse
17 positions and the establishment of program offices for
18 mental health and substance abuse; amending s. 394.455,
19 F.S.; revising the definition of the term "service
20 provider" and providing a definition of the term "marriage
21 and family therapist"; amending s. 394.463, F.S.;
22 providing that a marriage and family therapist may execute
23 a certificate for involuntary examination; amending s.
24 394.4655, F.S.; providing that a marriage and family
25 therapist may deem a services treatment plan clinically
26 appropriate for an involuntary outpatient placement;
27 amending s. 394.467, F.S.; requiring that documentation of
28 any evaluation performed by a marriage and family
29 therapist be provided when a patient is ordered for

30 involuntary inpatient placement; providing effective
31 dates.
32
33 Be It Enacted by the Legislature of the State of Florida:
34
35 Section 1. Paragraph (f) of subsection (1) of section
36 397.451, Florida Statutes, is amended, and paragraph (g) is added
37 to that subsection, to read:
38 397.451 Background checks of service provider personnel.--
39 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
40 EXCEPTIONS.--
41 (f) Service provider personnel who request an exemption
42 from disqualification must submit the request within 30 days
43 after being notified of the ~~a pending~~ disqualification. Upon
44 notification of the disqualification, the service provider shall
45 comply with the requirements regarding exclusions from employment
46 under s. 435.06. ~~The employment of service provider personnel~~
47 ~~shall not be adversely affected pending disposition of the~~
48 ~~request for an exemption. Disapproval of a request for an~~
49 ~~exemption shall result in the immediate dismissal of the service~~
50 ~~provider personnel from employment with the provider.~~
51 (g) The department may not issue a regular license to any
52 service provider that fails to provide proof that background
53 screening information has been submitted in accordance with
54 chapter 435.
55 Section 2. Section 3 of chapter 2003-279, Laws of Florida,
56 is repealed.
57 Section 3. Effective July 1, 2006, subsection (31) of
58 section 394.455, Florida Statutes, is amended, and subsection

59 (34) is added to that section, to read:
60 394.455 Definitions.--As used in this part, unless the
61 context clearly requires otherwise, the term:
62 (31) "Service provider" means any public or private
63 receiving facility, an entity under contract with the Department
64 of Children and Family Services to provide mental health
65 services, a clinical psychologist, a clinical social worker, a
66 marriage and family therapist, a physician, a psychiatric nurse
67 as defined in subsection (23), or a community mental health
68 center or clinic as defined in this part.
69 (34) "Marriage and family therapist" means a person
70 licensed as a marriage and family therapist under chapter 491.
71 Section 4. Effective July 1, 2006, paragraph (a) of
72 subsection (2) of section 394.463, Florida Statutes, is amended
73 to read:
74 394.463 Involuntary examination.--
75 (2) INVOLUNTARY EXAMINATION.--
76 (a) An involuntary examination may be initiated by any one
77 of the following means:
78 1. A court may enter an ex parte order stating that a
79 person appears to meet the criteria for involuntary examination,
80 giving the findings on which that conclusion is based. The ex
81 parte order for involuntary examination must be based on sworn
82 testimony, written or oral. If other less restrictive means are
83 not available, such as voluntary appearance for outpatient
84 evaluation, a law enforcement officer, or other designated agent
85 of the court, shall take the person into custody and deliver him
86 or her to the nearest receiving facility for involuntary
87 examination. The order of the court shall be made a part of the

88 patient's clinical record. No fee shall be charged for the filing
89 of an order under this subsection. Any receiving facility
90 accepting the patient based on this order must send a copy of the
91 order to the Agency for Health Care Administration on the next
92 working day. The order shall be valid only until executed or, if
93 not executed, for the period specified in the order itself. If no
94 time limit is specified in the order, the order shall be valid
95 for 7 days after the date that the order was signed.
96 2. A law enforcement officer shall take a person who
97 appears to meet the criteria for involuntary examination into
98 custody and deliver the person or have him or her delivered to
99 the nearest receiving facility for examination. The officer shall
100 execute a written report detailing the circumstances under which
101 the person was taken into custody, and the report shall be made a
102 part of the patient's clinical record. Any receiving facility
103 accepting the patient based on this report must send a copy of
104 the report to the Agency for Health Care Administration on the
105 next working day.
106 3. A physician, clinical psychologist, psychiatric nurse,
107 mental health counselor, marriage and family therapist, or
108 clinical social worker may execute a certificate stating that he
109 or she has examined a person within the preceding 48 hours and
110 finds that the person appears to meet the criteria for
111 involuntary examination and stating the observations upon which
112 that conclusion is based. If other less restrictive means are not
113 available, such as voluntary appearance for outpatient
114 evaluation, a law enforcement officer shall take the person named
115 in the certificate into custody and deliver him or her to the
116 nearest receiving facility for involuntary examination. The law

117 enforcement officer shall execute a written report detailing the
118 circumstances under which the person was taken into custody. The
119 report and certificate shall be made a part of the patient's
120 clinical record. Any receiving facility accepting the patient
121 based on this certificate must send a copy of the certificate to
122 the Agency for Health Care Administration on the next working
123 day.
124 Section 5. Effective July 1, 2006, paragraphs (a) and (c)
125 of subsection (2) of section 394.4655, Florida Statutes, are
126 amended to read:
127 394.4655 Involuntary outpatient placement.--
128 (2) INVOLUNTARY OUTPATIENT PLACEMENT.--
129 (a)1. A patient may be retained by a receiving facility
130 upon the recommendation of the administrator of a receiving
131 facility where the patient has been examined and after adherence
132 to the notice of hearing procedures provided in s. 394.4599. The
133 recommendation must be supported by the opinion of a psychiatrist
134 and the second opinion of a clinical psychologist or another
135 psychiatrist, both of whom have personally examined the patient
136 within the preceding 72 hours, that the criteria for involuntary
137 outpatient placement are met. However, in a county having a
138 population of fewer than 50,000, if the administrator certifies
139 that no psychiatrist or clinical psychologist is available to
140 provide the second opinion, the second opinion may be provided by
141 a licensed physician who has postgraduate training and experience
142 in diagnosis and treatment of mental and nervous disorders or by
143 a psychiatric nurse as defined in this chapter. Such a
144 recommendation must be entered on an involuntary outpatient
145 placement certificate, which certificate must authorize the

146 receiving facility to retain the patient pending completion of a
147 hearing. The certificate shall be made a part of the patient's
148 clinical record.
149 2. If the patient has been stabilized and no longer meets
150 the criteria for involuntary examination pursuant to s.
151 394.463(1), the patient must be released from the receiving
152 facility while awaiting the hearing for involuntary outpatient
153 placement. Prior to filing a petition for involuntary outpatient
154 treatment, the administrator of a receiving facility or a
155 designated department representative shall identify the service
156 provider that will have primary responsibility for service
157 provision under an order for involuntary outpatient placement,
158 unless the person is otherwise participating in outpatient
159 psychiatric treatment and is not in need of public financing for
160 that treatment, in which case the individual, if eligible, may be
161 ordered to involuntary treatment pursuant to the existing
162 psychiatric treatment relationship.
163 3. The service provider shall prepare a written proposed
164 treatment plan in consultation with the patient or the patient's
165 guardian advocate, if appointed, for the court's consideration
166 for inclusion in the involuntary outpatient placement order. The
167 service provider shall also provide a copy of the proposed
168 treatment plan to the patient and the administrator of the
169 receiving facility. The treatment plan must specify the nature
170 and extent of the patient's mental illness. The treatment plan
171 must address the reduction of symptoms that necessitate
172 involuntary outpatient placement and include measurable goals and
173 objectives for the services and treatment that are provided to
174 treat the person's mental illness and to assist the person in

175 living and functioning in the community or to attempt to prevent
176 a relapse or deterioration. Service providers may select and
177 provide supervision to other individuals to implement specific
178 aspects of the treatment plan. The services in the treatment plan
179 must be deemed to be clinically appropriate by a physician,
180 clinical psychologist, psychiatric nurse, marriage and family
181 therapist, or clinical social worker, as defined in this chapter,
182 who consults with, or is employed or contracted by, the service
183 provider. The service provider must certify to the court in the
184 proposed treatment plan whether sufficient services for
185 improvement and stabilization are currently available and whether
186 the service provider agrees to provide those services. If the
187 service provider certifies that the services in the proposed
188 treatment plan are not available, the petitioner may not file the
189 petition.
190 (c)1. The administrator of the treatment facility shall
191 provide a copy of the involuntary outpatient placement
192 certificate and a copy of the state mental health discharge form
193 to a department representative in the county where the patient
194 will be residing. For persons who are leaving a state mental
195 health treatment facility, the petition for involuntary
196 outpatient placement must be filed in the county where the
197 patient will be residing.
198 2. The service provider that will have primary
199 responsibility for service provision shall be identified by the
200 designated department representative prior to the order for
201 involuntary outpatient placement and must, prior to filing a
202 petition for involuntary outpatient placement, certify to the
203 court whether the services recommended in the patient's discharge

204 plan are available in the local community and whether the service
205 provider agrees to provide those services. The service provider
206 must develop with the patient, or the patient's guardian
207 advocate, if appointed, a treatment or service plan that
208 addresses the needs identified in the discharge plan. The plan
209 must be deemed to be clinically appropriate by a physician,
210 clinical psychologist, psychiatric nurse, marriage and family
211 therapist, or clinical social worker, as defined in this chapter,
212 who consults with, or is employed or contracted by, the service
213 provider.
214 3. If the service provider certifies that the services in
215 the proposed treatment or service plan are not available, the
216 petitioner may not file the petition.
217 Section 6. Effective July 1, 2006, paragraph (e) of
218 subsection (6) of section 394.467, Florida Statutes, is amended
219 to read:
220 394.467 Involuntary inpatient placement.--
221 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.--
222 (e) The administrator of the receiving facility shall
223 provide a copy of the court order and adequate documentation of a
224 patient's mental illness to the administrator of a treatment
225 facility whenever a patient is ordered for involuntary inpatient
226 placement, whether by civil or criminal court. The ~~Such~~
227 documentation shall include any advance directives made by the
228 patient, a psychiatric evaluation of the patient, and any
229 evaluations of the patient performed by a clinical psychologist,
230 a marriage and family therapist, or a clinical social worker. The
231 administrator of a treatment facility may refuse admission to any
232 patient directed to its facilities on an involuntary basis,

233 whether by civil or criminal court order, who is not accompanied
234 at the same time by adequate orders and documentation.
235 Section 7. Except as otherwise expressly provided in this
236 act, this act shall take effect upon becoming a law.

1 A bill to be entitled
2 An act relating to the welfare of children; amending s.
3 39.001, F.S.; providing additional purposes of ch. 39,
4 F.S.; revising legislative intent; creating the Office of
5 Child Abuse Prevention within the Executive Office of the
6 Governor; directing the Governor to appoint a director of
7 the office; providing duties and responsibilities of the
8 director; providing procedures for evaluation of child
9 abuse prevention programs; requiring a report to the
10 Governor, Legislature, secretaries of certain state
11 agencies, and certain committees of the Legislature;
12 providing for information to be included in the report;
13 providing for the development and implementation of a
14 state plan for the coordination of child abuse prevention
15 programs and services; establishing a Child Abuse
16 Prevention Advisory Council; providing for membership,
17 duties, and responsibilities; requiring requests for
18 funding to be based on the state plan; providing for
19 review and revision of the state plan; granting rulemaking
20 authority to the Executive Office of the Governor;
21 requiring the Legislature to evaluate the office by a
22 specified date; amending s. 39.0014, F.S.; providing
23 responsibilities of the office under ch. 39, F.S.;
24 amending s. 39.01, F.S.; providing and revising
25 definitions; amending ss. 39.0015 and 39.302, F.S.;
26 conforming cross-references; amending s. 402.164, F.S.;
27 designating statewide and local advocacy councils as
28 health oversight agencies for certain purposes; amending
29 s. 409.1451, F.S.; revising duties of the Department of

30 Children and Family Services regarding independent living
31 transition services; including additional parties in the
32 review of a child's academic performance; requiring the
33 department or a community-based care lead agency under
34 contract with the department to develop a plan for
35 delivery of such services; requiring additional aftercare
36 support services; requiring certain funds awarded as part
37 of the Road-to-Independence Program to be used in
38 accordance with specified federal regulations; providing
39 additional qualifications to receive an award; providing
40 procedures for the payment of awards; requiring the
41 department to conduct certain evaluations; requiring
42 collaboration between certain parties in the development
43 of an agreement regarding the provision of transitional
44 services; requiring a community-based care lead agency to
45 develop a plan for purchase and delivery of such services
46 and requiring department approval prior to implementation;
47 requiring a report to the Legislature; providing that
48 funding for aftercare and transitional support services be
49 determined based on availability of funds; permitting the
50 Independent Living Advisory Council to have access to
51 certain data held by the department and certain agencies;
52 authorizing the department to enter into certain
53 contracts; providing limitations on funds awarded;
54 amending s. 409.175, F.S.; revising the definition of the
55 term "boarding school" to require such schools to meet
56 certain standards within a specified timeframe; amending
57 s. 409.903, F.S.; providing eligibility criteria for young
58 adults formerly in foster care to receive certain

59 services; requiring the department to provide notice to
60 the Agency for Health Care Administration; requiring the
61 agency to make certain health care records available in
62 electronic format; amending ss. 39.013, 39.701, and
63 1009.25, F.S.; conforming references to changes made by
64 the act; providing appropriations; providing an effective
65 date.
66
67 WHEREAS, in 2002, Florida was among only three other states
68 and the District of Columbia to have the highest national child
69 maltreatment rate, and
70 WHEREAS, during 2002, 142,547 investigations of abuse or
71 neglect, involving 254,856 children, were completed,
72 approximately one-half of which were substantiated or indicated
73 the presence of abuse or neglect, and
74 WHEREAS, a Florida child is abused or neglected every 4
75 minutes and 10,000 Florida children are abused or neglected per
76 month, and
77 WHEREAS, in 2004, according to the Florida Child Abuse Death
78 Review Team, at least 111 Florida children died from abuse or
79 neglect at the hands of their parents or caretakers, an average
80 rate of two dead children each week, and
81 WHEREAS, according to the Centers for Disease Control and
82 Prevention, the cost of failing to prevent child abuse and
83 neglect in 2001 equaled $94 billion a year nationally, and
84 WHEREAS, the direct costs of failing to prevent child abuse
85 and neglect include the costs associated with the utilization of
86 law enforcement services, the health care system, the mental
87 health system, the child welfare system, and the judicial system,

88 while the indirect costs include the provision of special
89 education and mental health and health care, a rise in the
90 incidence of juvenile delinquency, lost productivity to society,
91 and adult criminality, and
92 WHEREAS, although prevention of child maltreatment will save
93 lives and conserve resources, and despite the potential long-term
94 benefit of preventing child abuse and neglect, only a small
95 percentage of all resources specifically earmarked for child
96 maltreatment in the state are actually devoted to the prevention
97 of child maltreatment, and
98 WHEREAS, the 2005-2006 General Appropriations Act provided a
99 total funding of $44 million for child abuse prevention and
100 intervention to the Department of Children and Family Services,
101 which amount represents less than 2 percent of the department's
102 budget, and
103 WHEREAS, Healthy Families Florida is a community-based,
104 voluntary home visiting program that received approximately $28.4
105 million for the 2005-2006 fiscal year from the Department of
106 Children and Family Services and contracts with 37 community-
107 based organizations to provide services in targeted high-risk
108 areas in 23 counties and to provide services in 30 total
109 counties, and
110 WHEREAS, Healthy Families Florida participants had 20
111 percent less child maltreatment than all families in the Healthy
112 Families Florida target service areas in spite of the fact that,
113 in general, participants are at a significantly higher risk for
114 child maltreatment than the overall population, and
115 WHEREAS, the Department of Children and Family Services, the
116 Department of Education, the Department of Health, the Department

117 of Juvenile Justice, the Department of Law Enforcement, the
118 Agency for Persons with Disabilities, and the Agency for
119 Workforce Innovation all have programs that focus on primary and
120 secondary prevention of child abuse and neglect, but there is no
121 statewide coordination or single state agency responsible for
122 oversight of these programs, and
123 WHEREAS, a statewide coordinated effort would result in
124 better communication among agencies and provide for easier access
125 and more efficiency in the delivery of abuse and neglect services
126 in the communities, NOW, THEREFORE,
127
128 Be It Enacted by the Legislature of the State of Florida:
129
130 Section 1. Subsections (1) and (6) of section 39.001,
131 Florida Statutes, are amended, subsections (7) and (8) are
132 renumbered as subsections (8) and (9) and amended, present
133 subsection (9) is renumbered as subsection (10), and new
134 subsections (7), (11), and (12) are added to that section, to
135 read:
136 39.001 Purposes and intent; personnel standards and
137 screening.--
138 (1) PURPOSES OF CHAPTER.--The purposes of this chapter are:
139 (a) To provide for the care, safety, and protection of
140 children in an environment that fosters healthy social,
141 emotional, intellectual, and physical development; to ensure
142 secure and safe custody; ~~and~~ to promote the health and well-being
143 of all children under the state's care<u>; and to prevent the</u>
144 <u>occurrence of child abuse, neglect, and abandonment</u>.

145 (b) To recognize that most families desire to be competent
146 caregivers and providers for their children and that children
147 achieve their greatest potential when families are able to
148 support and nurture the growth and development of their children.
149 Therefore, the Legislature finds that policies and procedures
150 that provide for prevention and intervention through the
151 department's child protection system should be based on the
152 following principles:
153 1. The health and safety of the children served shall be of
154 paramount concern.
155 2. The prevention and intervention should engage families
156 in constructive, supportive, and nonadversarial relationships.
157 3. The prevention and intervention should intrude as little
158 as possible into the life of the family, be focused on clearly
159 defined objectives, and take the most parsimonious path to remedy
160 a family's problems.
161 4. The prevention and intervention should be based upon
162 outcome evaluation results that demonstrate success in protecting
163 children and supporting families.
164 (c) To provide a child protection system that reflects a
165 partnership between the department, other agencies, and local
166 communities.
167 (d) To provide a child protection system that is sensitive
168 to the social and cultural diversity of the state.
169 (e) To provide procedures which allow the department to
170 respond to reports of child abuse, abandonment, or neglect in the
171 most efficient and effective manner that ensures the health and
172 safety of children and the integrity of families.

173 (f) To preserve and strengthen the child's family ties
174 whenever possible, removing the child from parental custody only
175 when his or her welfare cannot be adequately safeguarded without
176 such removal.
177 (g) To ensure that the parent or legal custodian from whose
178 custody the child has been taken assists the department to the
179 fullest extent possible in locating relatives suitable to serve
180 as caregivers for the child.
181 (h) To ensure that permanent placement with the biological
182 or adoptive family is achieved as soon as possible for every
183 child in foster care and that no child remains in foster care
184 longer than 1 year.
185 (i) To secure for the child, when removal of the child from
186 his or her own family is necessary, custody, care, and discipline
187 as nearly as possible equivalent to that which should have been
188 given by the parents; and to ensure, in all cases in which a
189 child must be removed from parental custody, that the child is
190 placed in an approved relative home, licensed foster home,
191 adoptive home, or independent living program that provides the
192 most stable and potentially permanent living arrangement for the
193 child, as determined by the court. All placements shall be in a
194 safe environment where drugs and alcohol are not abused.
195 (j) To ensure that, when reunification or adoption is not
196 possible, the child will be prepared for alternative permanency
197 goals or placements, to include, but not be limited to, long-term
198 foster care, independent living, custody to a relative on a
199 permanent basis with or without legal guardianship, or custody to
200 a foster parent or legal custodian on a permanent basis with or
201 without legal guardianship.

202 (k) To make every possible effort, when two or more
203 children who are in the care or under the supervision of the
204 department are siblings, to place the siblings in the same home;
205 and in the event of permanent placement of the siblings, to place
206 them in the same adoptive home or, if the siblings are separated,
207 to keep them in contact with each other.
208 (l) To provide judicial and other procedures to assure due
209 process through which children, parents, and guardians and other
210 interested parties are assured fair hearings by a respectful and
211 respected court or other tribunal and the recognition,
212 protection, and enforcement of their constitutional and other
213 legal rights, while ensuring that public safety interests and the
214 authority and dignity of the courts are adequately protected.
215 (m) To ensure that children under the jurisdiction of the
216 courts are provided equal treatment with respect to goals,
217 objectives, services, and case plans, without regard to the
218 location of their placement. It is the further intent of the
219 Legislature that, when children are removed from their homes,
220 disruption to their education be minimized to the extent
221 possible.
222 <u>(n) To create and maintain an integrated prevention</u>
223 <u>framework that enables local communities, state agencies, and</u>
224 <u>organizations to collaborate to implement efficient and properly</u>
225 <u>applied evidence-based child abuse prevention practices.</u>
226 (6) LEGISLATIVE INTENT FOR THE PREVENTION OF ABUSE,
227 ABANDONMENT, AND NEGLECT OF CHILDREN.--The incidence of known
228 child abuse, abandonment, and neglect has increased rapidly over
229 the past 5 years. The impact that abuse, abandonment, or neglect
230 has on the victimized child, siblings, family structure, and

231 inevitably on all citizens of the state has caused the
232 Legislature to determine that the prevention of child abuse,
233 abandonment, and neglect shall be a priority of this state. To
234 further this end, it is the intent of the Legislature that an
235 Office of Child Abuse Prevention be established ~~a comprehensive~~
236 ~~approach for the prevention of abuse, abandonment, and neglect of~~
237 ~~children be developed for the state and that this planned,~~
238 ~~comprehensive approach be used as a basis for funding~~.
239 (7) OFFICE OF CHILD ABUSE PREVENTION.--
240 (a) For purposes of establishing a comprehensive statewide
241 approach for the prevention of child abuse, abandonment, and
242 neglect, the Office of Child Abuse Prevention is created within
243 the Executive Office of the Governor. The Governor shall appoint
244 a director for the office who shall be subject to confirmation by
245 the Senate.
246 (b) The director shall:
247 1. Formulate and recommend rules pertaining to
248 implementation of child abuse prevention efforts.
249 2. Act as the Governor's liaison with state agencies, other
250 state governments, and the public and private sectors on matters
251 that relate to child abuse prevention.
252 3. Work to secure funding and other support for the state's
253 child abuse prevention efforts, including, but not limited to,
254 establishing cooperative relationships among state and private
255 agencies.
256 4. Develop a strategic program and funding initiative that
257 links the separate jurisdictional activities of state agencies
258 with respect to child abuse prevention. The office may designate
259 lead and contributing agencies to develop such initiatives.

260 5. Advise the Governor and the Legislature on child abuse
261 trends in this state, the status of current child abuse
262 prevention programs and services, the funding of those programs
263 and services, and the status of the office with regard to the
264 development and implementation of the state child abuse
265 prevention strategy.
266 6. Develop child abuse prevention public awareness
267 campaigns to be implemented throughout the state.
268 (c) The office is authorized and directed to:
269 1. Oversee the preparation and implementation of the state
270 plan established under subsection (8) and revise and update the
271 state plan as necessary.
272 2. Conduct, otherwise provide for, or make available
273 continuing professional education and training in the prevention
274 of child abuse and neglect.
275 3. Work to secure funding in the form of appropriations,
276 gifts, and grants from the state, the Federal Government, and
277 other public and private sources in order to ensure that
278 sufficient funds are available for prevention efforts.
279 4. Make recommendations pertaining to agreements or
280 contracts for the establishment and development of:
281 a. Programs and services for the prevention of child abuse
282 and neglect.
283 b. Training programs for the prevention of child abuse and
284 neglect.
285 c. Multidisciplinary and discipline-specific training
286 programs for professionals with responsibilities affecting
287 children, young adults, and families.

288 5. Monitor, evaluate, and review the development and
289 quality of local and statewide services and programs for the
290 prevention of child abuse and neglect and shall publish and
291 distribute an annual report of its findings on or before January
292 1 of each year to the Governor, the Speaker of the House of
293 Representatives, the President of the Senate, the secretary of
294 each state agency affected by the report, and the appropriate
295 substantive committees of the Legislature. The report shall
296 include:
297 a. A summary of the activities of the office.
298 b. A summary detailing the demographic and geographic
299 characteristics of families served by the prevention programs.
300 c. Recommendations, by state agency, for the further
301 development and improvement of services and programs for the
302 prevention of child abuse and neglect.
303 d. The budget requests and prevention program needs by
304 state agency.
305 (8) ~~(7)~~ PLAN FOR COMPREHENSIVE APPROACH.--
306 (a) The office ~~department~~ shall develop a state plan for
307 the prevention of abuse, abandonment, and neglect of children and
308 shall submit the state plan to the Speaker of the House of
309 Representatives, the President of the Senate, and the Governor no
310 later than December 31, 2007 ~~January 1, 1983~~. The Department of
311 Children and Family Services, the Department of Corrections, the
312 Department of Education, the Department of Health, the Department
313 of Juvenile Justice, the Department of Law Enforcement, the
314 Agency for Persons with Disabilities, and the Agency for
315 Workforce Innovation ~~The Department of Education and the Division~~
316 ~~of Children's Medical Services Prevention and Intervention of the~~

317 ~~Department of Health~~ shall participate and fully cooperate in the
318 development of the state plan at both the state and local levels.
319 Furthermore, appropriate local agencies and organizations shall
320 be provided an opportunity to participate in the development of
321 the state plan at the local level. Appropriate local groups and
322 organizations shall include, but not be limited to, community
323 mental health centers; guardian ad litem programs for children
324 under the circuit court; the school boards of the local school
325 districts; the Florida local advocacy councils; private or public
326 organizations or programs with recognized expertise in working
327 with children who are sexually abused, physically abused,
328 emotionally abused, abandoned, or neglected and with expertise in
329 working with the families of such children; private or public
330 programs or organizations with expertise in maternal and infant
331 health care; multidisciplinary child protection teams; child day
332 care centers; law enforcement agencies, and the circuit courts,
333 when guardian ad litem programs are not available in the local
334 area. The state plan to be provided to the Legislature and the
335 Governor shall include, as a minimum, the information required of
336 the various groups in paragraph (b).
337 (b) The development of the ~~comprehensive~~ state plan shall
338 be accomplished in the following manner:
339 1. <u>The office shall establish a Child Abuse Prevention</u>
340 <u>Advisory Council composed of representatives from each state</u>
341 <u>agency and appropriate local agencies and organizations specified</u>
342 <u>in paragraph (a). The advisory council shall serve as the</u>
343 <u>research arm of the office and</u> ~~The department shall establish an~~
344 ~~interprogram task force comprised of the Program Director for~~
345 ~~Family Safety, or a designee, a representative from the Child~~

346 ~~Care Services Program Office, a representative from the Family~~
347 ~~Safety Program Office, a representative from the Mental Health~~
348 ~~Program Office, a representative from the Substance Abuse Program~~
349 ~~Office, a representative from the Developmental Disabilities~~
350 ~~Program Office, and a representative from the Division of~~
351 ~~Children's Medical Services Prevention and Intervention of the~~
352 ~~Department of Health. Representatives of the Department of Law~~
353 ~~Enforcement and of the Department of Education shall serve as ex~~
354 ~~officio members of the interprogram task force. The interprogram~~
355 ~~task force~~ shall be responsible for:
356 a. Assisting in developing a plan of action for better
357 coordination and integration of the goals, activities, and
358 funding pertaining to the prevention of child abuse, abandonment,
359 and neglect conducted by the office ~~department~~ in order to
360 maximize staff and resources at the state level. The plan of
361 action shall be included in the state plan.
362 b. Assisting in providing a basic format to be utilized by
363 the districts in the preparation of local plans of action in
364 order to provide for uniformity in the district plans and to
365 provide for greater ease in compiling information for the state
366 plan.
367 c. Providing the districts with technical assistance in the
368 development of local plans of action, if requested.
369 d. Assisting in examining the local plans to determine if
370 all the requirements of the local plans have been met and, if
371 they have not, informing the districts of the deficiencies and
372 requesting the additional information needed.
373 e. Assisting in preparing the state plan for submission to
374 the Legislature and the Governor. Such preparation shall include

375 the incorporation into the state plan ~~collapsing~~ of information
376 obtained from the local plans, the cooperative plans with the
377 members of the advisory council ~~Department of Education~~, and the
378 plan of action for coordination and integration of state
379 departmental activities ~~into one comprehensive plan~~. The state
380 ~~comprehensive~~ plan shall include a section reflecting general
381 conditions and needs, an analysis of variations based on
382 population or geographic areas, identified problems, and
383 recommendations for change. In essence, the state plan shall
384 provide an analysis and summary of each element of the local
385 plans to provide a statewide perspective. The state plan shall
386 also include each separate local plan of action.
387 f. Conducting a feasibility study on the establishment of a
388 Children's Cabinet.
389 g.~~f.~~ Working with the specified state agency in fulfilling
390 the requirements of subparagraphs 2., 3., 4., and 5.
391 2. The office, the department, the Department of Education,
392 and the Department of Health shall work together in developing
393 ways to inform and instruct parents of school children and
394 appropriate district school personnel in all school districts in
395 the detection of child abuse, abandonment, and neglect and in the
396 proper action that should be taken in a suspected case of child
397 abuse, abandonment, or neglect, and in caring for a child's needs
398 after a report is made. The plan for accomplishing this end shall
399 be included in the state plan.
400 3. The office, the department, the Department of Law
401 Enforcement, and the Department of Health shall work together in
402 developing ways to inform and instruct appropriate local law
403 enforcement personnel in the detection of child abuse,

404 abandonment, and neglect and in the proper action that should be
405 taken in a suspected case of child abuse, abandonment, or
406 neglect.
407 4. Within existing appropriations, the office ~~department~~
408 shall work with other appropriate public and private agencies to
409 emphasize efforts to educate the general public about the problem
410 of and ways to detect child abuse, abandonment, and neglect and
411 in the proper action that should be taken in a suspected case of
412 child abuse, abandonment, or neglect. The plan for accomplishing
413 this end shall be included in the state plan.
414 5. The office, the department, the Department of Education,
415 and the Department of Health shall work together on the
416 enhancement or adaptation of curriculum materials to assist
417 instructional personnel in providing instruction through a
418 multidisciplinary approach on the identification, intervention,
419 and prevention of child abuse, abandonment, and neglect. The
420 curriculum materials shall be geared toward a sequential program
421 of instruction at the four progressional levels, K-3, 4-6, 7-9,
422 and 10-12. Strategies for encouraging all school districts to
423 utilize the curriculum are to be included in the ~~comprehensive~~
424 state plan for the prevention of child abuse, abandonment, and
425 neglect.
426 6. Each district of the department shall develop a plan for
427 its specific geographical area. The plan developed at the
428 district level shall be submitted to the advisory council
429 ~~interprogram task force~~ for utilization in preparing the state
430 plan. The district local plan of action shall be prepared with
431 the involvement and assistance of the local agencies and
432 organizations listed in this paragraph ~~(a)~~, as well as

433 representatives from those departmental district offices
434 participating in the treatment and prevention of child abuse,
435 abandonment, and neglect. In order to accomplish this, the office
436 ~~district administrator in each district~~ shall establish a task
437 force on the prevention of child abuse, abandonment, and neglect.
438 The office ~~district administrator~~ shall appoint the members of
439 the task force in accordance with the membership requirements of
440 this section. The office ~~In addition, the district administrator~~
441 ~~shall ensure that each subdistrict is represented on the task~~
442 ~~force; and, if the district does not have subdistricts, the~~
443 ~~district administrator~~ shall ensure that both urban and rural
444 areas are represented on the task force. The task force shall
445 develop a written statement clearly identifying its operating
446 procedures, purpose, overall responsibilities, and method of
447 meeting responsibilities. The district plan of action to be
448 prepared by the task force shall include, but shall not be
449 limited to:
450 a. Documentation of the magnitude of the problems of child
451 abuse, including sexual abuse, physical abuse, and emotional
452 abuse, and child abandonment and neglect in its geographical
453 area.
454 b. A description of programs currently serving abused,
455 abandoned, and neglected children and their families and a
456 description of programs for the prevention of child abuse,
457 abandonment, and neglect, including information on the impact,
458 cost-effectiveness, and sources of funding of such programs.
459 c. A continuum of programs and services necessary for a
460 comprehensive approach to the prevention of all types of child

461 abuse, abandonment, and neglect as well as a brief description of
462 such programs and services.
463 d. A description, documentation, and priority ranking of
464 local needs related to child abuse, abandonment, and neglect
465 prevention based upon the continuum of programs and services.
466 e. A plan for steps to be taken in meeting identified
467 needs, including the coordination and integration of services to
468 avoid unnecessary duplication and cost, and for alternative
469 funding strategies for meeting needs through the reallocation of
470 existing resources, utilization of volunteers, contracting with
471 local universities for services, and local government or private
472 agency funding.
473 f. A description of barriers to the accomplishment of a
474 comprehensive approach to the prevention of child abuse,
475 abandonment, and neglect.
476 g. Recommendations for changes that can be accomplished
477 only at the state program level or by legislative action.
478 (9) ~~(8)~~ FUNDING AND SUBSEQUENT PLANS.--
479 (a) All budget requests submitted by the office, the
480 department, the Department of Health, the Department of
481 Education, the Department of Juvenile Justice, the Department of
482 Corrections, the Agency for Persons with Disabilities, the Agency
483 for Workforce Innovation, or any other agency to the Legislature
484 for funding of efforts for the prevention of child abuse,
485 abandonment, and neglect shall be based on the state plan
486 developed pursuant to this section.
487 (b) The office ~~department at the state and district levels~~
488 and the other agencies and organizations listed in paragraph
489 (8)(a) ~~(7)(a)~~ shall readdress the state plan and make necessary

490 revisions every 5 years, at a minimum. Such revisions shall be
491 submitted to the Speaker of the House of Representatives and the
492 President of the Senate no later than June 30 of each year
493 divisible by 5. At least biennially, the office shall review the
494 state plan and make any necessary revisions based on changing
495 needs and program evaluation results. An annual progress report
496 shall be submitted to update the state plan in the years between
497 the 5-year intervals. In order to avoid duplication of effort,
498 these required plans may be made a part of or merged with other
499 plans required by either the state or Federal Government, so long
500 as the portions of the other state or Federal Government plan
501 that constitute the state plan for the prevention of child abuse,
502 abandonment, and neglect are clearly identified as such and are
503 provided to the Speaker of the House of Representatives and the
504 President of the Senate as required above.
505 (11) RULEMAKING.--The Executive Office of the Governor
506 shall adopt rules pursuant to ss. 120.536(1) and 120.54 to
507 implement the provisions of this section.
508 (12) EVALUATION.--By February 1, 2009, the Legislature
509 shall evaluate the office and determine whether it should
510 continue to be housed in the Executive Office of the Governor or
511 transferred to a state agency.
512 Section 2. Section 39.0014, Florida Statutes, is amended to
513 read:
514 39.0014 Responsibilities of public agencies.--All state,
515 county, and local agencies shall cooperate, assist, and provide
516 information to the Office of Child Abuse Prevention ~~department~~ as
517 will enable it to fulfill its responsibilities under this
518 chapter.

519 Section 3. Paragraph (b) of subsection (3) of section
520 39.0015, Florida Statutes, is amended to read:
521 39.0015 Child abuse prevention training in the district
522 school system.--
523 (3) DEFINITIONS.--As used in this section:
524 (b) "Child abuse" means those acts as defined in ss.
525 39.01(1), (2), (30), (43), (45), (53) ~~(52)~~, and (64) ~~(63)~~, 827.04,
526 and 984.03(1), (2), and (37).
527 Section 4. Subsections (47) through (72) of section 39.01,
528 Florida Statutes, are renumbered as subsections (48) through
529 (73), present subsections (10) and (47) are amended, and a new
530 subsection (47) is added to that section, to read:
531 39.01 Definitions.--When used in this chapter, unless the
532 context otherwise requires:
533 (10) "Caregiver" means the parent, legal custodian, adult
534 household member, or other person responsible for a child's
535 welfare as defined in subsection (48) ~~(47)~~.
536 (47) "Office" means the Office of Child Abuse Prevention
537 within the Executive Office of the Governor.
538 (48) ~~(47)~~ "Other person responsible for a child's welfare"
539 includes the child's legal guardian, legal custodian, or foster
540 parent; an employee of any ~~a private~~ school, public or private
541 child day care center, residential home, institution, facility,
542 or agency; or any other person legally responsible for the
543 child's welfare in a residential setting; and also includes an
544 adult sitter or relative entrusted with a child's care. For the
545 purpose of departmental investigative jurisdiction, this
546 definition does not include law enforcement officers, or

547 employees of municipal or county detention facilities or the
548 Department of Corrections, while acting in an official capacity.
549 Section 5. Subsection (1) of section 39.302, Florida
550 Statutes, is amended to read:
551 39.302 Protective investigations of institutional child
552 abuse, abandonment, or neglect.--
553 (1) The department shall conduct a child protective
554 investigation of each report of institutional child abuse,
555 abandonment, or neglect. Upon receipt of a report that alleges
556 that an employee or agent of the department, or any other entity
557 or person covered by s. 39.01(31) or (48)~~(47)~~, acting in an
558 official capacity, has committed an act of child abuse,
559 abandonment, or neglect, the department shall initiate a child
560 protective investigation within the timeframe established by the
561 central abuse hotline pursuant to s. 39.201(5) and orally notify
562 the appropriate state attorney, law enforcement agency, and
563 licensing agency. These agencies shall immediately conduct a
564 joint investigation, unless independent investigations are more
565 feasible. When conducting investigations onsite or having face-
566 to-face interviews with the child, such investigation visits
567 shall be unannounced unless it is determined by the department or
568 its agent that such unannounced visits would threaten the safety
569 of the child. When a facility is exempt from licensing, the
570 department shall inform the owner or operator of the facility of
571 the report. Each agency conducting a joint investigation shall be
572 entitled to full access to the information gathered by the
573 department in the course of the investigation. A protective
574 investigation must include an onsite visit of the child's place
575 of residence. In all cases, the department shall make a full

576 written report to the state attorney within 3 working days after
577 making the oral report. A criminal investigation shall be
578 coordinated, whenever possible, with the child protective
579 investigation of the department. Any interested person who has
580 information regarding the offenses described in this subsection
581 may forward a statement to the state attorney as to whether
582 prosecution is warranted and appropriate. Within 15 days after
583 the completion of the investigation, the state attorney shall
584 report the findings to the department and shall include in such
585 report a determination of whether or not prosecution is justified
586 and appropriate in view of the circumstances of the specific
587 case.
588 Section 6. Subsection (3) is added section 402.164, Florida
589 Statutes, to read:
590 402.164 Legislative intent; definitions.--
591 (3) The statewide and local advocacy councils shall be
592 designated as health oversight agencies as defined in 45 C.F.R.
593 s. 164.501 for purposes of meeting the duties and
594 responsibilities of the councils as described in ss. 402.165(7)
595 and 402.166(7).
596 Section 7. Section 409.1451, Florida Statutes, is amended
597 to read:
598 409.1451 Independent living transition services.--
599 (1) SYSTEM OF SERVICES.--
600 (a) The Department of Children and Family Services, its
601 agents, or community-based providers operating pursuant to s.
602 409.1671 shall administer a system of independent living
603 transition services to enable older children in foster care and

604 young adults who exit foster care at age 18 to make the
605 transition to self-sufficiency as adults.
606 (b) The goals of independent living transition services are
607 to assist older children in foster care and young adults who were
608 formerly in foster care to obtain life skills and education for
609 independent living and employment, to have a quality of life
610 appropriate for their age, and to assume personal responsibility
611 for becoming self-sufficient adults.
612 (c) State funds for foster care or federal funds shall be
613 used to establish a continuum of services for eligible children
614 in foster care and eligible young adults who were formerly in
615 foster care which accomplish the goals for the system of
616 independent living transition services by providing services for
617 foster children, pursuant to subsection (4), and services for
618 young adults who were formerly in foster care, pursuant to
619 subsection (5).
620 (d) For children in foster care, independent living
621 transition services are not an alternative to adoption.
622 Independent living transition services may occur concurrently
623 with continued efforts to locate and achieve placement in
624 adoptive families for older children in foster care.
625 (2) ELIGIBILITY.--
626 (a) The department shall serve children who have reached 13
627 years of age but are not yet 18 years of age and who are in
628 foster care by providing services pursuant to subsection (4).
629 Children to be served must meet the eligibility requirements set
630 forth for specific services as provided in this section.
631 (b) The department shall serve young adults who have
632 reached 18 years of age <u>or were placed with a court-approved</u>

633 nonrelative or guardian after reaching 16 years of age and have
634 spent a minimum of 6 months in foster care ~~but are not yet 23~~
635 ~~years of age and who were in foster care when they turned 18~~
636 ~~years of age~~ by providing services pursuant to subsection (5).
637 Young adults are not entitled to be served but must meet the
638 eligibility requirements set forth for specific services in this
639 section.
640 (3) PREPARATION FOR INDEPENDENT LIVING.--
641 (a) It is the intent of the Legislature for the Department
642 of Children and Family Services to assist older children in
643 foster care and young adults who exit foster care at age 18 in
644 making the transition to independent living and self-sufficiency
645 as adults. The department shall provide such children and young
646 adults with opportunities to participate in life skills
647 activities in their foster families and communities which are
648 reasonable and appropriate for their respective ages or for any
649 special needs they may have~~,~~ and shall provide them with services
650 to build life ~~the~~ skills and increase their ability to live
651 independently and become self-sufficient. To support the
652 provision of opportunities for participation in age-appropriate
653 life skills activities, the department shall:
654 1. Develop a list of age-appropriate activities and
655 responsibilities to be offered to all children involved in
656 independent living transition services and their foster parents.
657 2. Provide training for staff and foster parents to address
658 the issues of older children in foster care in transitioning to
659 adulthood, which shall include information on high school
660 completion, grant applications, vocational school opportunities,

661 supporting education and employment opportunities, and ~~providing~~
662 opportunities to participate in appropriate daily activities.
663 3. Develop procedures to maximize the authority of foster
664 parents or caregivers to approve participation in age-appropriate
665 activities of children in their care. The age-appropriate
666 activities and the authority of the foster parent or caregiver
667 shall be developed into a written plan that the foster parent or
668 caregiver, the child, and the case manager all develop together,
669 sign, and follow. This plan must include specific goals and
670 objectives and be reviewed and updated no less than quarterly.
671 4. Provide opportunities for older children in foster care
672 to interact with mentors.
673 5. Develop and implement procedures similar to those in
674 sub-subparagraph (5)(b)5.l. for older children to directly access
675 and manage the personal allowance they receive from the
676 department in order to learn responsibility and participate in
677 age-appropriate life skills activities to the extent feasible.
678 6. Make a good faith effort to fully explain, prior to
679 execution of any signature, if required, any document, report,
680 form, or other record, whether written or electronic, presented
681 to a child or young adult pursuant to this chapter and allow for
682 the recipient to ask any appropriate questions necessary to fully
683 understand the document. It shall be the responsibility of the
684 person presenting the document to the child or young adult to
685 comply with this subparagraph.
686 (b) It is further the intent of the Legislature that each
687 child in foster care, his or her foster parents, if applicable,
688 and the department or community-based provider set early
689 achievement and career goals for the child's postsecondary

690 educational and work experience. The department and community-
691 based providers shall implement the model set forth in this
692 paragraph to help ensure that children in foster care are ready
693 for postsecondary education and the workplace.
694 1. For children in foster care who have reached 13 years of
695 age and are entering the 9th grade, their foster parents~~,~~ and the
696 department or community-based provider shall be active
697 participants in planning and executing an educational and career
698 path ~~choosing a post-high school goal~~ based upon both the
699 abilities and interests of each child. The path shall be reviewed
700 no less than annually; shall include a review of the child's
701 academic improvement plan pursuant to s. 1008.25, individual
702 educational plan, if applicable, and report card or student
703 portfolio; and ~~goal~~ shall accommodate the needs of children
704 served in exceptional education programs to the extent
705 appropriate for each individual. Such children may continue to
706 follow the courses outlined in the district school board student
707 progression plan. Children in foster care, with the assistance of
708 their foster parents, and the department or community-based
709 provider shall choose one of the following postsecondary goals:
710 a. Attending a 4-year college or university, a community
711 college plus university, or a military academy;
712 b. Receiving a 2-year postsecondary degree;
713 c. Attaining a postsecondary career and technical
714 certificate or credential; or
715 d. Beginning immediate employment, including
716 apprenticeship, after completion of a high school diploma or its
717 equivalent, or enlisting in the military.

718 2. In order to assist the child in foster care in achieving
719 his or her chosen goal, the department or community-based
720 provider shall, with the participation of the child and foster
721 parents, identify:
722 a. The core courses in the child's secondary school
723 necessary to qualify for a chosen goal.
724 b. Any elective courses which would provide additional help
725 in reaching a chosen goal.
726 c. The grade point requirement and any additional
727 information necessary to achieve a specific goal.
728 d. A teacher, other school staff member, employee of the
729 department or community-based care provider, or community
730 volunteer who would be willing to work with the child as an
731 academic advocate or mentor if foster parent involvement is
732 insufficient or unavailable.
733 3. In order to complement educational goals, the department
734 and community-based providers are encouraged to form partnerships
735 with the business community to support internships,
736 apprenticeships, or other work-related opportunities.
737 4. The department and community-based providers shall
738 ensure that children in foster care and their foster parents are
739 made aware of the postsecondary goals available and shall assist
740 in identifying the coursework necessary to enable the child to
741 reach the chosen goal.
742 (c) All children in foster care and young adults formerly
743 in foster care are encouraged to take part in learning
744 opportunities that result from participation in community service
745 activities.

746 (d) Children in foster care and young adults formerly in
747 foster care shall be provided with the opportunity to change from
748 one postsecondary goal to another, and each postsecondary goal
749 shall allow for changes in each individual's needs and
750 preferences. Any change, particularly a change that will result
751 in additional time required to achieve a goal, shall be made with
752 the guidance and assistance of the department or community-based
753 provider.
754 (4) SERVICES FOR CHILDREN IN FOSTER CARE.--The department
755 shall provide the following transition to independence services
756 to children in foster care who meet prescribed conditions and are
757 determined eligible by the department. The service categories
758 available to children in foster care which facilitate successful
759 transition into adulthood are:
760 (a) Preindependent living services.--
761 1. Preindependent living services include, but are not
762 limited to, life skills training, educational field trips, and
763 conferences. The specific services to be provided to a child
764 shall be determined using a preindependent living assessment.
765 2. A child who has reached 13 years of age but is not yet
766 15 years of age who is in foster care is eligible for such
767 services.
768 3. The department shall conduct an annual staffing for each
769 child who has reached 13 years of age but is not yet 15 years of
770 age to ensure that the preindependent living training and
771 services to be provided as determined by the preindependent
772 living assessment are being received and to evaluate the progress
773 of the child in developing the needed independent living skills.

774 4. At the first annual staffing that occurs following a
775 child's 14th birthday, and at each subsequent staffing, the
776 department, the child, and, to the greatest extent possible, his
777 or her foster parent or caregiver shall review the child's
778 academic improvement plan pursuant to s. 1008.25, individual
779 educational plan, if applicable, and report card or student
780 portfolio and shall provide to each child detailed personalized
781 information on services provided by the Road-to-Independence
782 ~~Scholarship~~ Program, including requirements for eligibility; on
783 other grants, scholarships, and waivers that are available and
784 should be sought by the child with assistance from the
785 department, including, but not limited to, the Bright Futures
786 Scholarship Program, as provided in ss. 1009.53-1009.538; on
787 application deadlines; and on grade requirements for such
788 programs.
789 5. Information related to both the preindependent living
790 assessment and all staffings, which shall be reduced to writing
791 and signed by the child participant, shall be included as a part
792 of the written report required to be provided to the court at
793 each judicial review held pursuant to s. 39.701.
794 (b) Life skills services.--
795 1. Life skills services may include, but are not limited
796 to, independent living skills training, including training to
797 develop banking and budgeting skills, interviewing skills,
798 parenting skills, and time management or organizational skills,
799 educational support, employment training, and counseling.
800 Children receiving these services should also be provided with
801 information related to social security insurance benefits and
802 public assistance. The specific services to be provided to a

803 child shall be determined using an independent life skills
804 assessment.
805 2. A child who has reached 15 years of age but is not yet
806 18 years of age who is in foster care is eligible for such
807 services.
808 3. The department shall conduct a staffing at least once
809 every 6 months for each child who has reached 15 years of age but
810 is not yet 18 years of age to ensure that the appropriate
811 independent living training and services as determined by the
812 independent life skills assessment are being received and to
813 evaluate the progress of the child in developing the needed
814 independent living skills.
815 4. The department shall provide to each child in foster
816 care during the calendar month following the child's 17th
817 birthday an independent living assessment to determine the
818 child's skills and abilities to live independently and become
819 self-sufficient. Based on the results of the independent living
820 assessment, services and training shall be provided in order for
821 the child to develop the necessary skills and abilities prior to
822 the child's 18th birthday.
823 5. Information related to both the independent life skills
824 assessment and all staffings, which shall be reduced to writing
825 and signed by the child participant, shall be included as a part
826 of the written report required to be provided to the court at
827 each judicial review held pursuant to s. 39.701.
828 (c) Subsidized independent living services.--
829 1. Subsidized independent living services are living
830 arrangements that allow the child to live independently of the

831 daily care and supervision of an adult in a setting that is not
832 required to be licensed under s. 409.175.
833 2. A child who has reached 16 years of age but is not yet
834 18 years of age is eligible for such services if he or she:
835 a. Is adjudicated dependent under chapter 39; has been
836 placed in licensed out-of-home care for at least 6 months prior
837 to entering subsidized independent living; and has a permanency
838 goal of adoption, independent living, or long-term licensed care;
839 and
840 b. Is able to demonstrate independent living skills, as
841 determined by the department, using established procedures and
842 assessments.
843 3. Independent living arrangements established for a child
844 must be part of an overall plan leading to the total independence
845 of the child from the department's supervision. The plan must
846 include, but need not be limited to, a description of the skills
847 of the child and a plan for learning additional identified
848 skills; the behavior that the child has exhibited which indicates
849 an ability to be responsible and a plan for developing additional
850 responsibilities, as appropriate; a plan for future educational,
851 vocational, and training skills; present financial and budgeting
852 capabilities and a plan for improving resources and ability; a
853 description of the proposed residence; documentation that the
854 child understands the specific consequences of his or her conduct
855 in the independent living program; documentation of proposed
856 services to be provided by the department and other agencies,
857 including the type of service and the nature and frequency of
858 contact; and a plan for maintaining or developing relationships

859 with the family, other adults, friends, and the community, as
860 appropriate.
861 4. Subsidy payments in an amount established by the
862 department may be made directly to a child under the direct
863 supervision of a caseworker or other responsible adult approved
864 by the department.
865 (5) SERVICES FOR YOUNG ADULTS FORMERLY IN FOSTER CARE.--It
866 is the intent of the Legislature that assistance be provided so
867 that every young adult who exits foster care at age 18 has the
868 opportunity to obtain housing, finish high school, attend
869 postsecondary or vocational training, and obtain the skills
870 necessary to find a job or begin a career as he or she makes the
871 transition to complete independence. Aftercare support services,
872 the Road-to-Independence Program, and transitional support
873 services are established to accomplish this intent to the fullest
874 degree possible. Based on the availability of funds, the
875 department shall provide or arrange for the following services to
876 young adults formerly in foster care who meet the prescribed
877 conditions and are determined eligible by the department. The
878 department, or a community-based care lead agency when the agency
879 is under contract with the department to provide the services
880 described under this subsection, shall develop a plan to
881 implement those services. A plan shall be developed for each
882 community-based care service area in the state. An approved plan
883 shall be delivered to the Independent Living Services Advisory
884 Council within 10 business days after approval. Each plan shall
885 include the number of young adults to be served each month of the
886 fiscal year and specify the number of young adults who will reach
887 18 years of age who will be eligible for the plan and the number

888 of young adults who will reach 23 years of age and will be
889 ineligible for the plan or who are otherwise ineligible during
890 each month of the fiscal year; staffing requirements and all
891 related costs to administer the services and program;
892 expenditures to or on behalf of the eligible recipients; costs of
893 services provided to young adults through an approved plan for
894 housing, transportation, and employment; reconciliation of these
895 expenses and any additional related costs with the funds
896 allocated for these services; and an explanation of and a plan to
897 resolve any shortages or surpluses in order to end the fiscal
898 year with a balanced budget. The categories of services available
899 to assist a young adult formerly in foster care to achieve
900 independence are:
901 (a) Aftercare support services.--
902 1. Aftercare support services are available to assist young
903 adults who were formerly in foster care in their efforts to
904 continue to develop the skills and abilities necessary for
905 independent living. The aftercare support services available
906 include, but are not limited to, the following:
907 a. Mentoring and tutoring.
908 b. Mental health services and substance abuse counseling.
909 c. Life skills classes, including credit management and
910 preventive health activities.
911 d. Parenting classes.
912 e. Job and career skills training.
913 f. Counselor consultations.
914 g. Temporary financial assistance.
915 h. Banking and budgeting skills.
916

917 The specific services to be provided under this subparagraph
918 shall be determined by an aftercare services assessment and may
919 be provided by the department or through referrals in the
920 community. A young adult who opens a bank account at a financial
921 institution in this state satisfies the requirements of sub-
922 subparagraph h. if, when opening that account, he or she received
923 instructions on how to maintain that account, including the fee
924 structure of that institution, and he or she has established
925 direct deposit or a written waiver pursuant to sub-subparagraph
926 (b)5.1.
927 2. Temporary assistance provided to prevent homelessness
928 shall be provided as expeditiously as possible and is limited to
929 funds available ~~within the limitations defined by the department~~.
930 3.~~2.~~ A young adult who has reached 18 years of age but is
931 not yet 23 years of age who leaves foster care at 18 years of age
932 but who requests services prior to reaching 23 years of age is
933 eligible for such services.
934 (b) Road-to-Independence ~~Scholarship~~ Program.--Funds
935 awarded as part of the Road-to-Independence Program under the
936 John H. Chaffee Foster Care Independence Program shall be used in
937 accordance with the federal regulations found in 42 U.S.C. s.
938 677(i) for young adults formerly in foster care.
939 1. The Road-to-Independence ~~Scholarship~~ Program is intended
940 to help eligible students who are former foster children in this
941 state to receive the educational and vocational training needed
942 to achieve independence. The amount of the award shall be based
943 on the living and educational needs of the young adult ~~and may be~~
944 ~~up to, but may not exceed, the amount of earnings that the~~

945 ~~student would have been eligible to earn working a 40-hour a week~~
946 ~~federal minimum wage job~~.
947 2. A child in foster care or a young adult who has a high
948 school diploma or its equivalent ~~reached 18 years of age~~ but is
949 not yet 21 years of age is eligible for the initial award, and a
950 young adult participating in the program on his or her 21st
951 birthday may remain eligible for renewal awards until he or she
952 reaches ~~under~~ 23 years of age ~~is eligible for renewal awards~~, if
953 he or she:
954 a. Was a dependent child, under chapter 39, and was living
955 in licensed foster care or in subsidized independent living at
956 the time of his or her 18th birthday or is currently in licensed
957 foster care or subsidized independent living, was adopted from
958 foster care after reaching 16 years of age, or, after spending at
959 least 6 months in the custody of the department after reaching 16
960 years of age, was placed in a guardianship by the court;
961 b. Spent at least 6 months living in foster care before
962 reaching his or her 18th birthday or before obtaining his or her
963 high school diploma or its equivalent;
964 c. Is a resident of this state as defined in s. 1009.40;
965 and
966 ~~d. Meets one of the following qualifications:~~
967 d.~~(I)~~ Has earned a standard high school diploma or its
968 equivalent as described in s. 1003.43 or s. 1003.435, or has
969 earned a special diploma or special certificate of completion as
970 described in s. 1003.438, and has been admitted for part-time or
971 full-time enrollment in an eligible postsecondary education
972 institution as defined in s. 1009.533.~~;~~
973 ~~(II) Is enrolled full time in an accredited high school; or~~

974 ~~(III) Is enrolled full time in an accredited adult~~
975 ~~education program designed to provide the student with a high~~
976 ~~school diploma or its equivalent.~~
977 3. A young adult applying for the ~~a~~ Road-to-Independence
978 Program ~~Scholarship~~ must apply for any other grants and
979 scholarships for which he or she may qualify. The department
980 shall assist the young adult in the application process ~~and may~~
981 ~~use the federal financial aid grant process to determine the~~
982 ~~funding needs of the young adult~~.
983 4. An award shall be available to a young adult who is
984 considered a full-time student or its equivalent by the
985 educational institution in which he or she is enrolled, unless
986 that young adult is employed, has a recognized disability
987 preventing full-time attendance, or practices a vocation. The
988 amount of an award under this subparagraph may be disregarded for
989 purposes of determining the young adult's eligibility for, or the
990 amount of, any other federal or federally supported assistance
991 ~~The amount of the award, whether it is being used by a young~~
992 ~~adult working toward completion of a high school diploma or its~~
993 ~~equivalent or working toward completion of a postsecondary~~
994 ~~education program, shall be determined based on an assessment of~~
995 ~~the funding needs of the young adult. This assessment must~~
996 ~~consider the young adult's living and educational costs and other~~
997 ~~grants, scholarships, waivers, earnings, and other income to be~~
998 ~~received by the young adult. An award shall be available only to~~
999 ~~the extent that other grants and scholarships are not sufficient~~
1000 ~~to meet the living and educational needs of the young adult, but~~
1001 ~~an award may not be less than $25 in order to maintain Medicaid~~
1002 ~~eligibility for the young adult as provided in s. 409.903~~.

1003 5.a. The department must advertise the criteria,
1004 application procedures, and availability of the program to:
1005 (I) Children and young adults in, leaving, or formerly in
1006 foster care.
1007 (II) Case managers.
1008 (III) Guidance and family services counselors.
1009 (IV) Principals or other relevant school administrators ~~and~~
1010 ~~must ensure that the children and young adults leaving foster~~
1011 ~~care, foster parents, or family services counselors are informed~~
1012 ~~of the availability of the program and the application~~
1013 ~~procedures~~.
1014 ~~b. A young adult must apply for the initial award during~~
1015 ~~the 6 months immediately preceding his or her 18th birthday, and~~
1016 ~~the department shall provide assistance with the application~~
1017 ~~process. A young adult who fails to make an initial application,~~
1018 ~~but who otherwise meets the criteria for an initial award, may~~
1019 ~~make one application for the initial award if the application is~~
1020 ~~made before the young adult's 21st birthday. If the young adult~~
1021 ~~does not apply for an initial award before his or her 18th~~
1022 ~~birthday, the department shall inform that young adult of the~~
1023 ~~opportunity to apply before turning 21 years of age.~~
1024 b.~~c.~~ ~~If funding for the program is available,~~ The
1025 department shall issue awards from the ~~scholarship~~ program for
1026 each young adult who meets all the requirements of the program to
1027 the extent funding is available.
1028 c.~~d.~~ An award shall be issued at the time the eligible
1029 student reaches 18 years of age.
1030 d.~~e.~~ A young adult who is eligible for the Road-to-
1031 Independence Program, transitional support services, or aftercare

1032 services and who so desires shall be allowed to reside with the
1033 licensed foster family or group care provider with whom he or she
1034 was residing at the time of attaining his or her 18th birthday or
1035 to reside in another licensed foster home or with a group care
1036 provider arranged by the department.
1037 e.~~f.~~ If the award recipient transfers from one eligible
1038 institution to another and continues to meet eligibility
1039 requirements, the award must be transferred with the recipient.
1040 f.~~g.~~ ~~Scholarship~~ Funds awarded to any eligible young adult
1041 under this program are in addition to any other services or funds
1042 provided to the young adult by the department through
1043 transitional support services or aftercare services ~~its~~
1044 ~~independent living transition services~~.
1045 g.~~h.~~ The department shall provide information concerning
1046 young adults receiving funding through the Road-to-Independence
1047 Program ~~Scholarship~~ to the Department of Education for inclusion
1048 in the student financial assistance database, as provided in s.
1049 1009.94.
1050 h.~~i.~~ ~~Scholarship~~ Funds are intended to help eligible young
1051 adults ~~students~~ who are former foster children in this state to
1052 receive the educational and vocational training needed to become
1053 independent and self-supporting. The funds shall be terminated
1054 when the young adult has attained one of four postsecondary goals
1055 under subsection (3) or reaches 23 years of age, whichever occurs
1056 earlier. In order to initiate postsecondary education, to allow
1057 for a change in career goal, or to obtain additional skills in
1058 the same educational or vocational area, a young adult may earn
1059 no more than two diplomas, certificates, or credentials. A young
1060 adult attaining an associate of arts or associate of science

1061 degree shall be permitted to work toward completion of a bachelor
1062 of arts or a bachelor of science degree or an equivalent
1063 undergraduate degree. Road-to-Independence Program ~~Scholarship~~
1064 funds may not be used for education or training after a young
1065 adult has attained a bachelor of arts or a bachelor of science
1066 degree or an equivalent undergraduate degree.
1067 i.~~j.~~ The department shall evaluate and renew each award
1068 annually during the 90-day period before the young adult's
1069 birthday. In order to be eligible for a renewal award for the
1070 subsequent year, the young adult must:
1071 (I) Complete the number of hours, or the equivalent
1072 considered part time or full time by the educational institution,
1073 in the last academic year in which the young adult earned an
1074 award ~~a scholarship~~, except for a young adult who meets the
1075 requirements of s. 1009.41.
1076 (II) Maintain appropriate progress as required by the
1077 educational institution, except that, if the young adult's
1078 progress is insufficient to renew the award ~~scholarship~~ at any
1079 time during the eligibility period, the young adult may restore
1080 eligibility by improving his or her progress to the required
1081 level.
1082 j.~~k.~~ ~~Scholarship~~ Funds may be terminated during the interim
1083 between an award and the evaluation for a renewal award if the
1084 department determines that the award recipient is no longer
1085 enrolled in an educational institution as defined in sub-
1086 subparagraph 2.d., or is no longer a state resident. The
1087 department shall notify a recipient ~~student~~ who is terminated and
1088 inform the recipient ~~student~~ of his or her right to appeal.

1089 k.~~1.~~ An award recipient who does not qualify for a renewal
1090 award or who chooses not to renew the award may subsequently
1091 apply for reinstatement. An application for reinstatement must be
1092 made before the young adult reaches 21 ~~23~~ years of age, and a
1093 student may not apply for reinstatement more than once. In order
1094 to be eligible for reinstatement, the young adult must meet the
1095 eligibility criteria and the criteria for award renewal for the
1096 ~~scholarship~~ program.
1097 l. After the completion of aftercare support services that
1098 satisfy the requirements of sub-subparagraph (a)1.h., payment of
1099 awards under the Road-to-Independence Program shall be made by
1100 direct deposit to the recipient, unless the recipient requests in
1101 writing to the community-based care lead agency or the department
1102 that:
1103 (I) The payments be made directly to the recipient by check
1104 or warrant;
1105 (II) The payments or a portion of the payments be made
1106 directly on the recipient's behalf to institutions the recipient
1107 is attending to maintain eligibility under this section; or
1108 (III) The payments be made on a two-party check to a
1109 business or landlord for a legitimate expense, whether reimbursed
1110 or not. A legitimate expense for the purposes of this sub-sub-
1111 subparagraph shall include auto repair or maintenance;
1112 educational, job, or training expenses; and costs incurred,
1113 except legal costs, fines, or penalties, when applying for or
1114 executing a rental agreement for the purposes of securing a home
1115 or residence.
1116 m. The department shall evaluate the efficiency and cost-
1117 effectiveness of contracting the awards under the Road-to-

1118 Independence Program to an independent entity with expertise in
1119 the delivery and management of this service. If the department
1120 determines that better service can be provided to eligible young
1121 adults through an independent entity, the department shall
1122 contract with such an entity. Cost shall not be the sole factor
1123 in determining better service for the purposes of this sub-
1124 subparagraph, nor shall it be given extra weight over any other
1125 factor. This evaluation shall be completed by December 31, 2006.
1126 (c) Transitional support services.--
1127 1. In addition to any services provided through aftercare
1128 support or the Road-to-Independence Program ~~Scholarship~~, a young
1129 adult formerly in foster care may receive other appropriate
1130 short-term funding and services, which may include financial,
1131 housing, counseling, employment, education, mental health,
1132 disability, and other services, if the young adult demonstrates
1133 that the services are critical to the young adult's own efforts
1134 to achieve self-sufficiency and to develop a personal support
1135 system. The department or community-based care provider shall
1136 work with the young adult in developing a joint transition
1137 agreement that is consistent with a needs assessment identifying
1138 the specific need for transitional services to support the young
1139 adult's own efforts. The young adult must have specific tasks to
1140 complete or maintain included in the agreement and be accountable
1141 for the completion of or making progress towards the completion
1142 of these tasks. However, no task shall be forced upon a young
1143 adult and if the young adult and department or community-based
1144 care provider cannot come to agreement regarding any part of the
1145 plan, the young adult may access a grievance process to its full
1146 extent in an effort to resolve the disagreement.

1147 2. A young adult formerly in foster care is eligible to
1148 apply for transitional support services if he or she has reached
1149 18 years of age but is not yet 23 years of age, was a dependent
1150 child pursuant to chapter 39, was living in licensed foster care
1151 or in subsidized independent living at the time of his or her
1152 18th birthday, and had spent at least 6 months living in foster
1153 care before that date.
1154 3. If at any time the services are no longer critical to
1155 the young adult's own efforts to achieve self-sufficiency and to
1156 develop a personal support system, they shall be terminated.
1157 (d) Payment of aftercare, Road-to-Independence Program
1158 ~~scholarship~~, or transitional support funds.--Payment of
1159 aftercare, Road-to-Independence Program ~~scholarship~~, or
1160 transitional support funds shall be made directly to the
1161 recipient unless the recipient requests in writing to the
1162 community-based care lead agency, or the department, that the
1163 payments or a portion of the payments be made directly on the
1164 recipient's behalf in order to secure services such as housing,
1165 counseling, education, or employment training as part of the
1166 young adult's own efforts to achieve self-sufficiency. The
1167 community-based care lead agency may purchase housing,
1168 transportation, or employment services to ensure the availability
1169 and affordability of specific transitional services thereby
1170 allowing an eligible young adult to utilize these services in
1171 lieu of receiving a direct payment. Prior to purchasing such
1172 services, the community-based care lead agency must have a plan
1173 approved by the department describing the services to be
1174 purchased, the rationale for purchasing the services, and a
1175 specific range of expenses for each service that is less than the

1176 cost of purchasing the service by an individual young adult. The
1177 plan must include a description of the transition of a young
1178 adult using these services into independence and a timeframe for
1179 achievement of independence. An eligible young adult who can
1180 demonstrate an ability to obtain these services independently and
1181 prefers a direct payment shall receive such payment. The plan
1182 must be reviewed annually and evaluated for cost-efficiency and
1183 for effectiveness in assisting young adults in achieving
1184 independence, preventing homelessness among young adults, and
1185 enabling young adults to earn a livable wage in a permanent
1186 employment situation. The young adult who resides with a foster
1187 family may not be included as a child in calculating any
1188 licensing restriction on the number of children in the foster
1189 home.
1190 (e) Appeals process.--
1191 1. The Department of Children and Family Services shall
1192 adopt by rule a procedure by which a young adult may appeal an
1193 eligibility determination or the department's failure to provide
1194 aftercare, Road-to-Independence Program ~~scholarship~~, or
1195 transitional support services, or the termination of such
1196 services, if such funds are available.
1197 2. The procedure developed by the department must be
1198 readily available to young adults, must provide timely decisions,
1199 and must provide for an appeal to the Secretary of Children and
1200 Family Services. The decision of the secretary constitutes final
1201 agency action and is reviewable by the court as provided in s.
1202 120.68.
1203 (6) ACCOUNTABILITY.--The department shall maintain
1204 oversight by developing ~~develop~~ outcome measures ~~for the program~~

1205 and other performance measures and presenting these measures in
1206 an annual report to the appropriate substantive committees of the
1207 Senate and the House of Representatives. The report must include:
1208 (a) An evaluation of the goals and measures developed under
1209 this section as compared to the outcomes achieved by and the
1210 performance of the department.
1211 (b) A summary of data gathered pursuant to sub-subparagraph
1212 (5)(b)5.m.
1213 (c) Rules adopted or proposed under this section since the
1214 last report. For the purposes of the first report, any rules
1215 adopted or proposed under this section must be included.
1216 (7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL.--The
1217 Secretary of Children and Family Services shall establish the
1218 Independent Living Services Advisory Council for the purpose of
1219 reviewing and making recommendations concerning the
1220 implementation and operation of the independent living transition
1221 services. This advisory council shall continue to function as
1222 specified in this subsection until the Legislature determines
1223 that the advisory council can no longer provide a valuable
1224 contribution to the department's efforts to achieve the goals of
1225 the independent living transition services.
1226 (a) Specifically, the advisory council shall assess the
1227 implementation and operation of the system of independent living
1228 transition services and advise the department on actions that
1229 would improve the ability of the independent living transition
1230 services to meet the established goals. The advisory council
1231 shall keep the department informed of problems being experienced
1232 with the services, barriers to the effective and efficient
1233 integration of services and support across systems, and successes

1234 that the system of independent living transition services has
1235 achieved. The department shall consider, but is not required to
1236 implement, the recommendations of the advisory council.
1237 (b) The advisory council shall report to the appropriate
1238 substantive committees of the Senate and the House of
1239 Representatives on the status of the implementation of the system
1240 of independent living transition services; efforts to publicize
1241 the availability of aftercare support services, the Road-to-
1242 Independence ~~Scholarship~~ Program, and transitional support
1243 services; ~~specific barriers to financial aid created by the~~
1244 ~~scholarship and possible solutions;~~ the success of the services;
1245 problems identified; recommendations for department or
1246 legislative action; and the department's implementation of the
1247 recommendations contained in the Independent Living Services
1248 Integration Workgroup Report submitted to the Senate and the
1249 House substantive committees December 31, 2002. This advisory
1250 council report shall be submitted by December 31 of each year
1251 that the council is in existence and shall be accompanied by a
1252 report from the department which identifies the recommendations
1253 of the advisory council and either describes the department's
1254 actions to implement these recommendations or provides the
1255 department's rationale for not implementing the recommendations.
1256 (c) Members of the advisory council shall be appointed by
1257 the secretary of the department. The membership of the advisory
1258 council must include, at a minimum, representatives from the
1259 headquarters and district offices of the Department of Children
1260 and Family Services, community-based care lead agencies, the
1261 Agency for Workforce Innovation, the Department of Education, the
1262 Agency for Health Care Administration, the State Youth Advisory

1263 Board, Workforce Florida, Inc., the Statewide Guardian Ad Litem
1264 Office, foster parents, recipients of Road-to-Independence
1265 Program funding, and advocates for foster children. The secretary
1266 shall determine the length of the term to be served by each
1267 member appointed to the advisory council, which may not exceed 4
1268 years.
1269 (d) The advisory council shall have access to all
1270 appropriate data from the Department of Children and Family
1271 Services and the community-based care lead agencies or other
1272 relevant agencies to accomplish the tasks set forth in this
1273 section. This data shall not include any confidential information
1274 that would lead to the identity of a specific child or young
1275 adult.
1276 (8) PERSONAL PROPERTY.--Property acquired on behalf of
1277 clients of this program shall become the personal property of the
1278 clients and is not subject to the requirements of chapter 273
1279 relating to state-owned tangible personal property. Such property
1280 continues to be subject to applicable federal laws.
1281 (9) MEDICAL ASSISTANCE FOR YOUNG ADULTS FORMERLY IN FOSTER
1282 CARE.--The department shall enroll in the Florida KidCare
1283 program, outside the open enrollment period, each young adult who
1284 is eligible as described in paragraph (2)(b) and who has not yet
1285 reached his or her 19th birthday.
1286 (a) A young adult who was formerly in foster care at the
1287 time of his or her 18th birthday and who is 18 years of age but
1288 not yet 19, shall pay the premium for the Florida KidCare program
1289 as required in s. 409.814.

1290 (b) A young adult who has health insurance coverage from a
1291 third party through his or her employer or who is eligible for
1292 Medicaid is not eligible for enrollment under this subsection.
1293 (10) RULEMAKING.--The department shall adopt by rule
1294 procedures to administer this section, including balancing the
1295 goals of normalcy and safety for the youth and providing the
1296 caregivers with as much flexibility as possible to enable the
1297 youth to participate in normal life experiences. The department
1298 shall not adopt rules relating to reductions in ~~scholarship~~
1299 awards. The department shall engage in appropriate planning to
1300 prevent, to the extent possible, a reduction in ~~scholarship~~
1301 awards after issuance. The department shall not establish, by
1302 rule or practice, a limit on the amount of aftercare or
1303 transitional support services funding an eligible young adult may
1304 receive. This amount shall be determined based on the specific
1305 needs of the young adult and the availability of funds.
1306 (11) CONTRACTS FOR SERVICES.--The department shall contract
1307 with a qualified nonprofit entity, legally operating within the
1308 state, to coordinate and manage all services described in this
1309 section and to manage all funds available to provide those
1310 services and related support services, including case management,
1311 administrative, and out-of-home care funds for children and young
1312 adults eligible for these services when they reach 16 years of
1313 age until they reach 23 years of age or are otherwise no longer
1314 eligible. The contract shall include funding for the current
1315 positions, associated expenses, and other administrative costs
1316 within the department's budget. The selected entity shall
1317 coordinate and manage the services and may not directly provide
1318 services unless the selected entity is currently providing these

1319 services within a community-based care project. The selected
1320 entity shall not increase the scope of the service area beyond
1321 the scope specified in the contract at the time of selection. The
1322 entity shall contract with community-based care lead agencies to
1323 provide the services or with local community provider agencies
1324 that have specific skills and experience with providing
1325 transitional support services to children and young adults and
1326 with which the lead agency has collaborated.
1327 (12) AWARD OF FUNDING.--The total amount of the funds
1328 awarded directly to an eligible young adult under paragraph
1329 (5)(b) shall be based upon the living and educational needs of
1330 the young adult and may equal, but not exceed, the amount of
1331 earnings that the young adult would have been eligible to earn
1332 working a 40-hour-a-week federal minimum wage job, excluding any
1333 funds provided for immediate need or emergency services as one-
1334 time payments.
1335 Section 8. Paragraph (b) of subsection (2) of section
1336 409.175, Florida Statutes, is amended to read:
1337 409.175 Licensure of family foster homes, residential
1338 child-caring agencies, and child-placing agencies; public records
1339 exemption.--
1340 (2) As used in this section, the term:
1341 (b) "Boarding school" means a school which is accredited by
1342 the Florida Council of Independent Schools or the Southern
1343 Association of Colleges and Schools and registered with the
1344 Department of Education as a school. Its program must follow
1345 established school schedules, with holiday breaks and summer
1346 recesses in accordance with other public and private school
1347 programs. The education programs provided by a boarding school

1348 shall meet the standards prescribed by the State Board of
1349 Education and the district school board. The children in
1350 residence must customarily return to their family homes or legal
1351 guardians during school breaks and must not be in residence year-
1352 round, except that this provision does not apply to foreign
1353 students. The parents of these children retain custody and
1354 planning and financial responsibility. A boarding school
1355 currently in existence and a boarding school opening and seeking
1356 accreditation has 3 years to comply with the requirements of this
1357 paragraph. A boarding school must provide proof of accreditation
1358 or documentation of the accreditation process upon request. A
1359 boarding school that cannot produce the required documentation or
1360 that has not registered with the Department of Education shall be
1361 considered to be providing residential group care without a
1362 license. The department may impose administrative sanctions or
1363 seek civil remedies as provided under paragraph (11)(a).
1364 Section 9. Section 409.903, Florida Statutes, is amended to
1365 read:
1366 409.903 Mandatory payments for eligible persons.--The
1367 agency shall make payments for medical assistance and related
1368 services on behalf of the following persons who the department,
1369 or the Social Security Administration by contract with the
1370 Department of Children and Family Services, determines to be
1371 eligible, subject to the income, assets, and categorical
1372 eligibility tests set forth in federal and state law. Payment on
1373 behalf of these Medicaid eligible persons is subject to the
1374 availability of moneys and any limitations established by the
1375 General Appropriations Act or chapter 216.

1376 (1) Low-income families with children are eligible for
1377 Medicaid provided they meet the following requirements:
1378 (a) The family includes a dependent child who is living
1379 with a caretaker relative.
1380 (b) The family's income does not exceed the gross income
1381 test limit.
1382 (c) The family's countable income and resources do not
1383 exceed the applicable Aid to Families with Dependent Children
1384 (AFDC) income and resource standards under the AFDC state plan in
1385 effect in July 1996, except as amended in the Medicaid state plan
1386 to conform as closely as possible to the requirements of the
1387 welfare transition program, to the extent permitted by federal
1388 law.
1389 (2) A person who receives payments from, who is determined
1390 eligible for, or who was eligible for but lost cash benefits from
1391 the federal program known as the Supplemental Security Income
1392 program (SSI). This category includes a low-income person age 65
1393 or over and a low-income person under age 65 considered to be
1394 permanently and totally disabled.
1395 (3) A child under age 21 living in a low-income, two-parent
1396 family, and a child under age 7 living with a nonrelative, if the
1397 income and assets of the family or child, as applicable, do not
1398 exceed the resource limits under the WAGES Program.
1399 (4) A child who is eligible under Title IV-E of the Social
1400 Security Act for subsidized board payments, foster care, or
1401 adoption subsidies, and a child for whom the state has assumed
1402 temporary or permanent responsibility and who does not qualify
1403 for Title IV-E assistance but is in foster care, shelter or
1404 emergency shelter care, or subsidized adoption. This category

1405 includes any young adult who is eligible to receive services
1406 under s. 409.1451(5) until he or she reaches age 21, without
1407 regard to any income, assets, or categorical eligibility tests
1408 set forth in federal and state law. If the young adult has other
1409 health insurance coverage, he or she shall not be eligible under
1410 this section ~~a child who was eligible under Title IV-E of the~~
1411 ~~Social Security Act for foster care or the state-provided foster~~
1412 ~~care, who exited foster care due to attaining the age of 18~~
1413 ~~years, and who has been awarded a Road-to-Independence~~
1414 ~~Scholarship~~.
1415 (5) A pregnant woman for the duration of her pregnancy and
1416 for the postpartum period as defined in federal law and rule, or
1417 a child under age 1, if either is living in a family that has an
1418 income which is at or below 150 percent of the most current
1419 federal poverty level, or, effective January 1, 1992, that has an
1420 income which is at or below 185 percent of the most current
1421 federal poverty level. Such a person is not subject to an assets
1422 test. Further, a pregnant woman who applies for eligibility for
1423 the Medicaid program through a qualified Medicaid provider must
1424 be offered the opportunity, subject to federal rules, to be made
1425 presumptively eligible for the Medicaid program.
1426 (6) A child born after September 30, 1983, living in a
1427 family that has an income which is at or below 100 percent of the
1428 current federal poverty level, who has attained the age of 6, but
1429 has not attained the age of 19. In determining the eligibility of
1430 such a child, an assets test is not required. A child who is
1431 eligible for Medicaid under this subsection must be offered the
1432 opportunity, subject to federal rules, to be made presumptively
1433 eligible. A child who has been deemed presumptively eligible for

1434 Medicaid shall not be enrolled in a managed care plan until the
1435 child's full eligibility determination for Medicaid has been
1436 completed.
1437 (7) A child living in a family that has an income which is
1438 at or below 133 percent of the current federal poverty level, who
1439 has attained the age of 1, but has not attained the age of 6. In
1440 determining the eligibility of such a child, an assets test is
1441 not required. A child who is eligible for Medicaid under this
1442 subsection must be offered the opportunity, subject to federal
1443 rules, to be made presumptively eligible. A child who has been
1444 deemed presumptively eligible for Medicaid shall not be enrolled
1445 in a managed care plan until the child's full eligibility
1446 determination for Medicaid has been completed.
1447 (8) A person who is age 65 or over or is determined by the
1448 agency to be disabled, whose income is at or below 100 percent of
1449 the most current federal poverty level and whose assets do not
1450 exceed limitations established by the agency. However, the agency
1451 may only pay for premiums, coinsurance, and deductibles, as
1452 required by federal law, unless additional coverage is provided
1453 for any or all members of this group by s. 409.904(1).
1454
1455 The Department of Children and Family Services shall notify the
1456 Agency for Health Care Administration within 10 days after it
1457 opens a case for child welfare services in the HomeSafeNet system
1458 for a Medicaid recipient. If that Medicaid recipient is a member
1459 of a Medicaid prepaid heath plan, the agency shall notify the
1460 prepaid health plan within 10 days after it opens a case for
1461 child welfare services. When a child who is receiving health care
1462 benefits under Medicaid is placed in the care and custody or

1463 under the supervision of the department, the agency shall make
1464 available all health care records, including behavioral health
1465 care records and all prescription drugs prescribed for the child
1466 on a continuous and daily basis. The agency shall make these
1467 records available in an electronic format to allow the department
1468 and the community-based care lead agencies to create an
1469 electronic health record or electronic medical passport for each
1470 child in the database of his or her choice and have it refreshed
1471 at least every 24 hours. The agency is not required to make this
1472 information available in multiple formats, but only in a format
1473 the department and the community-based care lead agencies can use
1474 for the purpose of creating the electronic medical passport.
1475 Section 10. Subsection (2) of section 39.013, Florida
1476 Statutes, is amended to read:
1477 39.013 Procedures and jurisdiction; right to counsel.--
1478 (2) The circuit court shall have exclusive original
1479 jurisdiction of all proceedings under this chapter, of a child
1480 voluntarily placed with a licensed child-caring agency, a
1481 licensed child-placing agency, or the department, and of the
1482 adoption of children whose parental rights have been terminated
1483 under this chapter. Jurisdiction attaches when the initial
1484 shelter petition, dependency petition, or termination of parental
1485 rights petition is filed or when a child is taken into the
1486 custody of the department. The circuit court may assume
1487 jurisdiction over any such proceeding regardless of whether the
1488 child was in the physical custody of both parents, was in the
1489 sole legal or physical custody of only one parent, caregiver, or
1490 some other person, or was in the physical or legal custody of no
1491 person when the event or condition occurred that brought the

1492 child to the attention of the court. When the court obtains
1493 jurisdiction of any child who has been found to be dependent, the
1494 court shall retain jurisdiction, unless relinquished by its
1495 order, until the child reaches 18 years of age. However, if a
1496 youth petitions the court at any time before his or her 19th
1497 birthday requesting the court's continued jurisdiction, the
1498 juvenile court may retain jurisdiction under this chapter for a
1499 period not to exceed 1 year following the youth's 18th birthday
1500 for the purpose of determining whether appropriate aftercare
1501 support, Road-to-Independence Program ~~Scholarship~~, transitional
1502 support, mental health, and developmental disability services, to
1503 the extent otherwise authorized by law, have been provided to the
1504 formerly dependent child who was in the legal custody of the
1505 department immediately before his or her 18th birthday. If a
1506 petition for special immigrant juvenile status and an application
1507 for adjustment of status have been filed on behalf of a foster
1508 child and the petition and application have not been granted by
1509 the time the child reaches 18 years of age, the court may retain
1510 jurisdiction over the dependency case solely for the purpose of
1511 allowing the continued consideration of the petition and
1512 application by federal authorities. Review hearings for the child
1513 shall be set solely for the purpose of determining the status of
1514 the petition and application. The court's jurisdiction terminates
1515 upon the final decision of the federal authorities. Retention of
1516 jurisdiction in this instance does not affect the services
1517 available to a young adult under s. 409.1451. The court may not
1518 retain jurisdiction of the case after the immigrant child's 22nd
1519 birthday.

1520 Section 11. Paragraph (a) of subsection (6) of section
1521 39.701, Florida Statutes, is amended to read:
1522 39.701 Judicial review.--
1523 (6)(a) In addition to paragraphs (1)(a) and (2)(a), the
1524 court shall hold a judicial review hearing within 90 days after a
1525 youth's 17th birthday and shall continue to hold timely judicial
1526 review hearings. In addition, the court may review the status of
1527 the child more frequently during the year prior to the youth's
1528 18th birthday if necessary. At each review held under this
1529 subsection, in addition to any information or report provided to
1530 the court, the foster parent, legal custodian, guardian ad litem,
1531 and the child shall be given the opportunity to address the court
1532 with any information relevant to the child's best interests,
1533 particularly as it relates to independent living transition
1534 services. In addition to any information or report provided to
1535 the court, the department shall include in its judicial review
1536 social study report written verification that the child:
1537 1. Has been provided with a current Medicaid card and has
1538 been provided all necessary information concerning the Medicaid
1539 program sufficient to prepare the youth to apply for coverage
1540 upon reaching age 18, if such application would be appropriate.
1541 2. Has been provided with a certified copy of his or her
1542 birth certificate and, if the child does not have a valid
1543 driver's license, a Florida identification card issued under s.
1544 322.051.
1545 3. Has been provided information relating to Social
1546 Security Insurance benefits if the child is eligible for these
1547 benefits. If the child has received these benefits and they are
1548 being held in trust for the child, a full accounting of those

1549 funds must be provided and the child must be informed about how
1550 to access those funds.
1551 4. Has been provided with information and training related
1552 to budgeting skills, interviewing skills, and parenting skills.
1553 5. Has been provided with all relevant information related
1554 to the Road-to-Independence Program ~~Scholarship~~, including, but
1555 not limited to, eligibility requirements, forms necessary to
1556 apply, and assistance in completing the forms. The child shall
1557 also be informed that, if he or she is eligible for the Road-to-
1558 Independence ~~Scholarship~~ Program, he or she may reside with the
1559 licensed foster family or group care provider with whom the child
1560 was residing at the time of attaining his or her 18th birthday or
1561 may reside in another licensed foster home or with a group care
1562 provider arranged by the department.
1563 6. Has an open bank account, or has identification
1564 necessary to open an account, and has been provided with
1565 essential banking skills.
1566 7. Has been provided with information on public assistance
1567 and how to apply.
1568 8. Has been provided a clear understanding of where he or
1569 she will be living on his or her 18th birthday, how living
1570 expenses will be paid, and what educational program or school he
1571 or she will be enrolled in.
1572 9. Has been provided with notice of the youth's right to
1573 petition for the court's continuing jurisdiction for 1 year after
1574 the youth's 18th birthday as specified in s. 39.013(2) and with
1575 information on how to obtain access to the court.
1576 10. Has been encouraged to attend all judicial review
1577 hearings occurring after his or her 17th birthday.

1578 Section 12. Paragraph (c) of subsection (2) of section
1579 1009.25, Florida Statutes, is amended to read:
1580 1009.25 Fee exemptions.--
1581 (2) The following students are exempt from the payment of
1582 tuition and fees, including lab fees, at a school district that
1583 provides postsecondary career programs, community college, or
1584 state university:
1585 (c) A student who ~~the state has determined is eligible for~~
1586 ~~the Road to Independence Scholarship, regardless of whether an~~
1587 ~~award is issued or not, or a student who~~ is or was at the time he
1588 or she reached 18 years of age in the custody of the Department
1589 of Children and Family Services or a relative under s. 39.5085,
1590 ~~or~~ who is adopted from the Department of Children and Family
1591 Services after May 5, 1997, or who, after spending at least 6
1592 months in the custody of the department after reaching 16 years
1593 of age, was placed in a guardianship by the court. Such exemption
1594 includes fees associated with enrollment in career-preparatory
1595 instruction and completion of the college-level communication and
1596 computation skills testing program. Such an exemption is
1597 available to any student who was in the custody of a relative
1598 under s. 39.5085 at the time he or she reached 18 years of age or
1599 was adopted from the Department of Children and Family Services
1600 after May 5, 1997; however, the exemption remains valid for no
1601 more than 4 years after the date of graduation from high school.
1602 Section 13. The sum of $200,000 in recurring revenue is
1603 appropriated from the General Revenue Fund to the Department of
1604 Children and Family Services for the 2006-2007 fiscal year
1605 specifically to contract with an agency selected by the
1606 Independent Living Advisory Council to provide the administrative

1607 support to the advisory council to accomplish the purposes of s.
1608 409.1451, Florida Statutes.
1609 Section 14. The sum of $11.4 million in recurring funds is
1610 appropriated from the General Revenue Fund to the Ounce of
1611 Prevention Fund of Florida for the 2006-2007 fiscal year to fund
1612 the expansion and enhancement of the Healthy Families Florida
1613 program statewide. Of that amount, $4.3 million shall be used for
1614 cost-of-living increases to retain home visiting staff, $3.1
1615 million shall be used to serve the 14 counties that are not
1616 presently served, and $4 million shall be used to add high-risk
1617 specialists to the core staffing model for each Healthy Families
1618 Florida project.
1619 Section 15. This act shall take effect July 1, 2006.

Policy Options/ Recommendations

Identify the Policy Option/Recommendation: (Provide a brief description of the option and category number).

Require that some portion of child abuse prevention funding be dedicated to the controlled longitudinal evaluation of program effectiveness. Such evaluations should be both global, comparing the relative effectiveness of the three different categories of prevention activities, and more specific, describing the relative effectiveness of specific programs within each category.

Name of person and/or organization submitting the recommendation: (This information will be made available to the members and the public).

Larry Rein, Vice President, ChildNet, Inc.

Explanation of Present Situation: (Describe issues surrounding the policy option and facts necessary to understand the purpose).

The selection and support of current prevention programs typically rely on vague notions of "best practices" or "evidence based" literature describing their implementation in communities and with populations often very unlike ours. Their continued local use is based on achievement of target "outcomes" whose selection and definition is frequently suspect. Rarely, if ever, does this "data" scientifically document a significant difference in abuse rates between program participants and non-participants or demonstrate reduced rates of abusive behavior among participants for meaningful durations following program participation. Nor do they consider whether program effectiveness varies across communities or target populations. Recent more critical examinations, in fact, seriously question the effectiveness of popular "best practice" family preservation and home visiting programs such as Home Builders and Healthy Start. These studies make it clear that generalized one size fits all approaches are likely not the best solution to the challenge of child abuse. Rather they describe a need to clearly identify those factors in both an individual and a community that contribute to abuse and then carefully craft and scrutinize the effectiveness of individual and local solutions.

PROS: (What arguments are in support of this proposal?) Include the names of organizations.

One of the great successes of Community Based Care in Broward has been a dramatic reduction in average lengths of stay. This has not, however, necessarily reduced the number of children in the dependency system because the number of new children entering the system typically exceeds the number being discharged. This occurs despite current local and state investment in an array of prevention and intervention programs. This certainly may suggest the need for additional prevention resources. However, it also suggests that, cumulatively, these resources are not as effective as we might hope. It seems, therefore, critical to both increase prevention funding and ensure the efficient

investment of such funding in categories of prevention and in specific programs that we can clearly demonstrate substantially reduce initial and repeated abuse, and do so for extended periods of time.

CONS: (What would be challenges to this proposal?) Include the names of organizations.

Fiscal Impact, if known: (Please provide an estimate of the cost to the state, local government, and/or private sector to implement the proposal).

Additional costs are not attached to this proposal. The recommended evaluations would be supported by a fixed portion of whatever state funding is designated for prevention services.

Identify the Policy Option/Recommendation: (Provide a brief description of the option and category number).

Implement in each District and/or community based care lead agency a primary prevention model, which through facilitation and community education strategies, engages the larger community in helping children and families before a child is harmed, and supports families, including adoptive families, after a child returns to a safe and permanent home.

Name of person and/or organization submitting the recommendation: (This information will be made available to the members and the public).

Heartland for Children (Marcie Biddleman, Executive Director) – Community based care lead agency serving District 14.
Kids Central Inc. (Cynthia Schuler, Executive Director) - Community based care lead agency serving District 13.
Devereux Kid (Ann Doyle, Program Manager) - a prevention program of Devereux Florida

Explanation of Present Situation: (Describe issues surrounding the policy option and facts necessary to understand the purpose).

The State of Florida has fully transferred child protection and foster care services from the Department of Children and Families to community based care lead agencies. The purpose of this transfer was to engage local communities in protecting, and creating safe and permanent homes for their children who are victims of child abuse, neglect and abandonment (Statutory Authority:409.1671, F. S.). Although child protection services have transferred to local community agencies, there has been little of the transformation of the child welfare system that was envisioned with this effort. In most locations, families continue to receive services that are similar to those provided under the Department. Without a change in the mindset of local stakeholders and community leaders that expands their thinking beyond traditional treatment and engages the entire community in surrounding children and families with support and service options, this transformation will never take place.

This recommendation calls on state leaders to support a primary prevention model that engages community members through education and skill building to prevent abuse and neglect, capacity building, and facilitated dialogue. The model also involves the identification and coordination of traditional and non traditional services and activities to enhance local support networks and resources for children and families. The model places primary prevention activities at the beginning of local systems of care and provides on going community prevention resources for families before, during and after their involvement in child protection services. As a primary prevention model this is a cost avoidance strategy; investing in the development of community resources that keep children safe from harm to avoid more costly long term treatment and placement services. The model demonstrates a strategy of Return on Community Investment (ROCI), a

strategic management tool used to determine if the prevention efforts are accountable for the investment of community resources.
This model has been successfully implemented in District 14 and is in its first year of operation in District 13. It has also been a pilot project of the Ounce of prevention Fund of Florida since 2002. In all locations Community Facilitators are engaging community residents through education and awareness building activities, and coordinating and enhancing services and resources. The model is consistent with the goals of Florida's State Plan for the Prevention of Child Abuse, Neglect and Abandonment: July 2005 – June 2010:

- All families and communities ensure children are safe and nurtured and live in stable environments that promote well-being.
- State, local and community resources comprise collaborative, responsive, family centered service delivery that promotes the well-being and safety of children, families and communities.
- The prevention continuum has the capacity to ensure the needs of children and families will be addressed competently, collaboratively and effectively.
- The prevention continuum's accountability system ensures the evidence based effectiveness of planning and resource utilization.

PROS: (What arguments are in support of this proposal?) Include the names of organizations.

In each District, local planning groups have worked over the past year to develop and begin implementation of the local 5-year prevention plans. In District 14, a Prevention Workgroup has met bimonthly to coordinate prevention efforts, including the development and implementation of the plan, since May, 2003. Local prevention plans were included in the State's plan. The Florida Interprogram Task Force is the state level organization charged with the implementation of the prevention plan. Community Facilitators, a job function included in the model, are responsible for coordinating the local plan implementation in both District 14 and District 13.

The Ounce of Prevention Fund of Florida has supported the development of this prevention model through its support of the Devereux Kids Community Capacity Building Prevention Program as one if its pilot projects since August 2002.

The Florida Coalition for Children has included prevention program funding as one of its legislative priorities.

CONS: (What would be challenges to this proposal?) Include the names of organizations.

Any challenges to this proposal would come primarily if any resources to be allocated for implementation of the prevention model are shifted from the resources needed to adequately fund treatment and placement services.

Fiscal Impact, if known: (Please provide an estimate of the cost to the state, local government, and/or private sector to implement the proposal).

Currently, the model has been funded through the Ounce of Prevention Fund of Florida to provide services in the Tampa Bay area, Heartland for Children to serve Polk, Highlands and Hardee counties, and Kids Central, Inc. to serve Marion, Lake, Sumter, Hernando, and Citrus counties. Each of these projects is funded at approximately $200,000 annually to cover the cost

of 3.7 FTE and the training and operational expenses related to program implementation. In all of these contracts there are some cost sharing for program management and supervision so stand alone projects may require additional resources, as would those that serve larger geographical areas.

Identify the Policy Option/Recommendation:
Category #2

Continue to support, strengthen and expand Healthy Families Florida statewide so that it is available to all families that are at risk of child abuse and neglect and other poor childhood outcomes.

Name of person and/or organization submitting the recommendation:

The Ounce of Prevention Fund of Florida and Healthy Families Florida Lead Agencies

Explanation of Present Situation:

Healthy Families Florida is the largest voluntary home visiting program in the state and one of the largest in the nation. It operates with strong community partnerships. There are 36 community-based projects that provide services in 53 of Florida's 67 counties - 30 county-wide and 23 in high-risk targeted zip codes. State funds and local cash contributions provide services to almost 12,000 families per year. Services are initiated during pregnancy or at the birth of a baby after an assessment is conducted to determine the families' risk. Paraprofessional home visitors educate parents about child health and development, teach problem-solving skills, conduct screening for developmental delays, model positive parent-child interaction, provide social support, connect families to health and other needed family support services, and assist parents in achieving goals such as furthering their education and attaining stable employment. Families who are not eligible to participate are referred to other needed community services or programs by the assessment worker. The 2005-06 General Appropriations Act includes $28.4 million for the HFF program which is part of the Department of Children and Families child abuse prevention budget. Less than five percent of the department's total budget is spent on abuse and re-abuse prevention measures. Although there have been significant increases in the base budget for Healthy Families since the inception of the program in 1998, the budget has remained flat since fiscal year 2003-04 while the number of families expected to be served has steadily increased. Projects are struggling with the increased cost of doing business, such as health insurance, workers compensation, rent, and other business-related expenses which continue to rise and are unable to provide competitive salaries to retain well-trained, experienced family support workers (home visitors). The current average salary of a family support worker is $19,700 a year and the rising cost of gasoline and vehicle maintenance eats into their salaries because mileage reimbursement is only 29 cents a mile. Staff retention contributes to family retention which leads to successful outcomes. Additionally, the independent five-year evaluation suggests that adding a high-risk specialist (licensed mental health specialist or social worker) to support the paraprofessional home visitors will strengthen the model and likely increase the length of stay in the program for families with the multiple risk factors of mental illness, substance abuse and domestic violence. The high risk specialist would provide

temporary counseling to these families, who are often in denial and resistant to outside help and/or treatment.

PROS:

Healthy Families has proven results. An independent evaluation of the Healthy Families Florida program, released in February 2005, concluded that Healthy Families Florida has a significant impact on preventing child maltreatment. Healthy Families Florida participants had 20 percent less child maltreatment than all families in their target service areas. The evaluation also shows that children in families who completed or had long-term intensive Healthy Families intervention experienced significantly less child maltreatment than did comparison groups with little or no services. The program also has a positive impact on participant self-sufficiency, maternal and child health, and parent-child interaction in some of Florida's highest risk families. Recent national studies, including findings from the Center from Disease Controls' Task Force on Community Preventive Services, present similar findings regarding effectiveness – that home visiting programs significantly prevent child abuse and neglect in families with children three years or younger.

Healthy Families Florida is nationally credentialed as a strong, statewide system supported by a central office which provides training, technical assistance, quality assurance monitoring, and accountability to each of the 36 program sites to ensure all sites provide consistently high-quality services.

This policy option will help Florida prevent child maltreatment in at-risk families before it occurs, which is a major outcome in Florida's State Plan for the Prevention of Child Abuse, Abandonment, and Neglect: July 2005 through June 2010.

CONS:

There should be little, if any challenge to this proposal based on proven results.

Fiscal Impact, if known: (Please provide an estimate of the cost to the state, local government, and/or private sector to implement the proposal).

Existing funding provided by the Legislature needs to be continued and additional funding is needed to help meet the increase in the cost of living, strengthen the model, and expand Healthy Families Florida statewide. If the level of funding is not increased in the short-term, the number of families expected to be served should be decreased to maintain the quality and success of this proven program. The total fiscal impact is not known at this time. However, it is estimated that it would cost an additional $4.3 million to adjust the base to help address the rising cost of living and low salaries. The Ounce of Prevention Fund/Healthy Families Florida will work with the Healthy Families Advisory Committee to develop the fiscal impact for high risk specialists, and expand to the 14 unserved counties and the additional high risk zip codes within the existing 23 counties.

Identify the Policy Recommendation:

Appropriate and direct existing funds to be distributed to Community Based Care Lead Agencies (CBCs) for establishing, expanding and/or enhancing successful prevention models designed to prevent children from entering the child welfare system. Allow CBCs flexibility on policy methods; however provide for outcome measures such as family crisis stabilization and reduction of children entering system. This will provide each individual community the ability to design how to best meet the needs of the children and families in need of prevention services. The CBCs have the responsibility for children in the child protection system including rebuilding families, finding permanency, and managing the well being of these children. Moreover, they have the incentive to keep children out of the stem through effective prevention programs.

Name of Organization Submitting Recommendation:

The Florida Coalition for Children; members consist of Community Based Care Lead Agencies and Child Welfare Service Providers statewide.

Explanation of Present Situation:

In the current state budget FY 05-06, proviso was not included to give monies specifically to CBC Lead Agencies for prevention. Rather the monies were given to DCF for their discretion on distribution to local agencies. However, after the conclusion of the 2005 Legislative Session, Secretary Hadi met with CBC CEOs and verbally agreed to distribute prevention monies in the same amounts as previously received in the budget from FY 04-05. See below proviso language from the 04-05 budget:

> **FY 04-05 Budget (CBC Prevention Proviso): (line item 287):** From the funds in Specific Appropriation 287, $12,486,078 from the Welfare Transition Trust Fund shall be used to provide grants for local child abuse prevention initiatives, both primary and secondary. These additional funds, provided initially in Fiscal Year 2003-2004, shall be distributed to the Healthy Family Services Program, as well as to community-based care lead agencies. Healthy Families shall receive $6,243,039, and $6,243,039 shall be provided to the community-based care lead agencies for prevention models designed to prevent children from entering the child welfare system. These prevention models developed by lead agencies should focus on stabilizing family crisis situations and minimizing the number of out-of-home placements.

PROS:

CBC Lead Agencies have effectively demonstrated utilizing these funds. For example, CBCs provide wrap around services to families who may be in crisis and need specific services in order to prevent the children from entering the system. Other examples

include CBCs partnering with community organizations such as non-profits and children service councils to implement prevention models using matching funds and other community resources.

CONS:

Local agencies who provide prevention services may object to CBCs receiving monies as a direct competition from them previously receiving monies from their District DCF offices.

Fiscal Impact: (Please provide an estimate of the cost to the state, local government, and/or private sector to implement the proposal).

The fiscal impact in FY 04-05 was an appropriation of $6.2 million as specified in budget proviso language. There is already existing funding provided by the Legislature. Additional funding could be used to expand on the already existing and effective efforts.

Identify the Policy Option/Recommendation: (Provide a brief description of the option and category number).

3 – Help prevent the reoccurrence of abuse and neglect [**AFTER**] abuse and/or neglect have occurred, and
2 – Focus on at-risk families before [**AFTER**] abuse and neglect have been reported.

Recommendation:

Identify the Florida Statewide Advocacy Council (FSAC) and the Florida Local Advocacy Councils (FLAC) as "Medicaid Oversight", which would meet the language in 45 C.F.R. regarding the release of recipient information contained in the abuse reports that the FSAC and FLAC are mandated to be notified of for the purpose of monitoring and investigating to protect the health, safety and welfare of clients identified in s. 402.164 (2)(b) F.S. This would negate the need for redundant judicial intervention allowing a state agency or a service provider operated, funded, or contracted by the state to share records with the councils performing a monitoring or investigation.

Name of person and/or organization submitting the recommendation: (This information will be made available to the members and the public).

Carolyn Shell, FSAC Chair
Betty Busbee, FSAC Vice-Chair and Chair of Legislative Committee

Explanation of Present Situation: (Describe issues surrounding the policy option and facts necessary to understand the purpose).

There are currently conflicts between state and federal statutory language, which put state agencies in opposition [requiring Judicial relief on the part of the councils] in the performance of their respective jobs, despite a common goal of protecting the rights, health and safety of the clients.

For the purpose of monitoring and investigating to protect the health, safety and welfare of clients identified in s. 402.164 (2)(b) F.S., Florida Statutes s. 402.165(8)(a)(1) & 402.166(8)(a)(1) F.S. authorize FSAC and FLAC to have "[a]ccess to all client records, files, and reports from any program, service, or facility that is operated, funded, or contracted by any state agency that provides client services and any records that are material to its investigation and are in the custody of any other agency or department of government." Notifications to the councils are referenced broadly in Florida Statutes.

Section 1902(a)(7)(A) of the Social Security Act mandates that a State Medicaid Plan provides safeguards that restrict the use of disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the State Medicaid Plan.

PROS: (What arguments are in support of this proposal?) Include the names of organizations.

Specifically, members of the Florida Statewide Advocacy Council and the local advocacy councils as covered by s. 402.165, F.S.

402.165 Florida Statewide Advocacy Council; confidential records and meetings. –

(8)(b) All information obtained or produced by the statewide council that is made confidential by law, that relates to the identity of any client or group of clients subject to the protections of this section, or that relates to the identity of an individual who provides information to the council about abuse or about alleged violations of constitutional or human rights, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) Portions of meetings of the statewide council that relate to the identity of any client or group of clients subject to the protections of this section, that relate to the identity of an individual who provides information to the council about abuse or about alleged violations of constitutional or human rights, or wherein testimony is provided relating to records otherwise made confidential by law, are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(d) All records prepared by members of the statewide council that reflect a mental impression, investigative strategy, or theory are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation is completed or until the investigation ceases to be active. For purposes of this section, an investigation is considered "active" while the investigation is being conducted by the statewide council with a reasonable, good faith belief that it may lead to a finding of abuse or of a violation of human rights. An investigation does not cease to be active so long as the statewide council is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the council or other administrative or law enforcement agency.

(e) Any person who knowingly and willfully discloses any confidential information commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

39.202 Confidentiality of reports and records in cases of child abuse or neglect.--

(1) In order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, all records held by the department concerning reports of child abandonment, abuse, or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except as specifically authorized by this chapter. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this section.

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(k) Any appropriate official of a **Florida advocacy council** investigating a report of known or suspected child abuse, abandonment, or neglect; the Auditor General or the Office of Program Policy Analysis and Government Accountability for the purpose of conducting audits or examinations pursuant to law; or the guardian ad litem for the child.

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.--

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(31) or (47), acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established by the central abuse hotline pursuant to s. 39.201(5) and orally notify the appropriate state attorney, law enforcement agency, and licensing agency. These agencies shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations onsite or having face-to-face interviews with the child, such investigation visits shall be unannounced unless it is determined by the department or its agent that such unannounced visits would threaten the safety of the child. When a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation shall be entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an onsite visit of the child's place of residence. In all cases, the department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(4) The department shall notify **the Florida local advocacy council** in the appropriate district of the department as to every report of institutional child abuse, abandonment, or neglect in the district in which a client of the department is alleged or shown to have been abused, abandoned, or neglected, which notification shall be made within 48 hours after the department commences its investigation.

393.13 Personal treatment of persons who are developmentally disabled.--

(1) SHORT TITLE.--This act shall be known as "The Bill of Rights of Persons Who are Developmentally Disabled."

(7) RESIDENT GOVERNMENT.--Each residential facility providing services to clients who are desirous and capable of participating shall initiate and develop a program of resident government to hear the views and represent the interests of all clients served by the facility. The resident government shall be composed of residents elected by other residents, staff advisers skilled in the administration of community organizations, and a representative of the **Florida local advocacy council**. The resident government shall work closely with the Florida local advocacy council and the district administrator to promote the interests and welfare of all residents in the facility.

415.1034 Mandatory reporting of abuse, neglect, or exploitation of vulnerable adults; mandatory reports of death.—

(1) MANDATORY REPORTING—
(a) Any person, including, but not limited to, any:
7. **Florida advocacy council member** or long-term care ombudsman council member; or

415.104 Protective investigations of cases of abuse, neglect, or exploitation of vulnerable adults; transmittal of records to state attorney.—

(1) The department shall, upon receipt of a report alleging abuse, neglect, or exploitation of a vulnerable adult, begin within 24 hours protective investigation of the facts alleged therein. If a caregiver refuses to allow the department to begin a protective investigation or interferes with the conduct of such an investigation, the appropriate law enforcement agency shall be contacted for assistance. If, during the course of the investigation, the department has reason to believe that the abuse, neglect, or exploitation is perpetrated by a second party, the appropriate law enforcement agency and state attorney shall be orally notified. The department and the law enforcement agency shall corporate to allow the criminal investigation to proceed concurrently with, and not be hindered by, the protective investigation. The department shall make a preliminary written report to the law enforcement within 24 hours after receipt of the report, notify the appropriate **Florida local advocacy council**, or long-term care ombudsman council, when appropriate, that an alleged abuse, neglect, or exploitation perpetrated by a second party has occurred. Notice to the **Florida local advocacy council** or long-term care ombudsman council may be accomplished orally or in writing and shall include the name and location of the vulnerable adult alleged to have been abused, neglected, or exploited and the nature of the report.

415.1055 Notification to administrative entities.--

(8) At the conclusion of a protective investigation at a facility, the department shall notify either the **Florida local advocacy council** or long-term care ombudsman council of the results of the investigation. This notification must be in writing.

415.107 Confidentiality of reports and records.—

(3) Access to all records, excluding the name of the reporter which shall be released only as provided in subsection (6), shall be granted only to the following persons, officials, and agencies:

(g) Any appropriate official of the **Florida advocacy council** or long-term care ombudsman council investigating a report of known or suspected abuse, neglect, or exploitation of a vulnerable adult.

FLORIDA MENTAL HEALTH ACT (ss. 394.451-394.4789)

394.459 Rights of patients.—

(5) COMMUNICATION, ABUSE REPORTING, AND VISITS.--

(c) Each facility must permit immediate access to any patient, subject to the patient's right to deny or withdraw consent at any time, by the patient's family members, guardian, guardian advocate, representative, **Florida statewide or local advocacy council**, or attorney, unless such access would be detrimental to the patient. If a patient's right to communicate or to receive visitors is restricted by the facility, written notice of such restriction and the reasons for the restriction shall be served on the patient, the patient's attorney, and the patient's guardian, guardian advocate, or representative; and such restriction shall be recorded on the patient's clinical record with the reasons therefore. The restriction of a patient's right to communicate or to receive visitors shall be reviewed at least every 7 days. The right to communicate or receive visitors shall not be restricted as a means of punishment. Nothing in this paragraph shall be construed to limit the provisions of paragraph (d).

(12) POSTING OF NOTICE OF RIGHTS OF PATIENTS.--Each facility shall post a notice listing and describing, in the language and terminology that the persons to whom the notice is addressed can understand, the rights provided in this section. This notice shall include a statement that provisions of the federal Americans with Disabilities Act apply and the name and telephone number of a person to contact for further information. This notice shall be posted in a place readily accessible to patients and in a format easily seen by patients. This notice shall include the telephone numbers of **the Florida local advocacy council** and Advocacy Center for Persons with Disabilities, Inc.

394.4597 Persons to be notified; patient's representative.—

(2) INVOLUNTARY PATIENTS.—

(d) When the receiving or treatment facility selects a representative, first preference shall be given to a health care surrogate, if one has been previously selected by the patient. If the patient has not previously selected a health care surrogate, the selection, except for good cause documented in the patient's clinical record, shall be made from the following list in the order of listing:

6. The appropriate **Florida local advocacy council** as provided in s. 402.166.

CONS: (What would be challenges to this proposal?) Include the names of organizations.

Legal counsels of the various agencies and organizations that are federally mandated to protect Personal Health Information (PHI), who feel that the solution to the conflicting language in state and federal statutes is for the FSAC & FLAC's to petition the court in each case where there is a conflict.

Fiscal Impact, if known: (Please provide an estimate of the cost to the state, local government, and/or private sector to implement the proposal).

FSAC and FLAC have statutory authority to petition the circuit court for access to client records that are confidential as specified by law, however there is no estimate of the total cost to the state, local government, and contracted and/or licensed providers relative to the cost of persistent use of this authority in performing their monitoring and investigative responsibilities.

Identify the Policy Option/Recommendation: (Provide a brief description of the option and category number).

#1 Prevent families and communities from becoming at risk of abuse and neglect

Employees of our public school systems are entrusted with the health, safety and welfare of our children and as such, families and members of our communities should be confident in their assurances that our children are not only safe at school, but are inherently protected from any abusive actions by an employee of a Florida public school. To ensure such safety, each school district should establish written procedures for the immediate reporting of suspected or known child abuse by an individual who is employed by or otherwise contracted by a public school. The procedures should compel a minimum set of delineated requirements and establish a protocol for the semi-annual reporting of raw number data to the Florida Department of Education, Bureau of Professional Practices Services. The procedures at a minimum should:

- Require the immediate notification to local law enforcement and the district school superintendent or designee acts of known or suspected abuse by a public school employee or individual otherwise contracted by a public school
- Establish a protocol with local law enforcement for reporting and investigation of cases of physical and/or sexual abuse by a public school employee
- Require a chain of custody for all physical evidence and detail procedures to ensure preservation of evidence related to such cases
- Establish protocol for the distribution of reporting procedures to all district staff
- Require training for all administrative staff in the proper procedures for the reporting of abuse by a public school employee
- Require training of all charter school and alternative school staff on procedures for reporting abuse by a public school employee
- Require that all district contracted Department of Juvenile Justice, charter, and alternative schools follow the procedures for reporting abuse by a public school employee or individual otherwise contracted by a public school
- Require each public school district to annually file in writing with the Bureau of Professional Practices Services adopted procedures for the reporting of abuse by a school district employee
- Require each public school district to annually submit to the Florida Department of Education a copy of the district's child abuse prevention and reporting training curriculum
- Require each public school district to semiannually submit to the Florida Department of Education and Bureau of Professional Practices Services the raw number of incidents of reported abuse by school district employees that were submitted to local law enforcement

- Require that each district provide various training opportunities for staff in the policy and procedures for reporting abuse by school district employees and in the prevention of child abuse

Name of person and/or organization submitting the recommendation: (This information will be made available to the members and the public).

Florida Department of Education

Explanation of Present Situation: (Describe issues surrounding the policy option and facts necessary to understand the purpose).

Section 39.01, Florida Statutes, currently defines "other persons responsible for a child's welfare" as a child's legal guardian, legal custodian, or foster parent, an employee of a private school, public or private child day care center, residential home, institution, facility or agency; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care.

Public school employees are excluded from the definition of "other persons responsible for a child's welfare" and the related reporting and investigation by the Department of Children and Family Services. Public schools are required under Section 1012.796, Florida Statutes, to report within 30 days of knowledge all legally sufficient complaints against certified educators to the Florida Department of Education, Bureau of Professional Practices Services. Allegations reported to the DOE expand beyond allegations of abuse to incorporate allegations of ethical misconduct and other criminal offenses. Districts are required to develop policies and procedures to comply with the reporting requirements, including appropriate penalties for non-reporting. Each public school district is afforded the autonomy to establish procedures that work within the structure of their districts demographic and local government structure.

PROS: (What arguments are in support of this proposal?) Include the names of organizations.

This proposal modifies current reporting procedures and practices as it requires districts to establish and submit written policies and institute procedures to ensure that all staff is knowledgeable and informed on matters related to the immediate reporting of abuse by a school district employee or an employee otherwise contracted by a public school.

CONS: (What would be challenges to this proposal?) Include the names of organizations.

Fiscal Impact, if known: (Please provide an estimate of the cost to the state, local government, and/or private sector to implement the proposal). Please submit proposal even if the fiscal impact is unknown or not readily available.

Minimal impact expected related to data collection at the local and state level.
Additional cost may be more applicable to the requirement for training opportunities.

18

Identify the Policy Option/Recommendation: (Provide a brief description of the option and category number).

#2 Focus on at-risk families before abuse and neglect have occurred
#3 Help prevent the reoccurrence of abuse and neglect

Name of person and/or organization submitting the recommendation: (This information will be made available to the members and the public).

Sallie O'Hara - NE FL Exchange Club Child Abuse Prevention Center - (dba First Coast Family Center)

Explanation of Present Situation: (Describe issues surrounding the policy option and facts necessary to understand the purpose).

There is a need at the Federal Level to expand the ability of states to claim federal IV-E funding for all of the child welfare training provided, without the provision requiring that costs be prorated based on the percentage of IV-E eligible children served. Also, there is a need to authorize demonstration grants to support the addition of trained, full-time mentors who do not carry a caseload to coach and develop new staff in the fundamentals of practice. Raise IV-E or other funding statutes to permit states to utilize up to 25% of claiming for non-categorical flexible funding.

Current investigators and protective services staff working for lead agencies need intense training due to phenomenal turnover. Investigators detain children into the system and resultantly disrupt fragile, but normal families in the process. Alternative funding for prevention supports is lacking. Consequently, inexperienced and untrained staff increase the problem with their traditional front-line practice. The current training array is fragmented and not standardized throughout the state. The proposal would permit the state to expand and improve the quality of training, including extending training on new practice to the entire work force, not just newly hired entry level staff. It will also provide the resources to make training intense enough to address the skill development required.

PROS: (What arguments are in support of this proposal?) Include the names of organizations.

The Department of Children and Families and CBC Lead Agencies would endorse this proposal.

CONS: (What would be challenges to this proposal?) Include the names of organizations.

Competitive procurement of training services. University Systems and some private training providers.

Fiscal Impact, if known: (Please provide an estimate of the cost to the state, local government, and/or private sector to implement the proposal). Please submit proposal even if the fiscal impact is unknown or not readily available.

Cost savings demonstrated by averting families entering into the system are detailed below. The federal level cuts to the foster care provisions are estimated to be approximately $600 million in support for children. The federal cuts will result in state level cuts. By investing in Substance Abuse Prevention Services cost savings is $5.50 for each dollar invested; by investing in Early Childhood Care and Education cost savings are $7.00 for every dollar invested; by investing in Vaccinating Children cost savings are $16.00 for each dollar invested; and by investing in Long-term home visiting cost savings are $3.00 for each dollar invested.

20

Policy Option/Recommendation:
Category #2

Statistics consistently show that a majority of parents who abuse their children were abused themselves. Foster children and young adults come from abusive and/or neglectful homes. By further addressing the needs of young adults in foster care and young adults who age out of foster care we can help prevent the occurrence of abuse and neglect of their children.

Proposal from:

Representative Rich Glorioso, District 62

Proposal & Explanation:

This proposal addresses young adults in foster care between the ages of 16-18 and also young adults 18-23 who turn 18 while in foster care.

Fully Implement the Education and Training Voucher (ETV) program, which allows for federal funds to be provided to young adults who turn 18 while in foster care and are enrolled in school.

- Remove all references to scholarship and all referrals to Department of Education for inclusion in the student financial assistance data base This will ensure that voucher funds do not count against these young adults when applying for other financial aid per 42 USC Sec. 677 (i).

Require young adults to create and implement a transition plan with their community based care provider to receive Educational and Training Voucher funds, transitional or aftercare funds.

- This transition plan will be mutually agreed to and will focus on the educational, vocational or military service goals of each young adult. If the community based care provider and/or the Department of Children and Families (DCF) cannot come to agreement regarding any part of the plan with the young adult then the young adult may access an appeals process to its full extent to resolve the disagreement. The young adult and community based care provider will each be held accountable through the transition plan.

Allow community based care lead agencies to purchase housing, transportation, and/or employment services. This may be done to ensure such services are available and affordable for young adults with transition plans. A young adult may choose to utilize these services in lieu of receiving voucher, transitional, or aftercare funds for identical service.

- Prior to purchasing such service the community based care lead agency must have a plan describing the services to be purchased, and the rationale for doing so approved by DCF. This plan must include a description of the movement of the young adults utilizing these services into independence and a time frame for achievement of such. Eligible young adults who demonstrate an ability to obtain these services independently and prefer a direct payment shall receive such.

Require DCF to contract out the state management and coordination of the Independent Living programs. The contracted entity will have the expertise, resources and focus to assure these young adults, age 16-23, are prepared to move to independence through appropriate training, have access to normal activities for teens, and assure the funding is utilized efficiently and effectively. This program would be separate to assure the unique services and procedures for this population are properly addressed.

Combine the Independent Living Service Central Office budget line with the Independent Living Advisory Council to fund both with the existing budget line.

- The Advisory Council has specific legislated performance requirements such as an annual report, research and other studies in addition to travel and meeting costs for the young adults and professionals who are Advisory Council members.

Extend Medicaid eligibility for Young Adults receiving ETV, transition or aftercare through age 21.

Require the Department of Children and family to notify the Agency for Health Care Administration (AHCA) within 10 days when it opens a case for child welfare services in the HomeSafenet system for a Medicaid recipient. If that Medicaid recipient is a member of a Medicaid prepaid heath plan AHCA shall notify the prepaid health plan within 10 days.

Make unlimited the number of student fee exemptions community colleges can grant to ETV, transition of aftercare young adults which has a current limit to 40.

Organizations in Favor:

Connected By 25, Eckerd Family Foundation, Independent Living Advisory Council.

Identify the Policy Option/Recommendation:

Establish an Office of Child Abuse Prevention within the Executive Office of the Governor.

Explanation of Present Situation:

The Future of Florida's Families Committee conducted public hearings throughout the state to examine child abuse prevention. Now that the hearings are over, it is clear that the fundamental foundation for the delivery of services by Department of Children and Families (DCF) and the other involved state agencies regarding **Abuse Prevention** is flawed. The result of this flaw has created a tangled maze of services that is not only un-navigable by the providers but also the recipients of services. This maze has created inefficiency and waste as well as confusion among communities as to what services are being offered and how to access these services.

Long term **Abuse Prevention** can save the state millions if not billions of dollars, but it is not feasible to pour more money into a system in which the foundation to succeed does not exist. The Legislature needs to address the delivery system first before it moves forward. Addressing "prevention" is an issue that must have long-range goals.

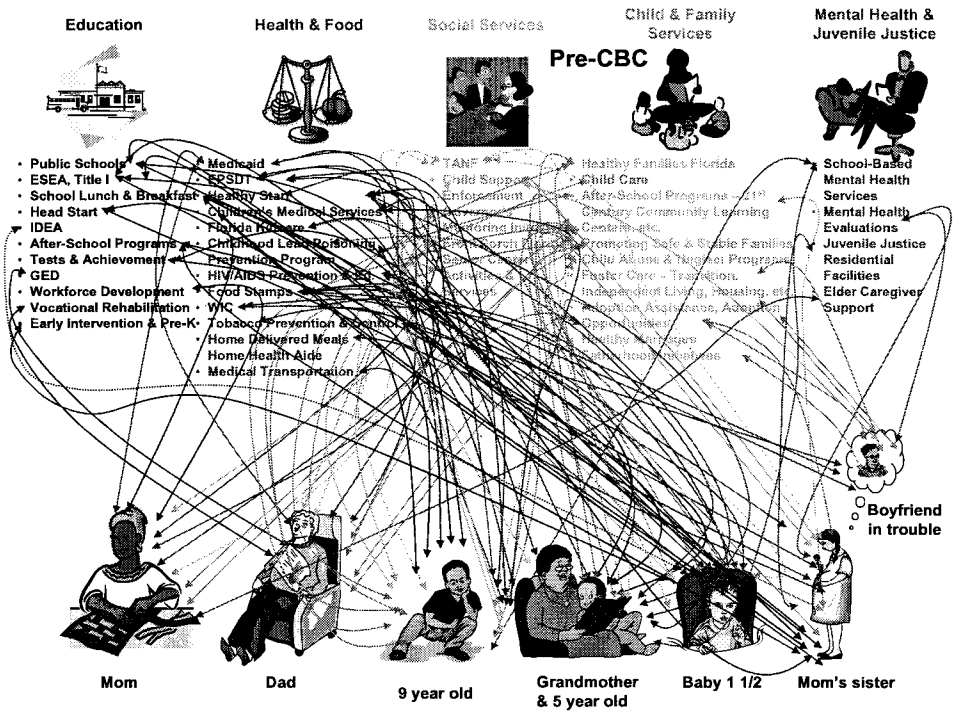
Before the state can fiscally increase prevention efforts, a centralized statewide integrated service network needs to be created – similar to the Office of Drug Control housed in the Executive Office of the Governor. The purpose of this office would be to continue to address the prevention needs of this state but also to centralize a community network throughout the state to increase communication, to more efficiently deliver services, while providing easy access to the citizens of the State of Florida to those services. By bringing together all the programs in the state it should create an environment conducive to a more "Prevention Focused" state effort to better serve the children and families of Florida.

Child Abuse, Neglect and Maltreatment cost the state millions of dollars each year, yet a centralized office to examine, oversee and implement prevention services of abuse has yet to be put into place. Without an organized effort, prevention will continue to fall through the cracks as history has already shown. In 2002, Florida was among only three other states and the District of Columbia in having the highest child maltreatment rate. During the same year, 142,547 investigations of abuse or neglect, involving 254,856 children, were completed. Approximately one-half of the investigations were substantiated or indicated the presence of abuse or neglect. In FY 2003-04, there were reportedly 32.3 victims of maltreatment per 1,000 children in Florida. Of children abused in 2003, 8.8% were re-abused within six months.

Recognizing the importance of reducing maltreatment and the conditions that are likely to promote abuse, the Legislature mandated that the Department of Children and Families

work with an interdisciplinary task force to develop a statewide plan for child abuse prevention. This statewide plan was released in July 2005. Having the benefit of the findings and recommendations of the Task Force, along with the Future of Florida's Families Committee conduction of public hearings, it is now time for the Legislature to move forward with a centralized Prevention Office as a part of a long term plan that focuses on Prevention.

Is this office just creating another layer of Government?



As shown above, the current system is fragmented and inefficient. Creating an Office of Child Abuse Prevention is simply untangling the fragmented web of services to bring a more efficient, streamlined and accessible array of service to the families of the state of Florida. That is, layers will be removed, communication networks will be developed, prevention management will increase, and accountability will be created. Oftentimes, families do not know where to turn and local communities struggle to even know what services are being offered. A centralized prevention office will lay the foundation for success in accessing prevention services for years to come.

The current system is a tangled maze of services:

- Programs that focus on primary and secondary prevention of child abuse are offered by the Department of Children and Families (DCF) and at least six other state agencies, including the: Department of Education, Department of Health, Department of Corrections, Department of Juvenile Justice, the Agency for

Workforce Innovation, and the Florida Department of Law Enforcement, and thousands of community organizations. This results in a tangled maze of services that providers and people trying to access the services must attempt to navigate.

- This uncoordinated system makes it unclear what services are being offered, how to access these services, duplication of services, and results in inefficiency and waste. An Office of Child Abuse Prevention would coordinate statewide prevention efforts and keep children out of the child welfare system.
- Coordination of services would improve delivery of child abuse prevention programs, decrease barriers between community providers and the family needing services, and connect private providers into a system that would result in a more efficient use of taxpayer monies.

Creating an Office of Child Abuse Prevention is efficient government:

- The current system targets all levels of child abuse: primary, secondary, and tertiary. Prevention programs are located at all levels of government and in many different state agencies. In our current system the primary focus is on "tertiary prevention" clinical services, for cases in which the child or family has experienced abuse. This is an appropriate focus because the children and their families need immediate help to deal with abuse.
- However, the "after the fact" approach will not prevent child abuse in Florida – it may only prevent a recurrence. Primary prevention programs must not be a secondary thought if Florida wants to decrease the incidence of child abuse.
- In the long run, prevention reduces harm to children and increases state efficiency.

The U.S Advisory Board on Child Abuse and Neglect has stated that only a system of early intervention, grounded in the creation of caring communities, can provide an effective foundation for confronting child abuse. An Office of Child Abuse Prevention would oversee the complicated system of child abuse prevention. The Office would coordinate community and state services, make recommendations to the Legislature, and communicate best practices back to community providers.

Need for Change -- Why something must be done?

Florida's population is growing significantly, which will increase the number of children and families in the state. The American Community Survey (ACS) has been developed by the Census Bureau to provide population estimates annually. The percent change in growth of children in the United States is a 1.51% increase over the last five years. However, the percent change in growth in children in Florida over the last five years is a 9.87% increase. Therefore, over the last five years the percent increase of children in Florida is over six times the increase in the U.S. Furthermore, the growth in children in Florida accounts for almost one third of the increased number of children in the U.S. Therefore, simply by an increase in numbers, the volume of potential cases of children and families that may enter the child welfare system should increase. This means that

there will be more children and families potentially at risk or involved in child abuse and neglect than ever before in the State of Florida.

The Rationale for Prevention:

- No disease or social problem has ever been brought under control by providing after-the-fact treatment to the victims of the disease or problem.
- Preventive, proactive, before-the-fact interventions have, historically, been the only effective way to control or eliminate important diseases. Public health prevention programs to control smallpox and polio are prime examples.
- Prevention interventions are not only very effective they are remarkably cost effective – often costing only a small fraction of the expense of the treatment. Hence the phrase, "an once of prevention is worth a pound of cure."

Prevention Framework:

Maximizing prevention opportunities may mean making difficult decisions about how organizations utilize their funding. Prevention services reduce costs in the long run and can provide families with services in a less stigmatized manner. The integration of the full range of family support services requires a re-conceptualization of the frame of mind as to which "prevention is applied." According to the Center for Disease Control, the cost of not preventing child abuse and neglect in 2001, equates to $94 billion a year nationally. These direct costs include the utilization of the health care system, mental health system, child welfare system, law enforcement, and the judicial system -- while the indirect costs include special education, mental health and health care, juvenile delinquency, lost productivity to Society, and adult criminality. Therefore, prevention should be looked at as a sound investment.

Prevention Office Focus:

- Public awareness and education for parents to be able to provide for the health, education, and positive development of their children.
- Community asset mapping and state-wide needs assessment.
- Focus on early identification through screening efforts.
- Outlined funding priorities
- Linkages between primary and specialized service providers (e.g., inter-agency agreements, cross training, open communication network).
- Development of State Wide Best Practices.
- Specified performance and Outcome measures.
- Accountability, continuous quality improvement, and state/local action plans.
- Authority over Prevention Services statewide.

What other states are doing?

Oklahoma:

In 1984, the Office of Child Abuse Prevention was created in the Oklahoma Child Abuse Prevention Act. Prior to 1984, the focus of child abuse and neglect was an "after the fact" intervention, preventing the recurrence of child abuse and neglect. The act declared that the prevention of child abuse and neglect was a priority in Oklahoma. In accordance with the Act, the Office of Child Abuse Prevention was created and placed within the Oklahoma State Department of Health to emphasize the focus of prevention. The mission of the office is to promote the health and safety of children and families by reducing family violence and child abuse, including neglect, through public health education, multidisciplinary training of professionals, and funding of community- based family resource and support programs.

Model State Programs (may not be a comprehensive list)

- Kentucky has a Division of Child Abuse and Domestic Violence Services established in 1996. This office is now organized within the Cabinet for Health and Family Services.
    - Website: http://chfs.ky.gov/dhss/cadv/
- California has an Office of Child Abuse Prevention organized under the California Department of Social Services since 1997.
    - Website: http://www.dss.cahwnet.gov/cdssweb/ChildAbuse_188.htm
- Alaska has Child Abuse Regional Networks comprised of four non-profit organizations working to coordinate child abuse prevention in Alaska.
    - Website: http://www.ak.org/Page/index.cfm?fuseaction=view&pageid=10&GroupID=1
- New Jersey has a Division of Child Abuse Prevention under the state Department of Human Services. The website is under construction.
    - Website: http://www.state.nj.us/humanservices/cap/

Fiscal Impact, if known:

The cost of establishing an Office of Child Abuse Prevention has not been determined.