

1 A bill to be entitled
2 An act relating to health care facility inspections;
3 amending s. 400.19, F.S.; requiring the Agency for
4 Health Care Administration to determine compliance
5 with standards for electricity and emergency power
6 sources during unannounced inspections of a licensed
7 nursing home facility; increasing the frequency of
8 such inspections; amending s. 400.23, F.S.; requiring
9 the agency, in consultation with the Department of
10 Health and the Department of Elderly Affairs, to adopt
11 and enforce rules requiring a licensed nursing home
12 facility to have adequate electrical equipment, an
13 emergency power source, and a supply of fuel which
14 meets a specified criterion; amending s. 429.34, F.S.;
15 requiring the agency to conduct unannounced
16 inspections of a licensed assisted living facility;
17 specifying the frequency of such inspections;
18 requiring the agency to determine compliance with
19 certain standards during such inspection; amending s.
20 429.41, F.S.; requiring the Department of Elderly
21 Affairs, in consultation with the agency, the
22 Department of Children and Families, and the
23 Department of Health, to adopt and enforce rules
24 requiring a licensed assisted living facility to
25 maintain equipment sufficient to provide adequate day-

26 | to-day electricity within the facility, an emergency
 27 | power source, and a supply of fuel which meets a
 28 | specified criterion; providing an effective date.
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30 | Be It Enacted by the Legislature of the State of Florida:
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32 | Section 1. Subsection (3) of section 400.19, Florida
 33 | Statutes, is amended to read:

34 | 400.19 Right of entry and inspection.—

35 | (3) The agency shall ~~every 15 months~~ conduct at least one
 36 | unannounced inspection every 4 months to determine compliance by
 37 | the licensee with this chapter and related rules ~~statutes, and~~
 38 | ~~with rules promulgated under the provisions of those statutes,~~
 39 | governing minimum standards of construction, electricity, and
 40 | emergency power sources; quality and adequacy of care;7 and
 41 | resident rights ~~of residents~~. The survey shall be conducted
 42 | every 6 months for the next 2-year period if the facility has
 43 | been cited for a class I deficiency, has been cited for two or
 44 | more class II deficiencies arising from separate surveys or
 45 | investigations within a 60-day period, or has had three or more
 46 | substantiated complaints within a 6-month period, each resulting
 47 | in at least one class I or class II deficiency. In addition to
 48 | any other fees or fines in this part, the agency shall assess a
 49 | fine for each facility that is subject to the 6-month survey
 50 | cycle. The fine for the 2-year period shall be \$6,000, one-half

51 to be paid at the completion of each survey. The agency may
52 adjust this fine by the change in the Consumer Price Index,
53 based on the 12 months immediately preceding the increase, to
54 cover the cost of the additional surveys. The agency shall
55 verify through subsequent inspection that any deficiency
56 identified during inspection is corrected. However, the agency
57 may verify the correction of a class III or class IV deficiency
58 unrelated to resident rights or resident care without
59 reinspecting the facility if adequate written documentation has
60 been received from the facility, which provides assurance that
61 the deficiency has been corrected. The giving or causing to be
62 given of advance notice of such unannounced inspections by an
63 employee of the agency to any unauthorized person shall
64 constitute cause for suspension of not fewer than 5 working days
65 according to the provisions of chapter 110.

66 Section 2. Paragraph (d) of subsection (2) of section
67 400.23, Florida Statutes, is amended to read:

68 400.23 Rules; evaluation and deficiencies; licensure
69 status.—

70 (2) Pursuant to the intention of the Legislature, the
71 agency, in consultation with the Department of Health and the
72 Department of Elderly Affairs, shall adopt and enforce rules to
73 implement this part and part II of chapter 408, which shall
74 include reasonable and fair criteria in relation to:

75 (d) The equipment essential to the health and welfare of

76 | the residents, including equipment sufficient to provide
 77 | adequate day-to-day electricity, a fully operational emergency
 78 | power source, and a supply of fuel sufficient to sustain the
 79 | emergency power source for at least 5 days during a power
 80 | outage.

81 | Section 3. Subsection (2) of section 429.34, Florida
 82 | Statutes, is amended to read:

83 | 429.34 Right of entry and inspection.—

84 | (2) The agency shall conduct at least one unannounced
 85 | inspection of ~~inspect~~ each licensed assisted living facility ~~at~~
 86 | ~~least once~~ every ~~4~~ 24 months to determine compliance by the
 87 | licensee with this chapter and related rules governing minimum
 88 | standards of construction, electricity, and emergency power
 89 | sources; quality and adequacy of care; and resident rights. If
 90 | an assisted living facility is cited for a class I violation or
 91 | three or more class II violations arising from separate surveys
 92 | within a 60-day period or due to unrelated circumstances during
 93 | the same survey, the agency must conduct an additional licensure
 94 | inspection within 6 months.

95 | Section 4. Paragraph (a) of subsection (1) of section
 96 | 429.41, Florida Statutes, is amended to read:

97 | 429.41 Rules establishing standards.—

98 | (1) It is the intent of the Legislature that rules
 99 | published and enforced pursuant to this section shall include
 100 | criteria by which a reasonable and consistent quality of

101 resident care and quality of life may be ensured and the results
102 of such resident care may be demonstrated. Such rules shall also
103 ensure a safe and sanitary environment that is residential and
104 noninstitutional in design or nature. It is further intended
105 that reasonable efforts be made to accommodate the needs and
106 preferences of residents to enhance the quality of life in a
107 facility. Uniform firesafety standards for assisted living
108 facilities shall be established by the State Fire Marshal
109 pursuant to s. 633.206. The agency, in consultation with the
110 department, may adopt rules to administer the requirements of
111 part II of chapter 408. In order to provide safe and sanitary
112 facilities and the highest quality of resident care
113 accommodating the needs and preferences of residents, the
114 department, in consultation with the agency, the Department of
115 Children and Families, and the Department of Health, shall adopt
116 rules, policies, and procedures to administer this part, which
117 must include reasonable and fair minimum standards in relation
118 to:

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

125 1. Firesafety evacuation capability determination.—An

126 | evacuation capability evaluation for initial licensure shall be
127 | conducted within 6 months after the date of licensure.

128 | 2. Firesafety requirements.—

129 | a. The National Fire Protection Association, Life Safety
130 | Code, NFPA 101 and 101A, current editions, shall be used in
131 | determining the uniform firesafety code adopted by the State
132 | Fire Marshal for assisted living facilities, pursuant to s.
133 | 633.206.

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

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

142 | d. An assisted living facility that is issued a building
143 | permit or certificate of occupancy before July 1, 2016, may at
144 | its option and after notifying the authority having
145 | jurisdiction, remain under the provisions of the 1994 and 1995
146 | editions of the National Fire Protection Association, Life
147 | Safety Code, NFPA 101, and NFPA 101A. The facility opting to
148 | remain under such provisions may make repairs, modernizations,
149 | renovations, or additions to, or rehabilitate, the facility in
150 | compliance with NFPA 101, 1994 edition, and may utilize the

151 alternative approaches to life safety in compliance with NFPA
152 101A, 1995 edition. However, a facility for which a building
153 permit or certificate of occupancy is issued before July 1,
154 2016, that undergoes Level III building alteration or
155 rehabilitation, as defined in the Florida Building Code, or
156 seeks to utilize features not authorized under the 1994 or 1995
157 editions of the Life Safety Code must thereafter comply with all
158 aspects of the uniform firesafety standards established under s.
159 633.206, and the Florida Fire Prevention Code, in effect for
160 assisted living facilities as adopted by the State Fire Marshal.

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

169 4. Emergency power sources for use during power outages.—
170 Facilities are required to maintain a fully operational
171 emergency power source and a supply of fuel sufficient to
172 sustain the emergency power source for at least 5 days during a
173 power outage.

174 Section 5. This act shall take effect July 1, 2018.