59A-4.103 LICENSURE, ADMINISTRATION AND FISCAL MANAGEMENT.


...(4) Administration.
(a) The licensee of each nursing home shall have full legal authority and responsibility for the operation of the facility.
(b) The licensee of each facility shall designate one person, who is licensed by the Agency for Health Care Administration, Board of Nursing Home Administrators under Chapter 468, Part II, F.S., as Administrator who oversees the day to day administration and operation of the facility.
(c) Each nursing home shall be organized according to a written Table of Organization.
(d) The licensee shall submit a monthly vacant bed report which is incorporated by reference by using AHCA Form 3110-0013, January 2002, “Nursing Home Monthly Bed Vacancy Report”, as authorized by Section 400.141, F.S. This form is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive MS 33, Tallahassee, FL 32308.
(e) Submit Nursing Home Staffing Report which is incorporated by reference by using AHCA Form 3110-0012, January 2002, “Nursing Home Staffing Report”, as authorized by Section 400.141, F.S. This form is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive MS 33, Tallahassee, FL 32308.

59A-4.106 FACILITY POLICIES.

...(2) Each nursing home facility shall adopt, implement, and maintain written policies and procedures governing all services provided in the facility.
(3) All policies and procedures shall be reviewed at least annually and revised as needed with input from, at minimum, the facility Administrator, Medical Director, and Director of Nursing.
(4) Each facility shall maintain policies and procedures in the following areas:
(a) Activities;
(b) Advance directives;
(c) Consultant services;
(d) Death of residents in the facility;
(e) Dental services;
(f) Staff education, including hiv/aids Training;
(g) Diagnostic services;
(h) Dietary services;
(i) Disaster preparedness;
(j) Fire prevention and control;
(k) Housekeeping;
(l) Infection control;
(m) Laundry service;
(n) Loss of power, water, air conditioning or heating;
(o) Medical director/consultant services;
(p) Medical records;
(q) Mental health;
(r) Nursing services;
(s) Pastoral services;
(t) Pharmacy services;
(u) Podiatry services;
(v) Resident care planning;
(w) Resident identification;
(x) Resident’s rights;
(y) Safety awareness;
(z) Social services;
(aa) Specialized rehabilitative and restorative services;
(bb) Volunteer services; and
(cc) The reporting of accidents or unusual incidents involving any resident, staff member, volunteer or visitor. This policy shall include reporting within the facility and to the ahca.

(5) Staff Education.
(a) Each nursing home shall develop, implement, and maintain a written staff education plan which ensures a coordinated program for staff education for all facility employees. The staff education plan shall be reviewed at least annually by the quality assurance committee and revised as needed.
(b) The staff education plan shall include both pre-service and in-service programs.
(c) The staff education plan shall ensure that education is conducted annually for all facility employees, at a minimum, in the following areas:
1. Prevention and control of infection;
2. Fire prevention, life safety, and disaster preparedness;
3. Accident prevention and safety awareness program;
4. Resident’s rights’
5. Federal law, 42 CFR 483, Requirements for Long Term Care Facilities, September 26, 1991, which is incorporated by reference, and state rules and regulations, Chapter 400, Part II, F.S., and this rule;
(d) The staff education plan shall ensure that all non-licensed employees of the nursing home complete an initial educational course on HIV/AIDS. If the employee does not have a certificate of completion at the time they are hired, they must have two hours within six months of employment or before the staff provides care for an HIV/AIDS diagnosed resident. All employees shall have a minimum of one hour biennially.
(6) Advance Directives. Each nursing home shall have written policies and procedures, which delineate the nursing home’s position with respect to the state law and rules relative to advance directives.

**59A-4.107 PHYSICIAN SERVICES.**

(1) Each nursing home facility shall retain, pursuant to a written agreement, a physician licensed under Chapter 458 or 459, F.S., to serve as Medical Director. In facilities with a licensed capacity of 60 beds or less, pursuant to written agreement, a physician licensed under Chapter 458 or 459, F.S., may serve as Medical Consultant in lieu of a Medical Director.

...(7) If the physician chooses to designate another health care professional to fulfill the physician’s component of resident care, they may do so after the required visit. All responsibilities of a physician, except for the position of medical director, may be carried out by other health care professionals acting within their scope of practice.

**59A-4.108 NURSING SERVICES.**

(1) The Administrator of each nursing home will designate one full time registered nurse as a Director of Nursing who shall be responsible and accountable for the supervision and administration of the total nursing services program.

**59A-4.118 MEDICAL RECORDS.**

(1) The facility shall designate a full-time employee as being responsible and accountable for the facility’s medical records. If this employee is not a qualified Medical Record Practitioner, then the facility shall have the services of a qualified Medical Record Practitioner on a consultant basis. A qualified Medical Record Practitioner is one who is eligible for a certification as a Registered Record Administrator or an Accredited Record Technician by the American Health Information Management Association or a graduate of a School of Medical Record Science that is accredited jointly by the Council on Medical Education of the American Medical Association and the American Health Information Management Association.

(2) Each medical record shall contain sufficient information to clearly identify the resident, his diagnosis and treatment, and results. Medical records shall be complete, accurate, accessible and systematically organized.

(3) Medical records shall be retained for a period of five years from the date of discharge. In the case of a minor, the record shall be retained for 3 years after a resident reaches legal age under state law.

**59A-4.123 RISK MANAGEMENT AND QUALITY ASSURANCE.**

(1) The facility shall maintain a risk management and quality assurance committee as required in Section 400.147, F.S.

the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

(3) Each facility shall use AHCA Form 3110-0008, Revised, October 2008, “Nursing Home Monthly Liability Claim Information”, which are incorporated by reference when reporting liability claims filed against it as required by Section 400.147(9), F.S. These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

59A-4.126 DISASTER PREPAREDNESS.

(1) Each nursing home facility shall have a written plan with procedures to be followed in the event of an internal or externally caused disaster. The initiation, development, and maintenance of this plan shall be the responsibility of the facility administrator, and shall be accomplished in consultation with the Department of Community Affairs, County Emergency Management Agency.

(2) The plan shall include, at a minimum, the following:

(a) Criteria, as shown, in Section 400.23(2)(g), F.S.; and


59A-4.130 FIRE PREVENTION, FIRE PROTECTION, AND LIFE SAFETY.

(1) A licensee shall comply with the life safety code requirements and building code standards applicable at the time of departmental approval of the facility’s Third Stage – Construction Documents.

(2) Fire prevention, fire protection, and life safety practices shall be the responsibility of the facility Administrator.

(3) All fires or explosions shall be reported immediately to the local fire department. A written report of each fire or explosion shall be made to the AHCA, with a copy to the director of the local county health unit, within ten days of occurrence. Such report shall contain the following information:

(a) The name and complete address of the facility;
(b) The date of the report;
(c) The date, time, cause, and location of the fire or explosion;
(d) The extent of flame, smoke, and water damage;
(e) The extent of other damage;
(f) The estimated amount of loss;
(g) The number of residents with injuries and the number of resident deaths;
(h) The name and job title of the individual who reported the fire or explosion;
(i) The time that the fire or explosion was reported and identification of to whom it was reported;
(j) Information as to whether or not the in-house fire alarm was activated;
(k) Information as to whether or not the fire or explosion was reported to the local fire department, and if not, an explanation as to why it was not;
(l) A description of the method used to extinguish the fire;
(m) Information as to whether or not the facility is equipped with an automatic fire sprinkler system;
(n) The Administrator’s narrative description of the incident and what action, if any, is to be taken to prevent further occurrences; and
(o) Attachments consisting of:
   A copy of the fire report of the local fire department, if applicable, and
   Photographs, if damage was extensive.
(4) Within ten days of receipt, the facility shall forward to the appropriate Area Office of the AHCA a copy of all reports of fire safety inspections made by local fire authorities.

59A-4.1075 MEDICAL DIRECTOR.

(1) Each facility will have only one physician who is designated as Medical Director.
(2)(a) The Medical Director must be a physician licensed under Chapter 458 or 459, F.S., the nursing home administrator may require that the Medical Director be certified or credentialed through a recognized certifying or credentialing organization.
(b) A Medical Director who does not have hospital privileges shall be certified or credentialed through a recognized certifying or credentialing body, such as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the American Medical Directors Association, the Healthcare Facilities Accreditation Program of the American Osteopathic Association, the Bureau of Osteopathic Specialists of the American Osteopathic Association, the Florida Medical Directors Association or a Health maintenance organization licensed in Florida.
(c) A physician must have his/her principal office within 60 miles of all facilities for which he/she serves as Medical Director. Principal office is the office maintained by a physician pursuant to Section 458.351 or 459.026, F.S., and where the physician delivers the majority of medical services. The physician must specify the address of his/her principal office at the time of becoming Medical Director. The agency may approve a request to waive this requirement for rural facilities that exceed this distance requirement. A rural facility is a facility located in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other nursing home facility within the same county.
(d) The facility shall appoint a Medical Director who shall visit the facility at least once a month. The Medical Director shall review all new policies and procedures; review all new incident and new accident reports from the facility to identify clinical risk and safety hazards. The Medical Director shall review the most recent grievance logs for any complaints or concerns related to clinical issues. Each visit must be documented in writing by the Medical Director.
(3) A physician may be Medical Director of a maximum of 10 nursing homes at any one time. The Medical Director, in an emergency where the health of a resident is in jeopardy and the attending physician or covering physician cannot be located, may assume temporary responsibility of the care of the resident and provide the care deemed necessary.
(4) The Medical Director appointed by the facility shall meet at least quarterly with the quality assessment and assurance committee of the facility.
(5) The Medical Director appointed by the facility shall participate in the development of the comprehensive care plan for the resident when he/she is also the attending physician of the resident.
STATUTES:

400.062 License required; fee; disposition.
...(2) Separate licenses shall be required for facilities maintained in separate premises, even though operated under the same management. However, a separate license shall not be required for separate buildings on the same grounds.

400.0625 Minimum standards for clinical laboratory test results and diagnostic X-ray results.
(1) Each nursing home, as a requirement for issuance or renewal of its license, shall require that all clinical laboratory tests performed for the nursing home be performed by a clinical laboratory licensed under the provisions of chapter 483, except for such self-testing procedures as are approved by the agency by rule. Results of clinical laboratory tests performed prior to admission which meet the minimum standards provided in s. 483.181(3) shall be accepted in lieu of routine examinations required upon admission and clinical laboratory tests which may be ordered by a physician for residents of the nursing home.
(2) Each nursing home, as a requirement for issuance or renewal of its license, shall establish minimum standards for acceptance of results of diagnostic X rays performed by or for the nursing home. Such minimum standards shall require licensure or registration of the source of ionizing radiation under the provisions of chapter 404. Diagnostic X-ray results which meet the minimum standards shall be accepted in lieu of routine examinations required upon admission and in lieu of diagnostic X rays which may be ordered by a physician for residents of the nursing home.

400.071 Application for license.
(1) In addition to the requirements of part II of chapter 408, the application for a license shall be under oath and must contain the following:
...(b) A signed affidavit disclosing any financial or ownership interest that a controlling interest as defined in part II of chapter 408 has held in the last 5 years in any entity licensed by this state or any other state to provide health or residential care which has closed voluntarily or involuntarily; has filed for bankruptcy; has had a receiver appointed; has had a license denied, suspended, or revoked; or has had an injunction issued against it which was initiated by a regulatory agency. The affidavit must disclose the reason any such entity was closed, whether voluntarily or involuntarily...
...(5) As a condition of licensure, each facility must establish and submit with its application a plan for quality assurance and for conducting risk management.

400.111 Disclosure of controlling interest.
In addition to the requirements of part II of chapter 408, the licensee shall submit a signed affidavit disclosing any financial or ownership interest that a controlling interest has held within the last 5 years in any entity licensed by the state or any other state to provide health or residential care which entity has closed voluntarily or involuntarily; has filed for bankruptcy; has had a receiver appointed; has had a license denied, suspended, or revoked; or has had an injunction issued against it which was initiated by a regulatory agency. The affidavit must disclose the reason such entity was closed, whether voluntarily or involuntarily.
400.118 Quality assurance; early warning system; monitoring; rapid response teams.
(1) The agency shall establish an early warning system to detect conditions in nursing
facilities that could be detrimental to the health, safety, and welfare of residents. The early
warning system shall include, but not be limited to, analysis of financial and quality-of-care
indicators that would predict the need for the agency to take action pursuant to the
authority set forth in this part.
(2) The agency shall also create teams of experts that can function as rapid response teams
to visit nursing facilities identified through the agency's early warning system. Rapid
response teams may visit facilities that request the agency's assistance. The rapid response
teams shall not be deployed for the purpose of helping a facility prepare for a regular
survey.

400.119 Confidentiality of records and meetings of risk management and quality assurance
committees.
(1) Incident reports filed with the risk manager and administrator of a long-term care
facility licensed under this part or part I of chapter 429, notifications of the occurrence of
an adverse incident, and adverse incident reports from the facility are confidential and
exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
(2)(a) The meetings of an internal risk management and quality assurance committee of a
long-term care facility licensed under this part or part I of chapter 429 are exempt from s.
286.011 and s. 24(b), Art. I of the State Constitution.
(b) Records of those meetings are confidential and exempt from s. 119.07(1) and s. 24(a),
Art. I of the State Constitution.
(3)(a) If the Agency for Health Care Administration has a reasonable belief that conduct by
a staff member or employee of a facility is criminal activity or grounds for disciplinary
action by a regulatory board, the agency may disclose records made confidential and
exempt pursuant to this section to the appropriate law enforcement agency or regulatory
board.
(b) Records disclosed to a law enforcement agency remain confidential and exempt until
criminal charges are filed.
(4) Records made confidential and exempt under this section and that are obtained by a
regulatory board are not available to the public as part of the record of investigation and
prosecution in a disciplinary proceeding made available to the public by the agency or the
appropriate regulatory board. However, the agency or the appropriate regulatory board
shall make available, upon request by a health care professional against whom probable
cause has been found, any such records that form the basis of the determination of
probable cause.

400.141 Administration and management of nursing home facilities.
(1) Every licensed facility shall comply with all applicable standards and rules of the agency
and shall:
(a) Be under the administrative direction and charge of a licensed administrator.
(b) Appoint a medical director licensed pursuant to chapter 458 or
chapter 459. The agency may establish by rule more specific criteria for
the appointment of a medical director.
(c) Have available the regular, consultative, and emergency services of
physicians licensed by the state.

...(j) Keep full records of resident admissions and discharges; medical and general health status, including medical records, personal and social history, and identity and address of next of kin or other persons who may have responsibility for the affairs of the residents; and individual resident care plans including, but not limited to, prescribed services, service frequency and duration, and service goals. The records shall be open to inspection by the agency.

(k) Keep such fiscal records of its operations and conditions as may be necessary to provide information pursuant to this part.

(l) Furnish copies of personnel records for employees affiliated with such facility, to any other facility licensed by this state requesting this information pursuant to this part. Such information contained in the records may include, but is not limited to, disciplinary matters and any reason for termination. Any facility releasing such records pursuant to this part shall be considered to be acting in good faith and may not be held liable for information contained in such records, absent a showing that the facility maliciously falsified such records.

(m) Publicly display a poster provided by the agency containing the names, addresses, and telephone numbers for the state’s abuse hotline, the State Long-Term Care Ombudsman, the Agency for Health Care Administration consumer hotline, the Advocacy Center for Persons with Disabilities, the Florida Statewide Advocacy Council, and the Medicaid Fraud Control Unit, with a clear description of the assistance to be expected from each.

(n) Submit to the agency the information specified in s. 400.071(1)(b) for a management company within 30 days after the effective date of the management agreement.

...(r) Report to the agency any filing for bankruptcy protection by the facility or its parent corporation, divestiture or spin-off of its assets, or corporate reorganization within 30 days after the completion of such activity.

(s) Maintain general and professional liability insurance coverage that is in force at all times. In lieu of general and professional liability insurance coverage, a state-designated teaching nursing home and its affiliated assisted living facilities created under s. 430.80 may demonstrate proof of financial responsibility as provided in s. 430.80(3)(g).

(t) Maintain in the medical record for each resident a daily chart of certified nursing assistant services provided to the resident. The certified nursing assistant who is caring for the resident must complete this record by the end of his or her shift. This record must indicate assistance with activities of daily living, assistance with eating, and assistance with drinking, and must record each offering of nutrition and hydration for those residents whose plan of care or assessment indicates a risk for malnutrition or dehydration.

(2) Facilities that have been awarded a Gold Seal under the program established in s. 400.235 may develop a plan to provide certified nursing assistant training as prescribed by federal regulations and state rules and may apply to the agency for approval of their program.

400.145 Records of care and treatment of resident; copies to be furnished.

(1) Unless expressly prohibited by a legally competent resident, any nursing home licensed pursuant to this part shall furnish to the spouse, guardian, surrogate, proxy, or attorney in fact, as provided in chapters 744 and 765, of a current resident, within 7 working days after receipt of a written request, or of a former resident, within 10 working days after receipt of a written request, a copy of that resident’s records which are in the possession of the
facility. Such records shall include medical and psychiatric records and any records concerning the care and treatment of the resident performed by the facility, except progress notes and consultation report sections of a psychiatric nature. Copies of such records shall not be considered part of a deceased resident’s estate and may be made available prior to the administration of an estate, upon request, to the spouse, guardian, surrogate, proxy, or attorney in fact, as provided in chapters 744 and 765. A facility may charge a reasonable fee for the copying of resident records. Such fee shall not exceed $1 per page for the first 25 pages and 25 cents per page for each page in excess of 25 pages. The facility shall further allow any such spouse, guardian, surrogate, proxy, or attorney in fact, as provided in chapters 744 and 765, to examine the original records in its possession, or microfilms or other suitable reproductions of the records, upon such reasonable terms as shall be imposed, to help assure that the records are not damaged, destroyed, or altered.

(2) No person shall be allowed to obtain copies of residents’ records pursuant to this section more often than once per month, except that physician’s reports in the residents’ records may be obtained as often as necessary to effectively monitor the residents’ condition.

400.147 Internal risk management and quality assurance program.
(1) Every facility shall, as part of its administrative functions, establish an internal risk management and quality assurance program, the purpose of which is to assess resident care practices; review facility quality indicators, facility incident reports, deficiencies cited by the agency, and resident grievances; and develop plans of action to correct and respond quickly to identified quality deficiencies. The program must include:
(a) A designated person to serve as risk manager, who is responsible for implementation and oversight of the facility’s risk management and quality assurance program as required by this section.
(b) A risk management and quality assurance committee consisting of the facility risk manager, the administrator, the director of nursing, the medical director, and at least three other members of the facility staff. The risk management and quality assurance committee shall meet at least monthly.
(c) Policies and procedures to implement the internal risk management and quality assurance program, which must include the investigation and analysis of the frequency and causes of general categories and specific types of adverse incidents to residents.
(d) The development and implementation of an incident reporting system based upon the affirmative duty of all health care providers and all agents and employees of the licensed health care facility to report adverse incidents to the risk manager, or to his or her designee, within 3 business days after their occurrence.
(e) The development of appropriate measures to minimize the risk of adverse incidents to residents, including, but not limited to, education and training in risk management and risk prevention for all nonphysician personnel, as follows:
1. Such education and training of all nonphysician personnel must be part of their initial orientation; and
2. At least 1 hour of such education and training must be provided annually for all nonphysician personnel of the licensed facility working in clinical areas and providing resident care.
(f) The analysis of resident grievances that relate to resident care and the quality of clinical services.
(2) The internal risk management and quality assurance program is the responsibility of the facility administrator.

(3) In addition to the programs mandated by this section, other innovative approaches intended to reduce the frequency and severity of adverse incidents to residents and violations of residents’ rights shall be encouraged and their implementation and operation facilitated.

(4) Each internal risk management and quality assurance program shall include the use of incident reports to be filed with the risk manager and the facility administrator. The risk manager shall have free access to all resident records of the licensed facility. The incident reports are part of the workpapers of the attorney defending the licensed facility in litigation relating to the licensed facility and are subject to discovery, but are not admissible as evidence in court. A person filing an incident report is not subject to civil suit by virtue of such incident report. As a part of each internal risk management and quality assurance program, the incident reports shall be used to develop categories of incidents which identify problem areas. Once identified, procedures shall be adjusted to correct the problem areas.

(5) For purposes of reporting to the agency under this section, the term “adverse incident” means:

(a) An event over which facility personnel could exercise control and which is associated in whole or in part with the facility’s intervention, rather than the condition for which such intervention occurred, and which results in one of the following:
   1. Death;
   2. Brain or spinal damage;
   3. Permanent disfigurement;
   4. Fracture or dislocation of bones or joints;
   5. A limitation of neurological, physical, or sensory function;
   6. Any condition that required medical attention to which the resident has not given his or her informed consent, including failure to honor advanced directives;
   7. Any condition that required the transfer of the resident, within or outside the facility, to a unit providing a more acute level of care due to the adverse incident, rather than the resident’s condition prior to the adverse incident; or
   8. An event that is reported to law enforcement or its personnel for investigation; or

(b) Resident elopement, if the elopement places the resident at risk of harm or injury.

(6) The internal risk manager of each licensed facility shall:

(a) Investigate every allegation of sexual misconduct which is made against a member of the facility’s personnel who has direct patient contact when the allegation is that the sexual misconduct occurred at the facility or at the grounds of the facility;

(b) Report every allegation of sexual misconduct to the administrator of the licensed facility; and

(c) Notify the resident representative or guardian of the victim that an allegation of sexual misconduct has been made and that an investigation is being conducted.

(7) The facility shall initiate an investigation and shall notify the agency within 1 business day after the risk manager or his or her designee has received a report pursuant to paragraph (1)(d). The notification must be made in writing and be provided electronically, by facsimile device or overnight mail delivery. The notification must include information regarding the identity of the affected resident, the type of adverse incident, the initiation of an investigation by the facility, and whether the events causing or resulting in the adverse
incident represent a potential risk to any other resident. The notification is confidential as provided by law and is not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by the health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(8)(a) Each facility shall complete the investigation and submit an adverse incident report to the agency for each adverse incident within 15 calendar days after its occurrence. If, after a complete investigation, the risk manager determines that the incident was not an adverse incident as defined in subsection (5), the facility shall include this information in the report. The agency shall develop a form for reporting this information.

(b) The information reported to the agency pursuant to paragraph (a) which relates to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466 shall be reviewed by the agency. The agency shall determine whether any of the incidents potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(c) The report submitted to the agency must also contain the name of the risk manager of the facility.

(d) The adverse incident report is confidential as provided by law and is not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board.

(9) Abuse, neglect, or exploitation must be reported to the agency as required by 42 C.F.R. s. 483.13(c) and to the department as required by chapters 39 and 415.

(10) By the 10th of each month, each facility subject to this section shall report any notice received pursuant to s. 400.0233(2) and each initial complaint that was filed with the clerk of the court and served on the facility during the previous month by a resident or a resident’s family member, guardian, conservator, or personal legal representative. The report must include the name of the resident, the resident’s date of birth and social security number, the Medicaid identification number for Medicaid-eligible persons, the date or dates of the incident leading to the claim or dates of residency, if applicable, and the type of injury or violation of rights alleged to have occurred. Each facility shall also submit a copy of the notices received pursuant to s. 400.0233(2) and complaints filed with the clerk of the court. This report is confidential as provided by law and is not discoverable or admissible in any civil or administrative action, except in such actions brought by the agency to enforce the provisions of this part.

(11) The agency shall review, as part of its licensure inspection process, the internal risk management and quality assurance program at each facility regulated by this section to determine whether the program meets standards established in statutory laws and rules, is being conducted in a manner designed to reduce adverse incidents, and is appropriately reporting incidents as required by this section.

(12) There is no monetary liability on the part of, and a cause of action for damages may not arise against, any risk manager for the implementation and oversight of the internal risk management and quality assurance program in a facility licensed under this part as required by this section, or for any act or proceeding undertaken or performed within the
scope of the functions of such internal risk management and quality assurance program if the risk manager acts without intentional fraud.

(13) If the agency, through its receipt of the adverse incident reports prescribed in subsection (7), or through any investigation, has a reasonable belief that conduct by a staff member or employee of a facility is grounds for disciplinary action by the appropriate regulatory board, the agency shall report this fact to the regulatory board.

(14) The agency may adopt rules to administer this section.

(15) Information gathered by a credentialing organization under a quality assurance program is not discoverable from the credentialing organization. This subsection does not limit discovery of, access to, or use of facility records, including those records from which the credentialing organization gathered its information.

400.148 Medicaid “Up-or-Out” Quality of Care Contract Management Program.
(1) The Legislature finds that the federal Medicare program has implemented successful models of managing the medical and support-care needs of long-term nursing home residents. These programs have maintained the highest practicable level of good health and have the potential to reduce the incidence of preventable illnesses among long-stay residents of nursing homes, thereby increasing the quality of care for residents and reducing the number of lawsuits against nursing homes. Such models are operated at no cost to the state. It is the intent of the Legislature that the Agency for Health Care Administration replicate such oversight for Medicaid recipients in poor-performing nursing homes and in assisted living facilities and nursing homes that are experiencing disproportionate numbers of lawsuits, with the goal of improving the quality of care in such homes or facilitating the revocation of licensure.

(2) The pilot project must ensure:
(a) Oversight and coordination of all aspects of a resident's medical care and stay in a nursing home;
(b) Facilitation of close communication between the resident, the resident’s guardian or legal representative, the resident's attending physician, the resident’s family, and staff of the nursing facility;
(c) Frequent onsite visits to the resident;
(d) Early detection of medical or quality problems that have the potential to lead to adverse outcomes and unnecessary hospitalization;
(e) Close communication with regulatory staff;
(f) Immediate investigation of resident quality-of-care complaints and communication and cooperation with the appropriate entity to address those complaints, including the ombudsman, state agencies, agencies responsible for Medicaid program integrity, and local law enforcement agencies;
(g) Assistance to the resident or the resident's representative to relocate the resident if quality-of-care issues are not otherwise addressed; and
(h) Use of Medicare and other third-party funds to support activities of the program, to the extent possible.

(3) The agency shall model the pilot project activities after such Medicare-approved demonstration projects.

(4) The agency may contract to provide similar oversight services to Medicaid recipients.

(5) The agency shall, jointly with the Statewide Public Guardianship Office, develop a system in the pilot project areas to identify Medicaid recipients who are residents of a
participating nursing home or assisted living facility who have diminished ability to make their own decisions and who do not have relatives or family available to act as guardians in
nursing homes listed on the Nursing Home Guide Watch List. The agency and the Statewide
Public Guardianship Office shall give such residents priority for publicly funded
guardianship services.

400.175 Patients with Alzheimer’s disease or other related disorders; certain disclosures.
A facility licensed under this part which claims that it provides special care for persons
who have Alzheimer’s disease or other related disorders must disclose in its
advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The facility must give a copy of all such advertisements or a copy of the document to each person who requests information about programs and services for persons with Alzheimer’s disease or other related disorders offered by the facility and must maintain a copy of all such advertisements and documents in its records. The agency shall examine all such advertisements and documents in the facility’s records as part of the license renewal procedure.

400.1755 Care for persons with Alzheimer's disease or related disorders.
(1) As a condition of licensure, facilities licensed under this part must provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer’s disease or a related disorder.
(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with Alzheimer’s disease or a related disorder must, in addition to being provided the information required in subsection (1), also have an initial training of at least 1 hour completed in the first 3 months after beginning employment. This training must include, but is not limited to, an overview of dementias and must provide basic skills in communicating with persons with dementia.
(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but is not limited to, managing problem behaviors, promoting the resident’s independence in activities of daily living, and skills in working with families and caregivers.
   (a) The required 4 hours of training for certified nursing assistants are part of the total hours of training required annually.
   (b) For a health care practitioner as defined in s. 456.001, continuing education hours taken as required by that practitioner’s licensing board shall be counted toward this total of 4 hours.
(4) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is sanctioned by that practitioner’s licensing board shall be considered to be approved by the Department of Elderly Affairs.
(5) The Department of Elderly Affairs or its designee must approve the initial and continuing training provided in the facilities. The department must approve training offered in a variety of formats, including, but not limited to, Internet-based training, videos, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.
(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility or to an assisted living facility, home health agency, adult day care center, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

400.20 Licensed nursing home administrator required.
No nursing home shall operate except under the supervision of a licensed nursing home administrator, and no person shall be a nursing home administrator unless he or she is the holder of a current license as provided in chapter 468.

400.211 Persons employed as nursing assistants; certification requirement.
(1) To serve as a nursing assistant in any nursing home, a person must be certified as a nursing assistant under part II of chapter 464, unless the person is a registered nurse or practical nurse licensed in accordance with part I of chapter 464 or an applicant for such licensure who is permitted to practice nursing in accordance with rules adopted by the Board of Nursing pursuant to part I of chapter 464.
(2) The following categories of persons who are not certified as nursing assistants under part II of chapter 464 may be employed by a nursing facility for a period of 4 months:
(a) Persons who are enrolled in, or have completed, a state-approved nursing assistant program;
(b) Persons who have been positively verified as actively certified and on the registry in another state with no findings of abuse, neglect, or exploitation in that state; or
(c) Persons who have preliminarily passed the state’s certification exam.
The certification requirement must be met within 4 months after initial employment as a nursing assistant in a licensed nursing facility.
(3) Nursing homes shall require persons seeking employment as a certified nursing assistant to submit an employment history to the facility. The facility shall verify the employment history unless, through diligent efforts, such verification is not possible. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a former employer who reasonably and in good faith communicates his or her honest opinion about a former employee’s job performance.
(4) When employed by a nursing home facility for a 12-month period or longer, a nursing assistant, to maintain certification, shall submit to a performance review every 12 months and must receive regular inservice education based on the outcome of such reviews. The inservice training must:
(a) Be sufficient to ensure the continuing competence of nursing assistants and must meet the standard specified in s. 464.203(7);
(b) Include, at a minimum:
1. Techniques for assisting with eating and proper feeding;
2. Principles of adequate nutrition and hydration;
3. Techniques for assisting and responding to the cognitively impaired resident or the resident with difficult behaviors;
4. Techniques for caring for the resident at the end-of-life; and
Recognizing changes that place a resident at risk for pressure ulcers and falls; and
(c) Address areas of weakness as determined in nursing assistant performance reviews and
may address the special needs of residents as determined by the nursing home facility staff.
Costs associated with this training may not be reimbursed from additional Medicaid
funding through interim rate adjustments.

400.23 Rules; evaluation and deficiencies; licensure status.
(3) (c) Licensed practical nurses licensed under chapter 464 who are providing nursing
services in nursing home facilities under this part may supervise the activities of other
licensed practical nurses, certified nursing assistants, and other unlicensed personnel
providing services in such facilities in accordance with rules adopted by the Board of
Nursing.

464.201 Definitions.--As used in this part, the term:
(1) "Approved training program" means:
(a) A course of training conducted by a public sector or private sector educational center
licensed by the Department of Education to implement the basic curriculum for nursing
assistants which is approved by the Department of Education. Beginning October 1, 2000,
the board shall assume responsibility for approval of training programs under this
paragraph.
(b) A training program operated under s. 400.141.
(2) "Board" means the Board of Nursing.
(3) "Certified nursing assistant" means a person who meets the qualifications specified in
this part and who is certified by the board as a certified nursing assistant.
(4) "Department" means the Department of Health.
(5) "Practice of a certified nursing assistant" means providing care and assisting persons
with tasks relating to the activities of daily living. Such tasks are those associated with
personal care, maintaining mobility, nutrition and hydration, toileting and elimination,
assistive devices, safety and cleanliness, data gathering, reporting abnormal signs and
symptoms, postmortem care, patient socialization and reality orientation, end-of-life care,
cardiopulmonary resuscitation and emergency care, residents' or patients' rights,
documentation of nursing-assistant services, and other tasks that a certified nurse assistant
may perform after training beyond that required for initial certification and upon
validation of competence in that skill by a registered nurse. This subsection does not
restrict the ability of any person who is otherwise trained and educated from performing
such tasks.
(6) "Registry" means the listing of certified nursing assistants maintained by the board.
History.--s. 204, ch. 99-397; s. 79, ch. 2000-318; s. 4, ch. 2005-62.
Note.--Former s. 468.821.

464.202 Duties and powers of the board.--The board shall maintain, or contract with or
approve another entity to maintain, a state registry of certified nursing assistants. The
registry must consist of the name of each certified nursing assistant in this state; other
identifying information defined by board rule; certification status; the effective date of
certification; other information required by state or federal law; information regarding any
crime or any abuse, neglect, or exploitation as provided under chapter 435; and any disciplinary action taken against the certified nursing assistant. The registry shall be accessible to the public, the certificateholder, employers, and other state agencies. The board shall adopt by rule testing procedures for use in certifying nursing assistants and shall adopt rules regulating the practice of certified nursing assistants and specifying the scope of practice authorized and the level of supervision required for the practice of certified nursing assistants. The board may contract with or approve another entity or organization to provide the examination services, including the development and administration of examinations. The board shall require that the contract provider offer certified nursing assistant applications via the Internet, and may require the contract provider to accept certified nursing assistant applications for processing via the Internet. The board shall require the contract provider to provide the preliminary results of the certified nursing examination on the date the test is administered. The provider shall pay all reasonable costs and expenses incurred by the board in evaluating the provider’s application and performance during the delivery of services, including examination services and procedures for maintaining the certified nursing assistant registry.

**History.**--s. 204, ch. 99-397; s. 79, ch. 2000-318; s. 5, ch. 2005-62.

**Note.**--Former s. 468.822.

### 464.203 Certified nursing assistants; certification requirement.--

(1) The board shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and successfully passes the required Level I or Level II screening pursuant to s. 400.215 and meets one of the following requirements:

(a) Has successfully completed an approved training program and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the board and administered at a site and by personnel approved by the department.

(b) Has achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department and:

1. Has a high school diploma, or its equivalent; or
2. Is at least 18 years of age.

(c) Is currently certified in another state; is listed on that state’s certified nursing assistant registry; and has not been found to have committed abuse, neglect, or exploitation in that state.

(d) Has completed the curriculum developed under the Enterprise Florida Jobs and Education Partnership Grant and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department.

(2) If an applicant fails to pass the nursing assistant competency examination in three attempts, the applicant is not eligible for reexamination unless the applicant completes an approved training program.
(3) An oral examination shall be administered as a substitute for the written portion of the examination upon request. The oral examination shall be administered at a site and by personnel approved by the department.

(4) The board shall adopt rules to provide for the initial certification of certified nursing assistants.

(5) Certification as a nursing assistant, in accordance with this part, may be renewed until such time as the nursing assistant allows a period of 24 consecutive months to pass during which period the nursing assistant fails to perform any nursing-related services for monetary compensation. When a nursing assistant fails to perform any nursing-related services for monetary compensation for a period of 24 consecutive months, the nursing assistant must complete a new training and competency evaluation program or a new competency evaluation program.

(6) A certified nursing assistant shall maintain a current address with the board in accordance with s. 456.035.

(7) A certified nursing assistant shall complete 12 hours of inservice training during each calendar year. The certified nursing assistant shall be responsible for maintaining documentation demonstrating compliance with these provisions. The Council on Certified Nursing Assistants, in accordance with s. 464.2085(2)(b), shall propose rules to implement this subsection.

(8) The department shall renew a certificate upon receipt of the renewal application and imposition of a fee of not less than $20 and not more than $50 biennially. The department shall adopt rules establishing a procedure for the biennial renewal of certificates. Any certificate that is not renewed by July 1, 2006, is void.

History.--s. 204, ch. 99-397; s. 164, ch. 2000-160; s. 79, ch. 2000-318; s. 50, ch. 2001-45; s. 77, ch. 2002-1; s. 6, ch. 2005-62.

Note.--Former s. 468.823.

464.204 Denial, suspension, or revocation of certification; disciplinary actions.--

(1) The following acts constitute grounds for which the board may impose disciplinary sanctions as specified in subsection (2):

(a) Obtaining or attempting to obtain certification or an exemption, or possessing or attempting to possess certification or a letter of exemption, by bribery, misrepresentation, deceit, or through an error of the board.

(b) Intentionally violating any provision of this chapter, chapter 456, or the rules adopted by the board.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial, suspension, or revocation of certification.

(b) Imposition of an administrative fine not to exceed $150 for each count or separate offense.

(c) Imposition of probation or restriction of certification, including conditions such as corrective actions as retraining or compliance with an approved treatment program for impaired practitioners.

(3) The board may, upon the request of a certificateholder, exempt the certificateholder from disqualification of employment in accordance with chapter 435 and issue a letter of
exemption. The board must notify an applicant seeking an exemption from disqualification from certification or employment of its decision to approve or deny the request within 30 days after the date the board receives all required documentation.

History.--s. 204, ch. 99-397; s. 165, ch. 2000-160; s. 79, ch. 2000-318.

Note.--Former s. 468.824.

464.205 Availability of disciplinary records and proceedings.--Pursuant to s. 456.073, any complaint or record maintained by the department pursuant to the discipline of a certified nursing assistant and any proceeding held by the board to discipline a certified nursing assistant shall remain open and available to the public.

History.--s. 204, ch. 99-397; s. 166, ch. 2000-160; s. 79, ch. 2000-318.

Note.--Former s. 468.825.

464.206 Exemption from liability.--If an employer terminates or denies employment to a certified nursing assistant whose certification is inactive as shown on the certified nursing assistant registry or whose name appears on a criminal screening report of the Department of Law Enforcement, the employer is not civilly liable for such termination and a cause of action may not be brought against the employer for damages, regardless of whether the employee has filed for an exemption from the board under s. 464.204(3). There may not be any monetary liability on the part of, and a cause of action for damages may not arise against, any licensed facility, its governing board or members thereof, medical staff, disciplinary board, agents, investigators, witnesses, employees, or any other person for any action taken in good faith without intentional fraud in carrying out this section.

History.--s. 204, ch. 99-397; s. 79, ch. 2000-318; s. 105, ch. 2000-349.

Note.--Former s. 468.826

464.207 Penalties.--It is a misdemeanor of the first degree, punishable as provided under s. 775.082 or s. 775.083, for any person, knowingly or intentionally, to fail to disclose, by false statement, misrepresentation, impersonation, or other fraudulent means, in any application for voluntary or paid employment or certification regulated under this part, a material fact used in making a determination as to such person's qualifications to be an employee or certificateholder.

History.--s. 204, ch. 99-397; s. 79, ch. 2000-318.

Note.--Former s. 468.827

464.208 Background screening information; rulemaking authority.--
(1) The Agency for Health Care Administration shall allow the board to electronically access its background screening database and records.

(2) An employer, or an agent thereof, may not use criminal records or juvenile records relating to vulnerable adults for any purpose other than determining if the person meets the requirements of this part. Such records and information obtained by the board shall remain confidential and exempt from s. 119.07(1).

(3) If the requirements of the Omnibus Budget Reconciliation Act of 1987, as amended, for the certification of nursing assistants are in conflict with this part, the federal requirements
shall prevail for those facilities certified to provide care under Title XVIII (Medicare) or
Title XIX (Medicaid) of the Social Security Act.

(4) The board shall adopt rules to administer this part.


Note.--Former s. 468.828.

464.2085 Council on Certified Nursing Assistants.--The Council on Certified Nursing Assistants is created within the department, under the Board of Nursing.

(1) The council shall consist of five members appointed as follows:

(a) The chairperson of the Board of Nursing shall appoint two members who are registered nurses. One of the members must currently supervise a certified nursing assistant in a licensed nursing home.

(b) The chairperson of the Board of Nursing shall appoint one member who is a licensed practical nurse who is currently working in a licensed nursing home.

(c) The State Surgeon General or his or her designee shall appoint two certified nursing assistants currently certified under this chapter, at least one of whom is currently working in a licensed nursing home.

(2) The council shall:

(a) Recommend to the department policies and procedures for the certification of nursing assistants.

(b) Develop all rules regulating the education, training, and certification process for nursing assistants certified under this chapter. The Board of Nursing shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council.

(c) Make recommendations to the board regarding all matters relating to the certification of nursing assistants.

(d) Address concerns and problems of certified nursing assistants in order to improve safety in the practice of certified nursing assistants.

History.--s. 80, ch. 2000-318; s. 84, ch. 2008-6.