

CHAPTER 2019-11

Committee Substitute for Senate Bill No. 184

An act relating to aging programs; transferring the powers, duties, and functions of the Department of Elderly Affairs relating to hospices, assisted living facilities, adult family-care homes, and adult day care centers to the Agency for Health Care Administration; amending s. 20.41, F.S.; requiring the department to provide certain documents and information to the agency upon request; amending s. 20.42, F.S.; establishing that the agency is the lead agency responsible for the regulation of hospices, assisted living facilities, adult day care centers, and adult family-care homes; amending ss. 400.605, 400.60501, 400.6095, 400.610, 429.02, 429.17, 429.23, 429.24, 429.255, 429.256, 429.27, 429.275, 429.31, 429.34, 429.41, 429.42, 429.52, 429.54, 429.63, 429.67, 429.71, 429.73, 429.75, 429.81, 429.929, and 765.110, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. All powers, duties, functions, records, personnel, property, salary rate, budget authority, and administrative authority of the Department of Elderly Affairs relating to hospices, assisted living facilities, adult family-care homes, and adult day care centers, and the administrative rules in chapters 58A-2, 58A-5, 58A-6, 58A-14, and 58T-1, Florida Administrative Code, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Agency for Health Care Administration.

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

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

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

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

20.42 Agency for Health Care Administration.—

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

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

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

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

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

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

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

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

(d) Components of a patient plan of care.

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

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

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

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

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

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

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

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

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

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

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

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

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

400.6095 Patient admission; assessment; plan of care; discharge; death.

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

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

400.610 Administration and management of a hospice.—

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

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

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

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

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

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

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

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

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

429.17 Expiration of license; renewal; conditional license.—

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

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

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

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

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

429.24 Contracts.—

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

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

429.255 Use of personnel; emergency care.—

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

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

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

429.256 Assistance with self-administration of medication.—

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

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

429.27 Property and personal affairs of residents.—

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

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

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

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

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

429.31 Closing of facility; notice; penalty.—

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

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

429.34 Right of entry and inspection.—

(1) In addition to the requirements of s. 408.811, a duly designated officer or employee of the ~~agency department~~, of the Department of Children and Families, of the Medicaid Fraud Control Unit of the Office of the Attorney General, or of the state or local fire marshal, or a representative of the State Long-Term Care Ombudsman Program or a member of the state or local long-term care ombudsman council has the right to enter unannounced upon and into the premises of any facility licensed under this part in order to determine the state of compliance with this part, part II of chapter 408, and applicable rules. Data collected by the State Long-Term Care Ombudsman

Program, local long-term care ombudsman councils, or the state or local advocacy councils may be used by the agency in investigations involving violations of regulatory standards. A person specified in this section who knows or has reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited shall immediately report such knowledge or suspicion to the central abuse hotline pursuant to chapter 415.

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

429.41 Rules establishing standards.—

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

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

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

2. Firesafety requirements.—

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

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

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

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

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

(b) The preparation and annual update of a comprehensive emergency management plan. Such standards must be included in the rules adopted by the agency department after consultation with the Division of Emergency Management. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including provision of emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; communication with families; and responses to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: ~~the Department of Elderly Affairs,~~ the Department of Health, the Agency for Health Care Administration, and the Division of Emergency Management. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

(c) The number, training, and qualifications of all personnel having responsibility for the care of residents. The rules must require adequate staff

to provide for the safety of all residents. Facilities licensed for 17 or more residents are required to maintain an alert staff for 24 hours per day.

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

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

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

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

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

1. The supervision of residents;
2. The provision of personal services;
3. The provision of, or arrangement for, social and leisure activities;
4. The arrangement for appointments and transportation to appropriate medical, dental, nursing, or mental health services, as needed by residents;
5. The management of medication;
6. The nutritional needs of residents;
7. Resident records; and
8. Internal risk management and quality assurance.

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

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

(k) The use of physical or chemical restraints. The use of physical restraints is limited to half-bed rails as prescribed and documented by the

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

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

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

(2) In adopting any rules pursuant to this part, the ~~department, in conjunction with the agency,~~ shall make distinct standards for facilities based upon facility size; the types of care provided; the physical and mental capabilities and needs of residents; the type, frequency, and amount of services and care offered; and the staffing characteristics of the facility. Rules developed pursuant to this section may not restrict the use of shared staffing and shared programming in facilities that are part of retirement communities that provide multiple levels of care and otherwise meet the requirements of law and rule. If a continuing care facility licensed under chapter 651 or a retirement community offering multiple levels of care licenses a building or part of a building designated for independent living for assisted living, staffing requirements established in rule apply only to residents who receive personal, limited nursing, or extended congregate care services under this part. Such facilities shall retain a log listing the names and unit number for residents receiving these services. The log must be available to surveyors upon request. Except for uniform firesafety standards, the agency department shall adopt by rule separate and distinct standards for facilities with 16 or fewer beds and for facilities with 17 or more beds. The standards for facilities with 16 or fewer beds must be appropriate for a noninstitutional residential environment; however, the structure may not be more than two stories in height and all persons who cannot exit the facility unassisted in an emergency must reside on the first floor. The ~~department, in conjunction with the agency,~~ may make other distinctions among types of facilities as necessary to enforce this part. Where appropriate, the agency shall offer alternate solutions for complying with established standards, based on distinctions made by the ~~department and the agency~~ relative to the physical characteristics of facilities and the types of care offered.

(3) ~~The department shall submit a copy of proposed rules to the Speaker of the House of Representatives, the President of the Senate, and~~

appropriate committees of substance for review and comment prior to the promulgation thereof. Rules adopted promulgated by the agency department shall encourage the development of homelike facilities that ~~which~~ promote the dignity, individuality, personal strengths, and decisionmaking ability of residents.

(4) The agency, ~~in consultation with the department,~~ may waive rules adopted under promulgated pursuant to this part in order to demonstrate and evaluate innovative or cost-effective congregate care alternatives that ~~which~~ enable individuals to age in place. Such waivers may be granted only in instances where there is reasonable assurance that the health, safety, or welfare of residents will not be endangered. To apply for a waiver, the licensee shall submit to the agency a written description of the concept to be demonstrated, including goals, objectives, and anticipated benefits; the number and types of residents who will be affected, if applicable; a brief description of how the demonstration will be evaluated; and any other information deemed appropriate by the agency. Any facility granted a waiver shall submit a report of findings to the agency and the department within 12 months. At such time, the agency may renew or revoke the waiver or pursue any regulatory or statutory changes necessary to allow other facilities to adopt the same practices. The agency department may by rule clarify terms and establish waiver application procedures, criteria for reviewing waiver proposals, and procedures for reporting findings, as necessary to implement this subsection.

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

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

429.42 Pharmacy and dietary services.—

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

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

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

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

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

- (a) State law and rules relating to assisted living facilities.
- (b) Resident rights and identifying and reporting abuse, neglect, and exploitation.
- (c) Special needs of elderly persons, persons with mental illness, and persons with developmental disabilities and how to meet those needs.
- (d) Nutrition and food service, including acceptable sanitation practices for preparing, storing, and serving food.
- (e) Medication management, recordkeeping, and proper techniques for assisting residents with self-administered medication.
- (f) Firesafety requirements, including fire evacuation drill procedures and other emergency procedures.
- (g) Care of persons with Alzheimer's disease and related disorders.

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

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

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

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

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

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

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

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

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

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

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

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

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

429.54 Collection of information; local subsidy.—

(1) To enable the agency department to collect the information requested by the Legislature regarding the actual cost of providing room, board, and

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

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

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

429.63 Legislative intent; purpose.—

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

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

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

429.67 Licensure.—

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

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

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

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

429.71 Classification of deficiencies; administrative fines.—

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

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

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

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

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

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

1. Room and board.
2. Assistance necessary to perform the activities of daily living.
3. Assistance necessary to administer medication.
4. Supervision of residents.
5. Health monitoring.
6. Social and leisure activities.

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

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

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

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

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

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

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

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

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

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

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

429.75 Training and education programs.—

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

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

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

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

429.81 Residency agreements.—

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

Section 28. Section 429.929, Florida Statutes, is amended to read:

429.929 Rules establishing standards.—

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

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

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

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

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

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

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

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

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

Section 29. Subsection (4) of section 765.110, Florida Statutes, is amended to read:

765.110 Health care facilities and providers; discipline.—

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

Section 30. This act shall take effect July 1, 2019.

Approved by the Governor April 26, 2019.

Filed in Office Secretary of State April 26, 2019.