

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Personal Services	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Capital Expenditures	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
Net Fiscal Impact	<u>0*</u>	_____	_____	_____	_____

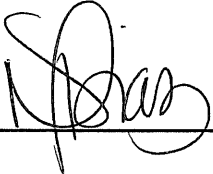
ADDITIONAL FTE

POSITIONS (Cumulative)	0	0	0	0	0
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Is Item Included In Current Budget? Yes _____ No _____
 Does this item include the use of federal funds? Yes _____ No X
 Budget Account Exp No: Fund _____ Department _____ Unit _____ Object _____
 Rev No: Fund _____ Department _____ Unit _____ RevSrc _____

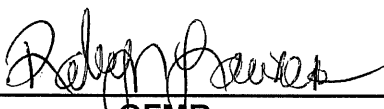
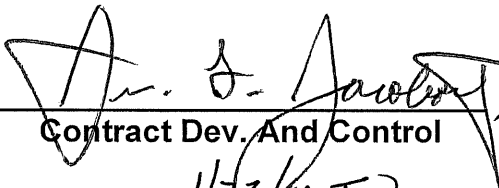
B. Recommended Sources of Funds/Summary of Fiscal Impact:

*The fiscal impact is undetermined at this time.


C. Departmental Fiscal Review:  1/8/19

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

 1/11/19
 OFMB 9/1/10 1/23/19
Com 110  1/22/19 TW
 Contract Dev. And Control

B. Legal Sufficiency:


 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

(continued from page 1)

Background and Policy Issues: In cooperation with the Palm Beach County Sheriff's Office, the Board of County Commissioners enacted the Home Caregiver Ordinance on October 20, 2015. The ordinance requires individuals who receive compensation from a vulnerable adult in exchange for assisting with covered activities and/or instrumental activities of daily living to undergo a level 2 criminal background screening. The Ordinance exempts most relatives of the vulnerable adult, volunteers of charitable organizations, and specific licensed professionals. Once processed and no disqualifying offenses are identified, applicants are issued a photo ID and appear in a web-based look up tool available to the public.

47

48 *Division* is the Palm Beach County Department of Public Safety Consumer Affairs Division.

49 *Home Care Business* means a nurse registry, home health care agency, homemaker and
50 companion service, hospice provider, or any staffing agency, firm or person who makes Home
51 Caregivers available to provide services for Vulnerable Adults, regardless of whether the Home
52 Caregiver is an independent contractor, agent or employee.

53 *Home Caregiver* is a person who receives compensation directly or indirectly from a
54 "vulnerable adult" in exchange for assisting that vulnerable adult with one (1) or more "covered
55 activities."

56 *Home Caregiver ID Badge* means a Palm Beach County license issued by the Division to a
57 Home Caregiver permitting a Home Caregiver to provide services to a vulnerable adult pursuant
58 to this ordinance.

59 *Partner* means a person living with a Vulnerable Adult in a pre-existing, established
60 relationship with that Vulnerable Adult, sharing the same residence and holding themselves out to
61 others as though in a committed relationship in a manner similar to married couples.

62 *Vulnerable Adult* is a person eighteen (18) years of age or older whose ability to perform the
63 normal activities of daily living or to provide for his or her own care or protection is impaired due
64 to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or
65 brain damage, or the infirmities of aging.

66 **Section 2. Section 17-464. – Home Caregiver ID Badge.**

67 1. It shall be unlawful and a violation of this Article for any person to act as a Home Caregiver
68 without first obtaining a Home Caregiver ID Badge, unless exempt under this Article.

69

70 (a) Exemptions. This Article shall not apply to the following:

71 (1) The Vulnerable Adult's spouse, domestic partner, parents, step-parents, grandparents,
72 step-children, grandparents, children, step-children, grandchildren, step-
73 grandchildren, great grandchildren, siblings, step-siblings, former spouse, or Partner;

74 (2) Charitable and/or faith based organizations which are exempt from federal income tax
75 pursuant to 26 U.S.C. § 501(c)(3), and which serve Vulnerable Adults by making
76 referrals of volunteers to provide Covered Activities;

77 (3) People who receive compensation directly or indirectly from Vulnerable Adults in
78 exchange for assisting Vulnerable Adults with one (1) or more Covered Activities on
79 a non-recurring basis, not to exceed three (3) days in any calendar month or twenty-
80 four (24) days in any calendar year calculated by an accumulation of hours and days
81 of service provided by the caregiver for all Vulnerable Adults receiving services from
82 that Home Caregiver;

83 (4) People who are currently licensed in Florida as a: Registered Nurse (RN), Licensed
84 Practical Nurse (LPN), Certified Nursing Assistant (CNA), Clinical Nurse Specialist
85 (CNS), Advanced Registered Nurse Practitioner (ARNP), Physical Therapist (PT),
86 Physical Therapist Assistant (PTA), Occupational Therapist (OT), or Occupational
87 Therapist Assistant (OTA);

88 (5) People who are serving as court-appointed guardians or professional court guardians
89 are not required to obtain a home caregiver ID Badge to serve as a court appointed
90 guardian. This does not relieve home caregivers who are retained by or hired by court
91 appointed guardians from obtaining a Home Caregiver ID Badge.

92 (6) Employees working under the direction and control of businesses classified by the
93 Agency for Health Care Administration (AHCA) as adult day care, adult family care
94 homes, ambulatory surgery centers, assisted living facilities, birth center, clinical

95 laboratory, community mental health partial hospital program, community residential
96 home, comprehensive outpatient rehabilitation facility, crisis stabilization unit, health
97 care clinic, home medical equipment providers, nursing home, rehabilitation agency,
98 residential treatment center for children and adolescents, residential treatment
99 facility, rural health clinic, skilled nursing unit, or transitional living facility. This
100 exemption is limited to the services provided by a Home Caregiver as an employee
101 of the business cited herein and not to services provided outside of that employment
102 relationship. Persons employed or contracted by a Home Care Business and who are
103 assigned to work with an entity listed herein, are not exempt from the ID Badge
104 requirement.

105 2. Home Care Businesses shall require each Home Caregiver to provide proof of current ID
106 Badge prior to assignment of the Home Caregiver, regardless of whether the Home Caregiver is
107 an independent contractor, agent, or employee of the Home Care Business.

108 3. It is a violation of this section for any Home Care Business to provide or make available the
109 services of a Home Caregiver who does not have a current ID Badge, unless the Home Caregiver
110 is exempt from the ID Badge requirement of this Article.

111 4. A person who is not exempt who wishes to act as a Home Caregiver shall make application
112 to the Division for a Home Caregiver ID Badge. All applicants for a Home Caregiver ID Badge or
113 renewal shall conform to all of the following, and failure to meet each of these conditions is
114 grounds for denial of a Home Caregiver ID Badge:

115 (a) Be at least eighteen (18) years of age.

116 (b) On initial application and on each subsequent renewal thereafter, the applicant must
117 provide the original request form for his/her Florida Department of Law Enforcement
118 (FDLE) criminal history/records report to the Division, as well as payment for the
119 amount required to secure the criminal history/records report. The Division shall then
120 be responsible for processing the request and payment to the FDLE. Prior to submitting
121 a request for a criminal history record check pursuant to this Article, the Division shall
122 notify each applicant to be fingerprinted that his or her fingerprints will be sent to the
123 State Department of Law Enforcement for a state criminal history record check and to
124 the Federal Bureau of Investigation for a national criminal history record check. The
125 notification shall also state that the Home Caregiver ID Badge applicant has a right to:

126 (1) Obtain a copy of his or her criminal history records;

127 (2) To challenge the completeness and accuracy of the criminal history records
128 pursuant to state and federal law; and

129 (3) To request a correction, change or update to the criminal history records pursuant
130 to state and federal law.

131 (c) Every application or renewal application for a Home Caregiver ID Badge shall be in
132 writing and signed by the applicant and shall be filed with the Division on a form
133 provided by the Division together with the nonrefundable ID Badge application fee which
134 shall not be subject to proration. The ID Badge application fee shall be established by
135 resolution of the Board.

136 (d) Applicants must submit to a full-face photograph or digital image prior to the issuance
137 of the Home Caregiver ID Badge by the Division. The Home Caregiver ID Badge shall,
138 at a minimum, contain the name of the Home Caregiver, date of expiration, and full-face
139 photograph or digital image of the Home Caregiver.

140 (e) Applicants for initial or renewal ID Badge must complete the Home Caregiver ID Badge
141 registration affidavits provided by the Division.

142 (f) The Division may issue a replacement Home Caregiver ID Badge to any Home Caregiver
143 on application, payment of a nonrefundable replacement fee, presentation of proof or a

144 sworn affidavit that the ID Badge has been lost, stolen, or for any other valid reason, and
145 any other documentation or requirement requested by the Division. The replacement fee
146 shall be established by resolution of the Board.

147 5. Applicants who are employed by, or are independent contractors placed through a Home Care
148 Business which is licensed by the Florida Agency for Health Care Administration (AHCA), may
149 comply with the fingerprinting and criminal history records screening requirement of this section
150 by causing the applicant's AHCA licensed agency, registry, or provider to submit directly to the
151 Division an affidavit on a form provided by the Division, in which the AHCA licensed agency,
152 registry, or provider attests that the applicant has undergone a level two (2) criminal history records
153 screening and is currently licensed by AHCA.

154 (a) All AHCA licensed agencies, registries, and providers submitting such an affidavit on
155 behalf of their employee or independent contractor are required to advise the Division, in
156 writing, immediately on learning: 1) that the employee or independent contractor who is
157 the subject of the affidavit has been designated by AHCA as "ineligible"; and 2) that the
158 employee or independent contractor who is the subject of the affidavit is no longer
159 employed by, or placed through, the AHCA licensed agency, registry, or provider which
160 provided the affidavit. Failure of the Home Care Business to notify the Division within
161 fifteen (15) days of the caregiver's ineligibility, discontinuance from employment or
162 placement, shall constitute a violation of this Article.

163 6. If the Division has direct access to the AHCA licensing database to enable the Division to
164 validate that: 1) an applicant has undergone a level two (2) criminal history record screening; 2)
165 AHCA deemed the Home Caregiver eligible; 3) AHCA agrees to notify the Division of changes
166 to the applicant's eligibility status; and 4) the applicant's fingerprints are being retained and
167 monitored by AHCA, then the Division will issue a Home Caregiver ID Badge directly to the
168 applicant in the same manner as applicants submitting to and clearing a level (2) background check
169 with the Division.

170 7. Upon notification that a Home Caregiver is no longer affiliated with an AHCA licensed
171 Home Care Business or is deemed ineligible by AHCA, the Division will suspend the ID Badge
172 of the Home Caregiver.

173 (a) The Division will reinstate the ID Badge of the Home Caregiver upon receipt of a
174 replacement agency affidavit so long as the Home Caregiver ID Badge is not yet expired.

175 (b) An updated agency affidavit does not constitute an extension of the expiration date on
176 the photo ID or term of the Home Caregiver ID Badge.

177 (c) The Division will contact the ID Badge holder informing him/her that their ID Badge is
178 suspended and include information on how to reinstate the ID Badge.

179 8. Each Home Caregiver ID Badge shall be valid for a five-year period and must be renewed
180 by the applicant every five (5) years from the date of the initial/renewal application. The Division
181 may deny a Home Caregiver ID Badge if it is determined that the applicant has misrepresented,
182 omitted, or concealed a fact on the application, renewal application or replacement application. If
183 the Home Caregiver ID Badge is denied, the Division shall not accept another application from
184 that Home Caregiver for said ID Badge for one (1) year from the date the ID Badge is denied. Any
185 person renewing a Home Caregiver ID Badge must file a renewal application, furnish the
186 documentation requested by the Division, satisfy the background check requirements, and submit
187 payment for the required nonrefundable renewal fee(s), not more than ninety (90) days before the
188 expiration date of a Home Caregiver ID Badge. Persons who fail to reapply for their Home
189 Caregiver ID Badge thirty (30) days prior to expiration, risk having a gap in their authorization to
190 act as a Home Caregiver. Any applicant who fails to submit a renewal application within twenty
191 (20) days of the expiration of a current ID Badge will be considered a new applicant when

192 reapplying and no grandfathered provisions will apply. The ID Badge renewal fee shall be
193 established by resolution of the Board.

194 9. Home Caregivers shall maintain the ID Badge issued pursuant to this Article while acting as
195 a Home Caregiver in such a manner as to make it available for inspection to the public, Division
196 personnel, clerk/court staff, Florida Department of Children and Families, Florida Department of
197 Elder Affairs, and all law enforcement officials.

198 10. It shall be unlawful for any Home Caregiver to advertise Home Caregiver services without
199 first fulfilling and maintaining compliance with the requirements of this Article. Nevertheless, to
200 the extent State law preempts a matter addressed in this Article, then that State law provision shall
201 take precedence.

202 **Section 3. Sec. 17-465. – Disqualifications.**

203 1. An applicant for a Home Caregiver ID Badge shall be disqualified from receiving such a
204 ID Badge, and a Home Caregiver may have his or her ID Badge revoked, by reason of:

205 (7) Altering or otherwise changing the contents of the information included on the face of a
206 Home Caregiver ID Badge; or

207 (9) Notification to the Division from AHCA that the applicant is no longer eligible.

208 **Section 4. Sec. 17-466. – Administrative Appeal.**

209 1. (a) If an applicant is disqualified from receiving a Home Caregiver ID Badge, or if a
210 Home Caregiver ID Badge is revoked, the Division will serve written notice of disqualification or
211 revocation by certified mail (return receipt requested) on the applicant or ID Badge holder. The
212 written notice shall specify the grounds for the disqualification or revocation. On receipt of the
213 written notice, a person shall be entitled to appeal such decision to the consumer affairs hearing
214 board/special master

215 **Section 5. Sec. 17-468. – Penalties.**

216 1. Pursuant to F.S. § 125.69, violations of county ordinances shall be prosecuted in the same
217 manner as misdemeanors are prosecuted. Any person violating any of the provisions of this Article,
218 any terms of a notice to appear citation, any notice to correct a violation, or any other lawful order
219 of the Division Director; or who shall fail to abide by and obey all orders and resolutions
220 promulgated as herein provided, shall, on conviction, be punished by a fine not to exceed five
221 hundred dollars (\$500.00) or imprisonment for not more than sixty (60) days, or both for each
222 violation, payment of all costs and expenses involved in prosecuting the offense, and permanent
223 disqualification from receiving a Home Caregiver ID Badge. Each day that a violation occurs shall
224 constitute a separate violation.

225 2. In addition to all other means of enforcement, a violation of this Article is a civil infraction
226 punishable by a fine not to exceed Five Hundred Dollars (\$500) pursuant to the provisions of
227 Section 162.21, Florida Statutes, as may be amended. Specific fine amounts for violations shall
228 be established by resolution of the Board of County Commissioners.

229 (a) A violation of this Article shall result in a warning notice or a citation from the
230 Division by a law enforcement officer, or by a Division code enforcement officer,
231 who based on personal investigation, has reasonable cause to believe that a
232 violation of this Article has been committed.

233 (b) The County Court shall have jurisdiction over all violations of this Article.

234 (c) The County Clerk shall accept designated fines and issue receipts therefor.

235 (d) Violations of this Article shall be charged with a civil violation and violators shall
236 comply with the directives on the citation.

237 (e) Payment shall be made, either by mail or in person, to the violations bureau within
238 the time specified on the citation. If this procedure is followed, the violation shall

- 239 be deemed to be admitted, and the right to a hearing on the issue of commission of
240 the violation shall be waived.
- 241 (f) Pursuant to Florida Statutes, mandatory costs shall be assessed against every
242 violator convicted of a violation of this Article.
- 243 (g) Failure to make payment within the specified period on the citation shall be deemed
244 a waiver of the right to pay the civil penalty as set forth in the citation.
- 245 (h) Electing to appear before the court to contest the citation shall be a waiver of the
246 right to pay the civil penalty.
- 247 (i) The court, after a hearing, shall make a determination as to whether a violation has
248 occurred and may impose a civil penalty not to exceed five hundred dollars
249 (\$500.00) plus court costs.
- 250 (j) If a violator fails to pay the civil penalty, or fails to appear in court to contest the
251 citation, such failure shall be deemed a waiver of the right to contest the citation;
252 and in such case, a default judgment may be entered and the judge shall impose a
253 fine at that time. If the fine is paid, the case shall be dismissed. If the fine is not
254 paid, judgment may be entered up to the maximum civil penalty.
- 255 (k) Upon receipt of a citation for an infraction under this Article, said citation shall be
256 signed and accepted thereby indicating a promise to pay the fine or appear in court.
- 257 (l) Any person who willfully refuses to sign and accept a citation issued by an officer
258 shall be guilty of a misdemeanor of the second degree, punishable as provided by
259 Florida Statutes, §§ 775.082 or 775.083.
- 260 (m) Failure to comply with any provision of this Article shall constitute a separate and
261 distinct violation.

262 **Section 6. Repeal of laws in conflict.**

263 All local laws and ordinances applying to the unincorporated area of the county in conflict
264 with any provision of this article are hereby repealed to the extent of any conflict.

265 **Section 7. Savings clause.**

266 Notwithstanding the section of this ordinance regarding repeal of laws in conflict, all
267 administrative and court orders, fines, and pending enforcement issued pursuant to this authority
268 and procedures established by Chapter 17, Article V, Division 1, Section 17-153 of the Palm Beach
269 County Code shall remain in full force and effect.

270 **Section 8. Severability.**

271 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
272 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such
273 holding shall not affect the remainder of this Ordinance.

274 **Section 9. Inclusion in the Code of Laws and Ordinances.**

275 The provisions of this Ordinance shall become and be made a part of the Palm Beach
276 County Code. The sections of this Ordinance may be renumbered or re-lettered to accomplish
277 such, and the word Ordinance may be changed to section, article, or other appropriate word.

278 **Section 10. Captions.**

279 The captions, section headings, and section designations used in this Ordinance are for
280 convenience only and have no effect on the interpretation of the provisions of this Ordinance.

281

282

283 **Section 11. Effective Date.**

284 The provisions of this Ordinance shall become effective upon filing with the Department
285 of State.

286 **APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach**
287 **County, Florida, on this the _____ day of _____, 2019.**
288

289
290 **ATTEST:**
291 **SHARON R. BOCK,**
292 **CLERK & COMPTROLLER**

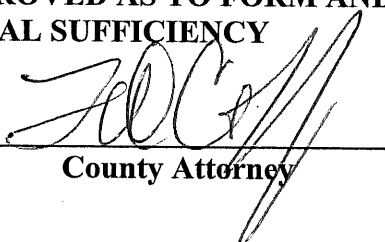
PALM BEACH FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

293
294
295 **By: _____**
296 **Deputy Clerk**
297

By: _____
Mack Bernard, Mayor

298 **APPROVED AS TO FORM AND**
299 **LEGAL SUFFICIENCY**

300
301 **By: _____**
302 **County Attorney**



47

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50 companion service, hospice provider, or any staffing agency, firm or person who makes Home
51 Caregivers available to provide services for Vulnerable Adults, regardless of whether the Home
52 Caregiver is an independent contractor, agent or employee.

53 *Home Caregiver* is a person who receives compensation directly or indirectly from a
54 "vulnerable adult" in exchange for assisting that vulnerable adult with one (1) or more "covered
55 activities."

56 *Home Caregiver ID Badge* means a Palm Beach County license issued by the Division to a
57 Home Caregiver permitting a Home Caregiver to provide services to a vulnerable adult pursuant
58 to this ordinance.

59 *Partner* means a person living with a Vulnerable Adult in a pre-existing, established
60 relationship with that Vulnerable Adult, sharing the same residence and holding themselves out to
61 others as though in a committed relationship in a manner similar to married couples.

62 *Vulnerable Adult* is a person eighteen (18) years of age or older whose ability to perform the
63 normal activities of daily living or to provide for his or her own care or protection is impaired due
64 to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or
65 brain damage, or the infirmities of aging.

66 **Section 2. Section 17-464. – Licensing. Home Caregiver ID Badge.**

67 1. It shall be unlawful and a violation of this Article for any person to act as a Home Caregiver
68 without first obtaining a Home Caregiver licenseID Badge, unless exempt under this Article. ;
69 however, this Article shall not apply to the following:

70
71 (a) Exemptions. howeverThis Article shall not apply to the following:

72 (1) The Vulnerable Adult's spouse, domestic partner, parents, step-parents, grandparents,
73 step-children, grandparents, children, step-children, grandchildren, step-
74 grandchildren, great grandchildren, siblings, ~~or~~ step-siblings, former spouse, or
75 Partner;

76 (2) Charitable and/or faith based organizations which are exempt from federal income tax
77 pursuant to 26 U.S.C. § 501(c)(3), and which serve Vulnerable Adults by making
78 referrals of volunteers to provide Covered Activities;

79 (3) People who receive compensation directly or indirectly from a Vulnerable Adults in
80 exchange for assisting that Vulnerable Adults with one (1) or more Covered Activities
81 on a non-recurring basis, not to exceed three (3) days in any calendar month or twenty-
82 four (24) days in any calendar year calculated by an accumulation of hours and days
83 of service provided by the caregiver for all Vulnerable Adults receiving services from
84 that Home Caregiver;

85 (4) People who are currently licensed in Florida as a: Registered Nurse (RN), Licensed
86 Practical Nurse (LPN), Certified Nursing Assistant (CNA), Clinical Nurse Specialist
87 (CNS), Advanced Registered Nurse Practitioner (ARNP), Physical Therapist (PT),
88 Physical Therapist Assistant (PTA), Occupational Therapist (OT), or Occupational
89 Therapist Assistant (OTA);

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91 are not required to obtain a home caregiver ID Badge to serve as a court appointed
92 guardian. This does not relieve home caregivers who are retained by or hired by court
93 appointed guardians from obtaining a Home Caregiver ID Badge.

94 (6) Employees working under the direction and control of businesses classified by the
95 Agency for Health Care Administration (AHCA) as adult day care, adult family care
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100 residential treatment center for children and adolescents, residential treatment
101 facility, rural health clinic, skilled nursing unit, or transitional living facility. This
102 exemption is limited to the services provided by a Home Caregiver as an employee
103 of the business cited herein and not to services provided outside of that employment
104 relationship. Persons employed or contracted by a Home Care Business and who are
105 assigned to work with an ~~or~~ entity listed herein, are not exempt from the ID Badge
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108 Badge prior to assignment of the Home Caregiver, regardless of whether the Home Caregiver is
109 an independent contractor, agent, or employee of the Home Care Business.

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111 services of a Home Caregiver who does not have a current ID Badge, unless the Home Caregiver
112 is exempt from the ID Badge requirement of this Article.

113 4. A person who is not exempt who wishes to act as a Home Caregiver shall make application
114 to the Division for a Home Caregiver ID Badge. All applicants for a Home Caregiver ID Badge or
115 renewal shall conform to all of the following, and failure to meet each of these conditions is
116 grounds for denial of a Home Caregiver ID Badge:

117 (a) Be at least eighteen (18) years of age.

118 (b) On initial application and on each subsequent renewal thereafter, the applicant must
119 provide the original request form for his/her Florida Department of Law Enforcement
120 (FDLE) criminal history/records report to the Division, as well as payment for the
121 amount required to secure the criminal history/records report. The Division shall then
122 be responsible for processing the request and payment to the FDLE. Prior to submitting
123 a request for a criminal history record check pursuant to this Article, the Division shall
124 notify each applicant to be fingerprinted that his or her fingerprints will be sent to the
125 State Department of Law Enforcement for a state criminal history record check and to
126 the Federal Bureau of Investigation for a national criminal history record check. The
127 notification shall also state that the Home Caregiver ID Badge ~~license~~ applicant has a
128 right to:

129 (1) Obtain a copy of his or her criminal history records;

130 (2) To challenge the completeness and accuracy of the criminal history records
131 pursuant to state and federal law; and

132 (3) To request a correction, change or update to the criminal history records pursuant
133 to state and federal law.

134 (c) Every application or renewal application for a Home Caregiver ~~license~~ID Badge shall be
135 in writing and signed by the applicant and shall be filed with the Division on a form
136 provided by the Division together with the nonrefundable ~~license~~ID Badge application
137 fee which shall not be subject to proration. The ~~license~~ID Badge application fee shall be
138 established by resolution of the Board.

139 (d) Applicants must submit to a full-face photograph or digital image prior to the issuance
140 of the Home Caregiver ~~license~~ID Badge by the Division. The Home Caregiver ~~license~~ID
141 Badge shall, at a minimum, contain the name of the Home Caregiver, date of expiration,
142 and full-face photograph or digital image of the Home Caregiver.

143 (e) Applicants for initial or renewal licenseID Badge must complete the Home Caregiver
144 licenseID Badge registration affidavits provided by the Division.

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151 Care Business, ~~home health agencies, nurse registries, homemaker and companion~~
152 ~~services providers, and hospice providers~~ which are licensed by the Florida Agency for
153 Health Care Administration (AHCA), may comply with the fingerprinting and criminal
154 history records screening requirement of this section by causing the applicant's AHCA
155 licensed agency, registry, or provider to submit directly to the Division an affidavit on a
156 form provided by the Division, in which the AHCA licensed agency, registry, or provider
157 attests that the applicant has undergone a level two (2) criminal history records screening
158 and is currently licensed by AHCA

159 6. (a) All AHCA licensed agencies, registries, and providers submitting such an affidavit
160 on behalf of their employee or independent contractor are required to advise the Division,
161 in writing, immediately on learning: 1) that the employee or independent contractor who
162 is the subject of the affidavit has been designated by AHCA as "ineligible"; and 2) that
163 the employee or independent contractor who is the subject of the affidavit is no longer
164 employed by, or placed through, the AHCA licensed agency, registry, or provider which
165 provided the affidavit; and 3) that the employee or independent contractor has taken a
166 leave of absence for more than ninety (90) days. Failure of the Home Care Business to
167 notify the Division within fifteen (15) days of the caregiver's ineligibility, discontinuance
168 from employment or placement shall constitute a violation of this Article.

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172 to the applicant's eligibility status; and 4) the applicant's fingerprints are being retained and
173 monitored by AHCA, then the Division will issue a Home Caregiver ID Badge directly to the
174 applicant in the same manner as applicants submitting to and clearing a level (2) background check
175 with the Division.

176 7. Upon notification that a Home Caregiver is no longer affiliated with an AHCA licensed
177 Home Care Business or is deemed ineligible by AHCA, the Division will suspend the ID Badge
178 of the Home Caregiver.

179 (a) The Division will reinstate the ID Badge of the Home Caregiver upon receipt of a
180 replacement agency affidavit so long as the Home Caregiver ID Badge is not yet expired.

181 (b) An updated agency affidavit does not constitute an extension of the expiration date on
182 the photo ID or term of the Home Caregiver ID Badge.

183 (c) The Division will contact the ID Badge holder informing him/her that their ID Badge is
184 suspended and include information on how to reinstate the ID Badge.

185 8. Each Home Caregiver licenseID Badge shall be valid for a five-year period and must be
186 renewed by the applicant every five (5) years from the date of the initial/renewal application. The
187 Division may deny a Home Caregiver licenseID Badge if it is determined that the applicant has
188 misrepresented, omitted, or concealed a fact on the application, renewal application or replacement
189 application. If the Home Caregiver licenseID Badge is denied, the Division shall not accept another
190 application from that Home Caregiver for said licenseID Badge for one (1) year from the date the
191 licenseID Badge is denied. Any person renewing a Home Caregiver licenseID Badge must file a

192 renewal application, furnish the documentation requested by the Division, satisfy the background
193 check requirements, and submit payment for the required nonrefundable renewal fee(s), not more
194 than ninety (90) days before the expiration date of a Home Caregiver licenseID Badge. Persons
195 who fail to reapply for their Home Caregiver licenseID Badge thirty (30) days prior to expiration,
196 risk having a gap in their authorization to act as a Home Caregiver. Any applicant who fails to
197 submit a renewal application within twenty (20) days of the expiration of a current licenseID Badge
198 will be considered a new applicant when reapplying and no grandfathered provisions will apply.
199 The licenseID Badge renewal fee shall be established by resolution of the Board.

200 §9.—_Home Caregivers shall maintain the licenseID Badge issued pursuant to this Article while
201 acting as a Home Caregiver in such a manner as to make it available for inspection to the public,
202 Division personnel, clerk/court staff, Florida Department of Children and Families, Florida
203 Department of Elder Affairs, and all law enforcement officials.

204 910. It shall be unlawful for any Home Caregiver to advertise Home Caregiver services without
205 first fulfilling and maintaining compliance with the requirements of this Article. Nevertheless, to
206 the extent State law preempts a matter addressed in this Article, then that State law provision shall
207 take precedence.

208 **Section 3. Sec. 17-465. – Disqualifications.**

209 1. An applicant for a Home Caregiver licenseID Badge shall be disqualified from receiving
210 such a ID Badgelicense, and a licensed-Home Caregiver may have his or her ID Badgelicense
211 revoked, by reason of:

212 (7) Altering or otherwise changing the contents of the information included on the face of a
213 Home Caregiver licenseID Badge; or

214 (9) Notification to the Division from AHCA that the applicant is no longer eligible.

215 **Section 4. Sec. 17-466. – Administrative Appeal.**

216 1. (a) If an applicant is disqualified from receiving a Home Caregiver licenseID Badge, or
217 if a Home Caregiver ID Badgelicense is revoked, the Division will serve written notice of
218 disqualification or revocation by certified mail (return receipt requested) on the applicant or ID
219 Badge holderlicensee. The written notice shall specify the grounds for the disqualification or
220 revocation. On receipt of the written notice, a person shall be entitled to appeal such decision to
221 the consumer affairs hearing board/special master

222 **Section 5. Sec. 17-468. – Penalties.**

223 1. Pursuant to F.S. § 125.69, violations of county ordinances shall be prosecuted in the same
224 manner as misdemeanors are prosecuted. Any person violating any of the provisions of this Article,
225 any terms of a notice to appear citation, any notice to correct a violation, or any other lawful order
226 of the Division Director; or who shall fail to abide by and obey all orders and resolutions
227 promulgated as herein provided, shall, on conviction, be punished by a fine not to exceed five
228 hundred dollars (\$500.00) or imprisonment for not more than sixty (60) days, or both for each
229 violation, payment of all costs and expenses involved in prosecuting the offense, and permanent
230 disqualification from receiving a Home Caregiver licenseID Badge. Each day that a violation
231 occurs shall constitute a separate violation.

232 2. In addition to all other means of enforcement, a violation of this Article is a civil infraction
233 punishable by a fine not to exceed Five Hundred Dollars (\$500) pursuant to the provisions of
234 Section 162.21, Florida Statutes, as may be amended. Specific fine amounts for violations shall
235 be established by resolution of the Board of County Commissioners.

236 (a) A violation of this Article shall result in a warning notice or a citation from the
237 Division by a law enforcement officer, or by a Division code enforcement officer,
238 who based on personal investigation, has reasonable cause to believe that a
239 violation of this Article has been committed.

240 (b) The County Court shall have jurisdiction over all violations of this Article.

- 241 (c) The County Clerk shall accept designated fines and issue receipts therefor.
- 242 (d) Violations of this Article shall be charged with a civil violation and violators shall
243 comply with the directives on the citation.
- 244 (e) Payment shall be made, either by mail or in person, to the violations bureau within
245 the time specified on the citation. If this procedure is followed, the violation shall
246 be deemed to be admitted, and the right to a hearing on the issue of commission of
247 the violation shall be waived.
- 248 (f) Pursuant to Florida Statutes, mandatory costs shall be assessed against every
249 violator convicted of a violation of this Article.
- 250 (g) Failure to make payment within the specified period on the citation shall be deemed
251 a waiver of the right to pay the civil penalty as set forth in the citation.
- 252 (h) Electing to appear before the court to contest the citation shall be a waiver of the
253 right to pay the civil penalty.
- 254 (i) The court, after a hearing, shall make a determination as to whether a violation has
255 occurred and may impose a civil penalty not to exceed five hundred dollars
256 (\$500.00) plus court costs.
- 257 (j) If a violator fails to pay the civil penalty, or fails to appear in court to contest the
258 citation, such failure shall be deemed a waiver of the right to contest the citation;
259 and in such case, a default judgment may be entered and the judge shall impose a
260 fine at that time. If the fine is paid, the case shall be dismissed. If the fine is not
261 paid, judgment may be entered up to the maximum civil penalty.
- 262 (k) Upon receipt of a citation for an infraction under this Article, said citation shall be
263 signed and accepted thereby indicating a promise to pay the fine or appear in court.
- 264 (l) Any person who willfully refuses to sign and accept a citation issued by an officer
265 shall be guilty of a misdemeanor of the second degree, punishable as provided by
266 Florida Statutes, §§ 775.082 or 775.083.
- 267 (m) Failure to comply with any provision of this Article shall constitute a separate and
268 distinct violation.

269 **-Section 6. Repeal of laws in conflict.**

270 All local laws and ordinances applying to the unincorporated area of the county in conflict
271 with any provision of this article are hereby repealed to the extent of any conflict.

272 **Section 7. Savings clause.**

273 Notwithstanding the section of this ordinance regarding repeal of laws in conflict, all
274 administrative and court orders, fines, and pending enforcement issued pursuant to this authority
275 and procedures established by Chapter 17, Article V, Division 1, Section 17-153 of the Palm Beach
276 County Code shall remain in full force and effect.

277 **Section 8. Severability.**

278 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
279 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such
280 holding shall not affect the remainder of this Ordinance.

281 **Section 9. Inclusion in the Code of Laws and Ordinances.**

282 The provisions of this Ordinance shall become and be made a part of the Palm Beach
283 County Code. The sections of this Ordinance may be renumbered or re-lettered to accomplish
284 such, and the word Ordinance may be changed to section, article, or other appropriate word.

285 **Section 10. Captions.**

286 The captions, section headings, and section designations used in this Ordinance are for
287 convenience only and have no effect on the interpretation of the provisions of this Ordinance.

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290 **Section 11. Effective Date.**

291 The provisions of this Ordinance shall become effective upon filing with the Department
292 of State.

293 **APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach**
294 **County, Florida, on this the _____ day of _____, 2019.**

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ATTEST:
SHARON R. BOCK,
CLERK & COMPTROLLER

PALM BEACH FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Mack Bernard, Mayor

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APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

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309

By: _____
County Attorney

DRAFT