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## CHAMBER ACTION

The Committee on Appropriations recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to the protection and delivery of services to persons who are disabled, vulnerable, or elderly; creating s. 393.506, F.S.; allowing administration of medication by certain unlicensed staff for persons with developmental disabilities; providing requirements for such administration; creating s. 400.9685, F.S.; allowing administration of medication by certain unlicensed staff in nursing homes and related health care facilities for persons with developmental disabilities; providing requirements for such administration; amending s. 394.74, F.S.; providing for alternative payment methods for contracts for provision of local substance abuse and mental health programs; amending s. 415.102, F.S.; clarifying definitions; amending s. 765.401, F.S.; providing additional persons which may be given a proxy for the making of health care decisions; amending s. 744.102, F.S.; providing that a public guardian shall be considered a professional guardian for certain purposes;



29 | amending s. 744.108, F.S.; providing that certain costs  
30 | relating to determination of certain fees shall be payable  
31 | from the guardianship estate; amending s. 744.1083, F.S.;  
32 | deleting obsolete language; increasing the maximum annual  
33 | fee for registration as a professional guardian; requiring  
34 | additional information for registration; transferring  
35 | certain rule adoption authority and registration  
36 | responsibilities from the Statewide Public Guardianship  
37 | Office to the Department of Elderly Affairs; authorizing  
38 | the Department of Elderly Affairs to contract with a not-  
39 | for-profit entity to register professional guardians;  
40 | providing that certain educational institutions may act as  
41 | professional guardians without registering; amending s.  
42 | 744.1085, F.S.; providing for additional regulation of  
43 | professional guardians; providing for a professional  
44 | examination as a condition of registration; providing  
45 | additional requirements for registration as a professional  
46 | guardian; providing that certain financial institutions  
47 | are exempt from the regulations governing professional  
48 | guardians; amending s. 744.3135, F.S.; limiting certain  
49 | requirements to professional guardians; authorizing the  
50 | court to require guardians to submit to credit history  
51 | investigations and background screening; amending s.  
52 | 744.3145, F.S.; providing training requirements for  
53 | parents appointed as guardians of the property of their  
54 | minor children; amending s. 744.444, F.S.; allowing  
55 | guardians to employ care managers and disclose  
56 | confidential information to an ombudsman without court



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57 approval; providing that such information shall remain  
58 confidential; authorizing the payment of certain costs;  
59 amending ss. 744.534 and 744.7021, F.S.; providing that  
60 the executive director of the Statewide Public  
61 Guardianship Office shall be appointed by the Secretary of  
62 Elderly Affairs, rather than by the Governor; transferring  
63 certain responsibilities from the Statewide Public  
64 Guardianship Office to the Department of Elderly Affairs;  
65 amending s. 744.704, F.S.; removing a limitation on what  
66 wards a public guardian may serve; creating the  
67 Guardianship Task Force to examine and make  
68 recommendations regarding guardianship in this state;  
69 providing for membership; providing for appointment;  
70 providing for term of existence; providing that certain  
71 prior offenses shall be considered in conducting  
72 employment screening, notwithstanding the provisions of  
73 section 64 of ch. 95-228, Laws of Florida; amending s.  
74 400.071, F.S.; requiring applicants for licensure as a  
75 nursing home to provide proof of a legal right to occupy  
76 the property; amending s. 400.414, F.S.; delineating the  
77 types and number of deficiencies justifying denial,  
78 revocation, or suspension of a license as an assisted  
79 living facility; amending s. 400.417, F.S.; providing an  
80 alternative method of providing notice to an assisted  
81 living facility that a license must be renewed; amending  
82 s. 400.419, F.S.; providing that administrative fines for  
83 assisted living facilities or its personnel shall be  
84 imposed by the Agency for Health Care Administration in



85 | the manner provided in ch. 120, F.S.; amending s.  
86 | 400.0239, F.S.; providing for deposit of civil monetary  
87 | fines in the Quality of Long-Term Care Facility  
88 | Improvement Trust Fund; providing for additional purposes  
89 | for which funds from such trust fund may be expended;  
90 | amending s. 400.141, F.S.; providing for enforcement of  
91 | minimum staffing standards for a nursing facility within a  
92 | range; amending s. 400.235, F.S.; allowing reviewed  
93 | financial statements to be submitted for the Gold Seal  
94 | program; amending s. 400.452, F.S.; revising training and  
95 | education requirements of the Department of Elderly  
96 | Affairs for assisted living facilities; deleting a  
97 | requirement that fees for training and education programs  
98 | be based on the percentage of residents receiving monthly  
99 | optional supplementation payments; amending s. 430.502,  
100 | F.S.; requiring the Agency for Health Care Administration  
101 | and the Department of Health to seek and implement a  
102 | Medicaid home and community-based waiver for persons with  
103 | Alzheimer's disease; requiring the development of waiver  
104 | program standards; providing for consultation with the  
105 | presiding officers of the Legislature; providing for a  
106 | contingent future repeal of such waiver program; amending  
107 | s. 400.557, F.S.; providing an alternative method of  
108 | providing notice to an adult day care center that a  
109 | license must be renewed; amending s. 400.619, F.S.;  
110 | requiring that the Agency for Health Care Administration  
111 | provide advance notice to an adult family-care home that a  
112 | license must be renewed; reenacting and amending s.



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113 400.980, F.S.; providing that the provisions governing  
114 background screening of persons involved with health care  
115 services pools shall not stand repealed; amending s.  
116 408.061, F.S.; exempting nursing homes and continuing care  
117 facilities from certain financial reporting requirements;  
118 amending s. 408.062, F.S.; providing that the Agency for  
119 Health Care Administration is not required to evaluate  
120 financial reports of nursing homes; amending s. 408.831,  
121 F.S.; requiring that licensees of the Agency for Health  
122 Care Administration pay or arrange for payment of amounts  
123 owed to the agency by the licensee prior to transfer of  
124 the license or issuance of a license to a transferee;  
125 amending s. 409.9116, F.S.; correcting a cross reference;  
126 providing an effective date.

127

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

129

130 Section 1. Section 393.506, Florida Statutes, is created  
131 to read:

132 393.506 Administration of medication.--

133 (1) Notwithstanding the provisions of part I of chapter  
134 464, the Nurse Practice Act, unlicensed direct care service  
135 staff providing services to persons with developmental  
136 disabilities may administer oral, transdermal, inhaled, or  
137 topical prescription medications as provided in this section.

138 (a) For day programs, as defined in s. 393.063, the  
139 director of the facility or program shall designate in writing  
140 unlicensed direct care services staff who are eligible to be



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141 trained to assist in the administration of or to administer  
142 medication.

143 (b) For intermediate care facilities for the  
144 developmentally disabled licensed pursuant to part XI of chapter  
145 400, unlicensed staff designated by the director may provide  
146 medication assistance under the general supervision of a  
147 registered nurse licensed pursuant to chapter 464.

148 (2) Each facility, institution, or program must include in  
149 its policies and procedures a plan for training designated staff  
150 to ensure the safe handling, storage, and administration of  
151 prescription medication. These policies and procedures must be  
152 approved by the department before unlicensed direct care  
153 services staff assist with medication.

154 (3) The policies and procedures must include, at a  
155 minimum, the following provisions:

156 (a) An expressed and informed consent for each client.

157 (b) The director of the facility, program, or provider  
158 must maintain a copy of the written prescription, and that  
159 prescription must include the name of the medication, the dosage  
160 and administration schedule, the reason for the prescription,  
161 and the termination date.

162 (c) Each prescribed medication shall be kept in its  
163 original container and in a secure location.

164 (4) The training required in this section shall be  
165 conducted by a registered nurse or a physician licensed pursuant  
166 to chapter 458 or chapter 459.

167 Section 2. Section 400.9685, Florida Statutes, is created  
168 to read:



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- 169           400.9685 Administration of medication.--
- 170           (1) Notwithstanding the provisions of the Nurse Practice  
171 Act, part I of chapter 464, unlicensed direct care services  
172 staff who are providing services to clients in Intermediate Care  
173 Facilities for the Developmentally Disabled, licensed pursuant  
174 to this part, may administer prescribed, prepackaged, pre-  
175 measured medications under the general supervision of a  
176 registered nurse as provided in this section and applicable  
177 rules. Training required by this section and applicable rules  
178 must be conducted by a registered nurse licensed pursuant to  
179 chapter 464, or a physician licensed pursuant to chapter 458 or  
180 chapter 459.
- 181           (2) Each facility that allows unlicensed direct care  
182 service staff to administer medications pursuant to this section  
183 must:
- 184           (a) Develop and implement policies and procedures that  
185 include a plan to ensure the safe handling, storage, and  
186 administration of prescription medication.
- 187           (b) Maintain written evidence of the expressed and  
188 informed consent for each client.
- 189           (c) Maintain a copy of the written prescription including  
190 the name of the medication, the dosage, and administration  
191 schedule.
- 192           (d) Maintain documentation regarding the prescription  
193 including the name, dosage, and administration schedule, reason  
194 for prescription, and the termination date.
- 195           (e) Maintain documentation of compliance with required  
196 training.



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197           (3) Agency rules shall specify the following as it relates  
198 to the administration of medications by unlicensed staff:

199           (a) Medications authorized and packaging required.

200           (b) Acceptable methods of administration.

201           (c) A definition of "general supervision".

202           (d) Minimum educational requirements of staff.

203           (e) Criteria of required training and competency that must  
204 be demonstrated prior to the administration of medications by  
205 unlicensed staff including in-service training.

206           (f) Requirements for safe handling, storage, and  
207 administration of medications.

208           Section 3. Subsection (2) of section 394.74, Florida  
209 Statutes, is amended, and subsection (6) is added to said  
210 section, to read:

211           394.74 Contracts for provision of local substance abuse  
212 and mental health programs.--

213           (2)(a) Contracts for service shall be consistent with the  
214 approved district plan.

215           (b) Notwithstanding s. 394.76(3)(a) and (c), the  
216 department may use unit cost methods of payment in contracts for  
217 purchasing mental health and substance abuse services. The unit  
218 cost contracting system must account for those patient fees that  
219 are paid on behalf of a specific client and those that are  
220 earned and used by the provider for those services funded in  
221 whole or in part by the department. The department may also use  
222 a fee-for-service arrangement, case rates, or a capitation  
223 arrangement in order to account for those services.





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224 (c) The department may reimburse actual expenditures for  
225 startup contracts and fixed capital outlay contracts in  
226 accordance with contract specifications.

227 (6) The department may use a fee-for-service arrangement,  
228 case rates, or capitation in order to account for mental health  
229 and substance abuse services.

230 Section 4. Subsections (1) and (26) of section 415.102,  
231 Florida Statutes, are amended to read:

232 415.102 Definitions of terms used in ss. 415.101-  
233 415.113.--As used in ss. 415.101-415.113, the term:

234 (1) "Abuse" means any willful act or threatened act by a  
235 caregiver that causes or is likely to cause significant  
236 impairment to a vulnerable adult's physical, mental, or  
237 emotional health. Abuse includes acts and omissions.

238 (26) "Vulnerable adult" means a person 18 years of age or  
239 older whose ability to perform the normal activities of daily  
240 living or to provide for his or her own care or protection is  
241 impaired due to a long-term mental, emotional, physical, or  
242 developmental disability or dysfunctioning, or brain damage, or  
243 the infirmities of aging.

244 Section 5. Paragraph (h) is added to subsection (1) of  
245 section 765.401, Florida Statutes, to read:

246 765.401 The proxy.--

247 (1) If an incapacitated or developmentally disabled  
248 patient has not executed an advance directive, or designated a  
249 surrogate to execute an advance directive, or the designated or  
250 alternate surrogate is no longer available to make health care  
251 decisions, health care decisions may be made for the patient by



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252 any of the following individuals, in the following order of  
253 priority, if no individual in a prior class is reasonably  
254 available, willing, or competent to act:

255 (h) A clinical social worker licensed pursuant to chapter  
256 491, or who is a graduate of a court-approved guardianship  
257 program. Such a proxy must be selected by the provider's  
258 bioethics committee and must not be employed by the provider. If  
259 the provider does not have a bioethics committee, then such a  
260 proxy may be chosen through an arrangement with the bioethics  
261 committee of another provider. The proxy will be notified that  
262 upon request, the provider shall make available a second  
263 physician, not involved in the patient's care to assist the  
264 proxy in evaluating treatment. Decisions to withhold or withdraw  
265 life-prolonging procedures will be reviewed by the facility's  
266 bioethics committee. Documentation of efforts to locate proxies  
267 from prior classes must be recorded in the patient record.

268 Section 6. Subsection (15) of section 744.102, Florida  
269 Statutes, is amended to read:

270 744.102 Definitions.--As used in this chapter, the term:

271 (15) "Professional guardian" means any guardian who  
272 receives or has at any time received compensation for services  
273 rendered to more than two wards as their guardian. A person  
274 serving as a guardian for two or more relatives as defined in s.  
275 744.309(2) is not considered a professional guardian. A public  
276 guardian shall be considered a professional guardian for  
277 purposes of regulation, education, and registration.

278 Section 7. Subsection (8) is added to section 744.108,  
279 Florida Statutes, to read:



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280           744.108 Guardian's and attorney's fees and expenses.—  
 281           (8) When court proceedings are instituted to review or  
 282 determine a guardian's or an attorney's fees under subsection  
 283 (2), such proceedings are part of the guardianship  
 284 administration process and the costs, including fees for the  
 285 guardian's attorney, shall be determined by the court and paid  
 286 from the assets of the guardianship estate unless the court  
 287 finds the requested compensation under subsection (2) to be  
 288 substantially unreasonable.

289           Section 8. Section 744.1083, Florida Statutes, is amended  
 290 to read:

291           744.1083 Professional guardian registration.--

292           (1) ~~Effective January 1, 2003,~~ A professional guardian  
 293 must register with the Statewide Public Guardianship Office  
 294 established in part IX of this chapter. ~~The Statewide Public~~  
 295 ~~Guardianship Office may contract with the clerk of the court in~~  
 296 ~~each county to perform the administrative functions associated~~  
 297 ~~with registering professional guardians.~~

298           (2) Annual registration shall be made on forms furnished  
 299 by the Statewide Public Guardianship Office and accompanied by  
 300 the applicable registration fee as determined by rule. Such fee  
 301 shall not exceed \$100 ~~\$25~~.

302           (3) Registration must include the following:

303           (a) If the professional guardian is a natural person, the  
 304 name, address, date of birth, and employer identification or  
 305 social security number of the professional guardian.

306           (b) If the professional guardian is a partnership or  
 307 association, the name, address, and date of birth of every



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308 member, and the employer identification number of the  
309 partnership or association.

310 (c) If the professional guardian is a corporation, the  
311 name, address, and employer identification number of the  
312 corporation; the name, address, and date of birth of each of its  
313 directors and officers; the name of its resident agent; and the  
314 name, address, and date of birth of each person having at least  
315 a 10-percent interest in the corporation.

316 (d) The name, address, date of birth, and employer  
317 identification number, if applicable, of each person providing  
318 guardian-delegated financial or personal guardianship services  
319 for wards.

320 (e) Documentation that the bonding and educational  
321 requirements of s. 744.1085 have been met, and that background  
322 screening has been conducted pursuant to s. 744.3135. Compliance  
323 with this section shall constitute compliance with the  
324 attestation requirement of s. 435.04(5).

325 (f) Sufficient information to distinguish a guardian  
326 providing guardianship services as a public guardian,  
327 individually, through partnership, corporation, or any other  
328 business organization.

329 (4) The Department of Elderly Affairs ~~Statewide Public~~  
330 ~~Guardianship Office~~ may adopt rules necessary to administer this  
331 section.

332 (5) A trust company, a state banking corporation or state  
333 savings association authorized and qualified to exercise  
334 fiduciary powers in this state, or a national banking  
335 association or federal savings and loan association authorized



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336 and qualified to exercise fiduciary powers in this state, may,  
337 but shall not be required to, register as a professional  
338 guardian under this section. If a trust company, state banking  
339 corporation, state savings association, national banking  
340 association, or federal savings and loan association described  
341 in this subsection elects to register as a professional guardian  
342 under this subsection, the requirements of subsection (3) shall  
343 not apply and the registration shall include only the name,  
344 address, and employer identification number of the registrant,  
345 the name and address of its registered agent, if any, and the  
346 documentation described in paragraph (3)(e).

347 (6) The Department of Elderly Affairs may contract with  
348 the Florida Guardianship Foundation or other not-for-profit  
349 entity to register professional guardians.

350 (7) The department or its contractor shall ensure that the  
351 clerks of the court and the Chief Judge of each judicial circuit  
352 receive information about each registered professional guardian.

353 (8) A state college or university or an independent  
354 college or university as described pursuant to s. 1009.98(3)(a),  
355 may, but shall not be required to, register as a professional  
356 guardian under this section. If a state college or university or  
357 independent college or university elects to register as a  
358 professional guardian under this subsection, the requirements of  
359 subsection (3) shall not apply and the registration shall  
360 include only the name, address, and employer identification  
361 number of the registrant.



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362 Section 9. Subsection (3) of section 744.1085, Florida  
363 Statutes, is amended and subsections (4) through (10) are added  
364 to said section to read:

365 744.1085 Regulation of professional guardians;  
366 application; bond required; educational requirements.--

367 (3) Each professional guardian defined in s. 744.102(15)  
368 ~~and public guardian, on October 1, 1997,~~ must receive a minimum  
369 of 40 hours of instruction and training ~~by October 1, 1998, or~~  
370 ~~within 1 year after becoming a professional guardian, whichever~~  
371 ~~occurs later.~~ Each professional guardian must receive a minimum  
372 of 16 hours of continuing education every 2 calendar years after  
373 the year in which the initial 40-hour educational requirement is  
374 met. The instruction and education must be completed through a  
375 course approved or offered by the Statewide Public Guardianship  
376 Office. The expenses incurred to satisfy the educational  
377 requirements prescribed in this section may not be paid with the  
378 assets of any ward. This subsection does not apply to any  
379 attorney who is licensed to practice law in this state.

380 (4) Each professional guardian must allow, at the  
381 guardian's expense, an investigation of the guardian's credit  
382 history, and the credit history of employees of the guardian, in  
383 a manner prescribed by the Department of Elderly Affairs.

384 (5) As required in s. 744.3135, each professional guardian  
385 shall allow a level 2 background screening of the guardian and  
386 employees of the guardian in accordance with the provisions of  
387 s. 435.04.

388 (6) After July 1, 2005, each professional guardian shall  
389 be required to demonstrate competency to act as a professional



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390 guardian by taking an examination approved by the Department of  
391 Elderly Affairs.

392 (a) The Department of Elderly Affairs shall determine the  
393 minimum examination score necessary for passage of guardianship  
394 examinations.

395 (b) The Department of Elderly Affairs shall determine the  
396 procedure for administration of the examination.

397 (c) The Department of Elderly Affairs or its contractor  
398 shall charge an examination fee for the actual costs of the  
399 development and the administration of the examination, not to  
400 exceed \$500.

401 (d) The Department of Elderly Affairs may recognize  
402 passage of a national guardianship examination in lieu of all or  
403 part of the examination approved by the Department of Elderly  
404 Affairs, except that all professional guardians must take and  
405 pass an approved examination section related to Florida law and  
406 procedure.

407 (7) The Department of Elderly Affairs shall set the  
408 minimum score necessary to demonstrate professional guardianship  
409 competency.

410 (8) The Department of Elderly Affairs shall waive the  
411 examination requirement in paragraph (6) if a professional  
412 guardian can provide:

413 (a) Proof that the guardian has actively acted as a  
414 professional guardian for 5 years or more; and

415 (b) A letter from a circuit judge before whom the  
416 professional guardian practiced at least 1 year which states



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417 that the professional guardian had demonstrated to the court  
418 competency as a professional guardian.

419 (9) After July 1, 2004, the court shall not appoint any  
420 professional guardian who has not met the requirements of this  
421 section and s. 744.1083.

422 (10) This section does not apply to a professional  
423 guardian or the employees of that professional guardian when  
424 that guardian is a trust company, a state banking corporation,  
425 state savings association authorized and qualified to exercise  
426 fiduciary powers in this state, or a national banking  
427 association or federal savings and loan association authorized  
428 and qualified to exercise fiduciary powers in this state.

429 Section 10. Section 744.3135, Florida Statutes, is amended  
430 to read:

431 744.3135 Credit and criminal investigation.--The court may  
432 require a nonprofessional guardian and shall require a  
433 professional or public guardian, and all employees of a  
434 professional guardian who have a fiduciary responsibility to a  
435 ward, to submit, at their own expense, to an investigation of  
436 the guardian's credit history and to undergo level 2 background  
437 screening as required under s. 435.04. The clerk of the court  
438 shall obtain fingerprint cards from the Federal Bureau of  
439 Investigation and make them available to guardians. Any guardian  
440 who is so required shall have his or her fingerprints taken and  
441 forward the proper fingerprint card along with the necessary fee  
442 to the Florida Department of Law Enforcement for processing. The  
443 professional guardian shall pay to the clerk of the court a fee  
444 of \$5 for handling and processing professional guardian files.





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445 The results of the fingerprint checks shall be forwarded to the  
446 clerk of court who shall maintain the results in a guardian file  
447 and shall make the results available to the court. If credit or  
448 criminal investigations are required, the court must consider  
449 the results of the investigations in appointing a guardian.  
450 Professional guardians and all employees of a professional  
451 guardian who have a fiduciary responsibility to a ward, so  
452 appointed, must resubmit, at their own expense, to an  
453 investigation of credit history, and undergo level 1 background  
454 screening as required under s. 435.03, at least every 2 years  
455 after the date of their appointment. At any time, the court may  
456 require guardians or their employees to submit to an  
457 investigation of credit history and undergo level 1 background  
458 screening as required under s. 435.03. The court must consider  
459 the results of these investigations in reappointing a guardian.  
460 This section shall not apply to a professional guardian, or to  
461 the employees of a professional guardian, that is a trust  
462 company, a state banking corporation or state savings  
463 association authorized and qualified to exercise fiduciary  
464 powers in this state, or a national banking association or  
465 federal savings and loan association authorized and qualified to  
466 exercise fiduciary powers in this state.

467 Section 11. Section 744.3145, Florida Statutes, is amended  
468 to read:

469 744.3145 Guardian education requirements.--

470 (1) Each ward is entitled to a guardian competent to  
471 perform the duties of a guardian necessary to protect the  
472 interests of the ward.



473           (2) Each person appointed by the court to be a guardian,  
474 other than a parent who is the guardian of the property of a  
475 minor child, must receive a minimum of 8 hours of instruction  
476 and training which covers:

- 477           (a) The legal duties and responsibilities of the guardian;
- 478           (b) The rights of the ward;
- 479           (c) The availability of local resources to aid the ward;

480 and

481           (d) The preparation of habilitation plans and annual  
482 guardianship reports, including financial accounting for the  
483 ward's property.

484           (3) Each person appointed by the court to be the guardian  
485 of the property of his or her minor child must receive a minimum  
486 of 4 hours of instruction and training that covers:

487           (a) The legal duties and responsibilities of the guardian  
488 of the property;

489           (b) The preparation of the initial inventory and annual  
490 guardianship accountings for the ward's property; and

491           (c) Use of guardianship assets.

492           ~~(4)~~(3) Each person appointed by the court to be a guardian  
493 must complete the required number of 8 hours of instruction and  
494 education within 1 year after his or her appointment as  
495 guardian. The instruction and education must be completed  
496 through a course approved by the chief judge of the circuit  
497 court and taught by a court-approved organization. Court-  
498 approved organizations may include, but are not limited to,  
499 community or junior colleges, guardianship organizations, and  
500 the local bar association or The Florida Bar.



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501        ~~(5)(4)~~ Expenses incurred by the guardian to satisfy the  
502 education requirement may be paid from the ward's estate, unless  
503 the court directs that such expenses be paid by the guardian  
504 individually.

505        ~~(6)(5)~~ The court may, in its discretion, waive some or all  
506 of the requirements of this section or impose additional  
507 requirements. The court shall make its decision on a case-by-  
508 case basis and, in making its decision, shall consider the  
509 experience and education of the guardian, the duties assigned to  
510 the guardian, and the needs of the ward.

511        ~~(7)(6)~~ The provisions of this section do not apply to  
512 professional guardians.

513        Section 12. Subsection (13) of section 744.444, Florida  
514 Statutes, is amended, and subsections (16) and (17) are added to  
515 said section to read:

516        744.444 Power of guardian without court approval.--Without  
517 obtaining court approval, a plenary guardian of the property, or  
518 a limited guardian of the property within the powers granted by  
519 the order appointing the guardian or an approved annual or  
520 amended guardianship report, may:

521        (13) When reasonably necessary, employ persons, including  
522 attorneys, auditors, investment advisers, care managers, or  
523 agents, even if they are associated with the guardian, to advise  
524 or assist the guardian in the performance of his or her duties.

525        (16) Pay or reimburse costs incurred and reasonable fees  
526 or compensation to persons, including attorneys, employed by the  
527 guardian pursuant to subsection (13) from the assets of the



528 guardianship estate, subject to obtaining court approval of the  
529 annual accounting.

530 (17) Provide confidential information about a ward that is  
531 related to an investigation arising under part I of chapter 400  
532 to a local or state ombudsman council member conducting such an  
533 investigation. Any such ombudsman shall have a duty to maintain  
534 the confidentiality of such information.

535 Section 13. Paragraph (c) of subsection (2) of section  
536 744.534, Florida Statutes, is amended to read:

537 744.534 Disposition of unclaimed funds held by guardian.--  
538 (2)

539 (c) Within 5 years from the date of deposit with the State  
540 Treasurer, on written petition to the court that directed the  
541 deposit of the funds and informal notice to the Department of  
542 Legal Affairs, and after proof of his or her right to them, any  
543 person entitled to the funds, before or after payment to the  
544 State Treasurer and deposit as provided for in paragraph (a),  
545 may obtain a court order directing the payment of the funds to  
546 him or her. All funds deposited with the State Treasurer and not  
547 claimed within 5 years from the date of deposit shall escheat to  
548 the state to be deposited in the Department of Elderly Affairs  
549 Administrative Trust Fund to be used solely for the benefit of  
550 public guardianship as determined by the Secretary of Elderly  
551 Affairs ~~Statewide Public Guardianship Office established in part~~  
552 ~~IX of this chapter.~~

553 Section 14. Section 744.7021, Florida Statutes, is amended  
554 to read:



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555           744.7021 Statewide Public Guardianship Office.--There is  
556 hereby created the Statewide Public Guardianship Office within  
557 the Department of Elderly Affairs. ~~The Department of Elderly~~  
558 ~~Affairs shall provide administrative support and service to the~~  
559 ~~office to the extent requested by the executive director within~~  
560 ~~the available resources of the department. The Statewide Public~~  
561 ~~Guardianship Office may request the assistance of the Inspector~~  
562 ~~General of the Department of Elderly Affairs in providing~~  
563 ~~auditing services, and the Office of General Counsel of the~~  
564 ~~department may provide assistance in rulemaking and other~~  
565 ~~matters as needed to assist the Statewide Public Guardianship~~  
566 ~~Office. The Statewide Public Guardianship Office shall not be~~  
567 ~~subject to control, supervision, or direction by the Department~~  
568 ~~of Elderly Affairs in the performance of its duties.~~

569           (1) The Secretary of Elderly Affairs shall appoint the  
570 executive director, who shall be the head of the Statewide  
571 Public Guardianship Office ~~is the executive director, who shall~~  
572 ~~be appointed by the Governor.~~ The executive director must be a  
573 member of The Florida Bar, knowledgeable of licensed attorney  
574 with a background in guardianship law and knowledge of the  
575 social services available to meet the needs of incapacitated  
576 persons, shall serve on a full-time basis, and shall personally,  
577 or through representatives of the office, carry out the purposes  
578 and functions of the Statewide Public Guardianship Office in  
579 accordance with state and federal law. The executive director  
580 shall serve at the pleasure of and report to the Secretary  
581 Governor.



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582           (2) The executive director ~~Statewide Public Guardianship~~  
583 ~~Office~~ shall, within available resources, have oversight  
584 responsibilities for all public guardians.

585           (a) The executive director ~~office~~ shall review the current  
586 public guardian programs in Florida and other states.

587           (b) The executive director ~~office~~, in consultation with  
588 local guardianship offices, shall develop statewide performance  
589 measures and standards.

590           (c) The executive director ~~office~~ shall review the various  
591 methods of funding guardianship programs, the kinds of services  
592 being provided by such programs, and the demographics of the  
593 wards. In addition, the executive director ~~office~~ shall review  
594 and make recommendations regarding the feasibility of recovering  
595 a portion or all of the costs of providing public guardianship  
596 services from the assets or income of the wards.

597           (d) ~~No later than October 1, 2000, the office shall submit~~  
598 ~~to the Governor, the President of the Senate, the Speaker of the~~  
599 ~~House of Representatives, and the Chief Justice of the Supreme~~  
600 ~~Court an interim report describing the progress of the office in~~  
601 ~~meeting the goals as described in this section. No later than~~  
602 ~~October 1, 2001, the office shall submit to the Governor, the~~  
603 ~~President of the Senate, the Speaker of the House of~~  
604 ~~Representatives, and the Chief Justice of the Supreme Court a~~  
605 ~~proposed public guardianship plan including alternatives for~~  
606 ~~meeting the state's guardianship needs. This plan may include~~  
607 ~~recommendations for less than the entire state, may include a~~  
608 ~~phase in system, and shall include estimates of the cost of each~~  
609 ~~of the alternatives.~~ By January 1, 2004, and by January 1 of



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610 each year thereafter, the executive director ~~office~~ shall  
611 provide a status report and provide further recommendations to  
612 the Secretary that address the need for public guardianship  
613 services and related issues.

614 (e) The executive director ~~office~~ may provide assistance  
615 to local governments or entities in pursuing grant  
616 opportunities. The executive director ~~office~~ shall review and  
617 make recommendations in the annual report on the availability  
618 and efficacy of seeking Medicaid matching funds. The executive  
619 director ~~office~~ shall diligently seek ways to use existing  
620 programs and services to meet the needs of public wards.

621 (f) The executive director, in consultation with the  
622 Florida Guardianship Foundation, ~~office~~ shall develop a  
623 guardianship training program curriculum that. ~~The training~~  
624 ~~program~~ may be offered to all guardians whether public or  
625 private. ~~The office shall establish a curriculum committee to~~  
626 ~~develop the training program specified in this part. The~~  
627 ~~curriculum committee shall include, but not be limited to,~~  
628 ~~probate judges. A fee may be charged to private guardians in~~  
629 ~~order to defray the cost of providing the training. In addition,~~  
630 ~~a fee may be charged to any training provider for up to the~~  
631 ~~actual cost of the review and approval of their curriculum. Any~~  
632 ~~fees collected pursuant to this paragraph shall be deposited in~~  
633 ~~the Department of Elderly Affairs Administrative Trust Fund to~~  
634 ~~be used for the guardianship training program.~~

635 (3) The executive director ~~office~~ may conduct or contract  
636 for demonstration projects authorized by the Department of  
637 Elderly Affairs, within funds appropriated or through gifts,



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638 grants, or contributions for such purposes, to determine the  
639 feasibility or desirability of new concepts of organization,  
640 administration, financing, or service delivery designed to  
641 preserve the civil and constitutional rights of persons of  
642 marginal or diminished capacity. Any gifts, grants, or  
643 contributions for such purposes shall be deposited in the  
644 Department of Elderly Affairs Administrative Trust Fund.

645 (4) The Department of Elderly Affairs ~~office~~ has authority  
646 to adopt rules pursuant to ss. 120.536(1) and 120.54 to carry  
647 out the provisions of this section.

648 Section 15. Subsections (1) and (3) of section 744.704,  
649 Florida Statutes, are amended to read:

650 744.704 Powers and duties.--

651 (1) A public guardian may serve as a guardian of a person  
652 adjudicated incapacitated under this chapter:

653 ~~(a)~~ if there is no family member or friend, other person,  
654 bank, or corporation willing and qualified to serve as guardian;  
655 and

656 ~~(b) If the assets of the ward do not exceed the asset~~  
657 ~~level for Medicaid eligibility, exclusive of homestead and~~  
658 ~~exempt property as defined in s. 4, Art. X of the State~~  
659 ~~Constitution, and the ward's income, from all sources, is less~~  
660 ~~than \$4,000 per year. Income from public welfare programs,~~  
661 ~~supplemental security income, optional state supplement, a~~  
662 ~~disability pension, or a social security pension shall be~~  
663 ~~excluded in such computation. However, a ward whose total~~  
664 ~~income, counting excludable income, exceeds \$30,000 a year may~~  
665 ~~not be served.~~





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666           (3) The public guardian shall primarily serve  
667 incapacitated persons who are of limited financial means, as  
668 defined by contract or rule of the Department of Elderly  
669 Affairs. The public guardian may serve incapacitated persons of  
670 greater financial means to the extent the Department of Elderly  
671 Affairs determines to be appropriate ~~If the public guardian~~  
672 ~~finds that the assets or the income of the ward exceeds the~~  
673 ~~amounts set forth in paragraph (1)(b), the public guardian shall~~  
674 ~~submit a resignation and petition the court for appointment of a~~  
675 ~~successor guardian. The public guardian shall not be dismissed~~  
676 ~~until such time that a private guardian is appointed. If a~~  
677 ~~qualified successor guardian is not available, the public~~  
678 ~~guardian may remain as guardian, provided the guardian makes~~  
679 ~~reasonable efforts to find a successor and reports to the court~~  
680 ~~every 6 months on efforts to obtain a successor.~~

681           Section 16. (1) There is created within the Department of  
682 Elderly Affairs a Guardianship Task Force for the purpose of  
683 examining guardianship and incapacity and making recommendations  
684 to the Governor and the Legislature for the improvement of  
685 processes and procedures related to guardianship and incapacity.  
686 The department shall staff the task force, and the Secretary of  
687 Elderly Affairs shall appoint the chair from among the task  
688 force membership. The members of the task force shall serve  
689 without compensation. Unless specified otherwise, task force  
690 members shall be appointed by the organizations they represent,  
691 and the cost of members' participation shall be borne by their  
692 appointing organization. Any member who is a public employee is



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693 entitled to reimbursement for per diem and travel expenses by  
694 the appointing department.

695 (2) The Guardianship Task Force shall identify the  
696 characteristics of Florida guardianship practice. It shall also  
697 identify best practices and recommend specific statutory and  
698 other changes for achieving such best practices and for  
699 achieving citizen access to quality guardianship services. The  
700 task force shall make a preliminary report to the Secretary of  
701 Elderly Affairs no later than January 1, 2004, and its final  
702 report to the secretary shall be made no later than January 1,  
703 2005.

704 (3) The Guardianship Task Force shall consist of ten  
705 members, including a judge with experience in guardianship  
706 proceedings who is appointed by the Florida Conference of  
707 Circuit Judges, a representative of the Association of Clerks of  
708 Court, a professor of law with experience in elder issues  
709 appointed by the Secretary of Elderly Affairs, a representative  
710 of the Florida State Guardianship Association, a representative  
711 of the Florida Guardianship Foundation, a representative of the  
712 Real Property and Probate Section of The Florida Bar, a  
713 representative of the Elder Law Section of The Florida Bar, a  
714 professional as provided in s. 744.331(3), with experience  
715 performing examinations and determining incapacity, a  
716 representative of the Florida Banker's Association, and a  
717 citizen or consumer appointed by the Executive Director of the  
718 Florida office of the American Association of Retired Persons.



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719           (4) The Guardianship Task Force may appoint ex officio  
720 members who possess needed expertise to assist the task force in  
721 its work. The task force will cease to exist May 6, 2005.

722           Section 17. Notwithstanding the provisions of section 64  
723 of chapter 95-228, Laws of Florida, the provisions of chapter  
724 435, Florida Statutes, as created therein and as subsequently  
725 amended, and any reference thereto, shall apply to all offenses  
726 regardless of the date on which offenses referenced in chapter  
727 435, Florida Statutes, were committed, unless specifically  
728 provided otherwise in a provision other than section 64 of  
729 chapter 95-228, Laws of Florida.

730           Section 18. Subsection (12) is added to section 400.071,  
731 Florida Statutes, to read:

732           400.071 Application for license.--

733           (12) The applicant must provide the agency with proof of a  
734 legal right to occupy the property before a license may be  
735 issued. Proof may include, but is not limited to, copies of  
736 warranty deeds, lease or rental agreements, contracts for deeds,  
737 or quitclaim deeds.

738           Section 19. Subsection (1) of section 400.414, Florida  
739 Statutes, is amended to read:

740           400.414 Denial, revocation, or suspension of license;  
741 imposition of administrative fine; grounds.--

742           (1) The agency may deny, revoke, or suspend any license  
743 issued under this part, or impose an administrative fine in the  
744 manner provided in chapter 120, for any of the following actions  
745 by an assisted living facility, for the actions of any person



746 subject to level 2 background screening under s. 400.4174, or  
747 for the actions of any facility employee:

748 (a) An intentional or negligent act seriously affecting  
749 the health, safety, or welfare of a resident of the facility.

750 (b) The determination by the agency that the owner lacks  
751 the financial ability to provide continuing adequate care to  
752 residents.

753 (c) Misappropriation or conversion of the property of a  
754 resident of the facility.

755 (d) Failure to follow the criteria and procedures provided  
756 under part I of chapter 394 relating to the transportation,  
757 voluntary admission, and involuntary examination of a facility  
758 resident.

759 (e) A citation of any of the following deficiencies as  
760 defined in s. 400.419:

761 1. One or more cited class I deficiencies.

762 2. Three or more cited class II deficiencies.

763 3. Five or more cited class III deficiencies that have  
764 been cited on a single survey and have not been corrected within  
765 the times specified ~~One or more class I, three or more class II,~~  
766 ~~or five or more repeated or recurring identical or similar class~~  
767 ~~III violations that are similar or identical to violations which~~  
768 ~~were identified by the agency within the last 2 years.~~

769 (f) A determination that a person subject to level 2  
770 background screening under s. 400.4174(1) does not meet the  
771 screening standards of s. 435.04 or that the facility is  
772 retaining an employee subject to level 1 background screening  
773 standards under s. 400.4174(2) who does not meet the screening



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774 standards of s. 435.03 and for whom exemptions from  
775 disqualification have not been provided by the agency.

776 (g) A determination that an employee, volunteer,  
777 administrator, or owner, or person who otherwise has access to  
778 the residents of a facility does not meet the criteria specified  
779 in s. 435.03(2), and the owner or administrator has not taken  
780 action to remove the person. Exemptions from disqualification  
781 may be granted as set forth in s. 435.07. No administrative  
782 action may be taken against the facility if the person is  
783 granted an exemption.

784 (h) Violation of a moratorium.

785 (i) Failure of the license applicant, the licensee during  
786 relicensure, or a licensee that holds a provisional license to  
787 meet the minimum license requirements of this part, or related  
788 rules, at the time of license application or renewal.

789 (j) A fraudulent statement or omission of any material  
790 fact on an application for a license or any other document  
791 required by the agency, including the submission of a license  
792 application that conceals the fact that any board member,  
793 officer, or person owning 5 percent or more of the facility may  
794 not meet the background screening requirements of s. 400.4174,  
795 or that the applicant has been excluded, permanently suspended,  
796 or terminated from the Medicaid or Medicare programs.

797 (k) An intentional or negligent life-threatening act in  
798 violation of the uniform firesafety standards for assisted  
799 living facilities or other firesafety standards that threatens  
800 the health, safety, or welfare of a resident of a facility, as



801 | communicated to the agency by the local authority having  
802 | jurisdiction or the State Fire Marshal.

803 |       (1) Exclusion, permanent suspension, or termination from  
804 | the Medicare or Medicaid programs.

805 |       (m) Knowingly operating any unlicensed facility or  
806 | providing without a license any service that must be licensed  
807 | under this chapter.

808 |       (n) Any act constituting a ground upon which application  
809 | for a license may be denied.

810 |  
811 | Administrative proceedings challenging agency action under this  
812 | subsection shall be reviewed on the basis of the facts and  
813 | conditions that resulted in the agency action.

814 |       Section 20. Subsection (1) of section 400.417, Florida  
815 | Statutes, is amended to read:

816 |       400.417 Expiration of license; renewal; conditional  
817 | license.--

818 |       (1) Biennial licenses, unless sooner suspended or revoked,  
819 | shall expire 2 years from the date of issuance. Limited nursing,  
820 | extended congregate care, and limited mental health licenses  
821 | shall expire at the same time as the facility's standard  
822 | license, regardless of when issued. The agency shall notify the  
823 | facility ~~by certified mail~~ at least 120 days prior to expiration  
824 | that a renewal license is necessary to continue operation. The  
825 | notification must be provided electronically or by mail  
826 | delivery. Ninety days prior to the expiration date, an  
827 | application for renewal shall be submitted to the agency. Fees  
828 | must be prorated. The failure to file a timely renewal



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829 application shall result in a late fee charged to the facility  
830 in an amount equal to 50 percent of the current fee.

831 Section 21. Section 400.419, Florida Statutes, is amended  
832 to read:

833 400.419 Violations; imposition of administrative fines;  
834 grounds.--

835 (1) The agency shall impose an administrative fine in the  
836 manner provided in chapter 120 for any of the actions or  
837 violations as set forth within this section by an assisted  
838 living facility, for the actions of any person subject to level  
839 2 background screening under s. 400.4174, for the actions of any  
840 facility employee, or for an intentional or negligent act  
841 seriously affecting the health, safety, or welfare of a resident  
842 of the facility.

843 (2)(1) Each violation of this part and adopted rules shall  
844 be classified according to the nature of the violation and the  
845 gravity of its probable effect on facility residents. The agency  
846 shall indicate the classification on the written notice of the  
847 violation as follows:

848 (a) Class "I" violations are those conditions or  
849 occurrences related to the operation and maintenance of a  
850 facility or to the personal care of residents which the agency  
851 determines present an imminent danger to the residents or guests  
852 of the facility or a substantial probability that death or  
853 serious physical or emotional harm would result therefrom. The  
854 condition or practice constituting a class I violation shall be  
855 abated or eliminated within 24 hours, unless a fixed period, as  
856 determined by the agency, is required for correction. The agency



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857 shall impose an administrative fine for a cited class I  
858 ~~violation is subject to an administrative fine~~ in an amount not  
859 less than \$5,000 and not exceeding \$10,000 for each violation. A  
860 fine may be levied notwithstanding the correction of the  
861 violation.

862 (b) Class "II" violations are those conditions or  
863 occurrences related to the operation and maintenance of a  
864 facility or to the personal care of residents which the agency  
865 determines directly threaten the physical or emotional health,  
866 safety, or security of the facility residents, other than class  
867 I violations. The agency shall impose an administrative fine for  
868 a cited class II violation ~~is subject to an administrative fine~~  
869 in an amount not less than \$1,000 and not exceeding \$5,000 for  
870 each violation. A fine shall be levied notwithstanding the  
871 correction of the violation ~~A citation for a class II violation~~  
872 ~~must specify the time within which the violation is required to~~  
873 ~~be corrected.~~

874 (c) Class "III" violations are those conditions or  
875 occurrences related to the operation and maintenance of a  
876 facility or to the personal care of residents which the agency  
877 determines indirectly or potentially threaten the physical or  
878 emotional health, safety, or security of facility residents,  
879 other than class I or class II violations. The agency shall  
880 impose an administrative fine for a cited class III violation in  
881 an amount ~~is subject to an administrative fine of~~ not less than  
882 \$500 and not exceeding \$1,000 for each violation. A citation for  
883 a class III violation must specify the time within which the  
884 violation is required to be corrected. If a class III violation





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885 is corrected within the time specified, no fine may be imposed,  
886 unless it is a repeated offense.

887 (d) Class "IV" violations are those conditions or  
888 occurrences related to the operation and maintenance of a  
889 building or to required reports, forms, or documents that do not  
890 have the potential of negatively affecting residents. These  
891 violations are of a type that the agency determines do not  
892 threaten the health, safety, or security of residents of the  
893 facility. The agency shall impose an administrative fine for a  
894 cited class IV violation in an amount ~~A facility that does not~~  
895 ~~correct a class IV violation within the time specified in the~~  
896 ~~agency-approved corrective action plan is subject to an~~  
897 ~~administrative fine of~~ not less than \$100 and not exceeding ~~nor~~  
898 ~~more than~~ \$200 for each violation. A citation for a class IV  
899 violation must specify the time within which the violation is  
900 required to be corrected. If a class IV violation is corrected  
901 within the time specified, no fine shall be imposed. Any class  
902 IV violation that is corrected during the time an agency survey  
903 is being conducted will be identified as an agency finding and  
904 not as a violation.

905 ~~(3)(2)~~ In determining if a penalty is to be imposed and in  
906 fixing the amount of the fine, the agency shall consider the  
907 following factors:

908 (a) The gravity of the violation, including the  
909 probability that death or serious physical or emotional harm to  
910 a resident will result or has resulted, the severity of the  
911 action or potential harm, and the extent to which the provisions  
912 of the applicable laws or rules were violated.



913 (b) Actions taken by the owner or administrator to correct  
914 violations.

915 (c) Any previous violations.

916 (d) The financial benefit to the facility of committing or  
917 continuing the violation.

918 (e) The licensed capacity of the facility.

919 (4)~~(3)~~ Each day of continuing violation after the date  
920 fixed for termination of the violation, as ordered by the  
921 agency, constitutes an additional, separate, and distinct  
922 violation.

923 (5)~~(4)~~ Any action taken to correct a violation shall be  
924 documented in writing by the owner or administrator of the  
925 facility and verified through followup visits by agency  
926 personnel. The agency may impose a fine and, in the case of an  
927 owner-operated facility, revoke or deny a facility's license  
928 when a facility administrator fraudulently misrepresents action  
929 taken to correct a violation.

930 (6)~~(5)~~ For fines that are upheld following administrative  
931 or judicial review, the violator shall pay the fine, plus  
932 interest at the rate as specified in s. 55.03, for each day  
933 beyond the date set by the agency for payment of the fine.

934 (7)~~(6)~~ Any unlicensed facility that continues to operate  
935 after agency notification is subject to a \$1,000 fine per day.

936 (8)~~(7)~~ Any licensed facility whose owner or administrator  
937 concurrently operates an unlicensed facility shall be subject to  
938 an administrative fine of \$5,000 per day.

939 (9)~~(8)~~ Any facility whose owner fails to apply for a  
940 change-of-ownership license in accordance with s. 400.412 and



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941 operates the facility under the new ownership is subject to a  
942 fine of \$5,000.

943 (10)~~(9)~~ In addition to any administrative fines imposed,  
944 the agency may assess a survey fee, equal to the lesser of one  
945 half of the facility's biennial license and bed fee or \$500, to  
946 cover the cost of conducting initial complaint investigations  
947 that result in the finding of a violation that was the subject  
948 of the complaint or monitoring visits conducted under s.  
949 400.428(3)(c) to verify the correction of the violations.

950 (11)~~(10)~~ The agency, as an alternative to or in  
951 conjunction with an administrative action against a facility for  
952 violations of this part and adopted rules, shall make a  
953 reasonable attempt to discuss each violation and recommended  
954 corrective action with the owner or administrator of the  
955 facility, prior to written notification. The agency, instead of  
956 fixing a period within which the facility shall enter into  
957 compliance with standards, may request a plan of corrective  
958 action from the facility which demonstrates a good faith effort  
959 to remedy each violation by a specific date, subject to the  
960 approval of the agency.

961 (12)~~(11)~~ Administrative fines paid by any facility under  
962 this section shall be deposited into the Health Care Trust Fund  
963 and expended as provided in s. 400.418.

964 (13)~~(12)~~ The agency shall develop and disseminate an  
965 annual list of all facilities sanctioned or fined \$5,000 or more  
966 for violations of state standards, the number and class of  
967 violations involved, the penalties imposed, and the current  
968 status of cases. The list shall be disseminated, at no charge,



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969 to the Department of Elderly Affairs, the Department of Health,  
 970 the Department of Children and Family Services, the area  
 971 agencies on aging, the Florida Statewide Advocacy Council, and  
 972 the state and local ombudsman councils. The Department of  
 973 Children and Family Services shall disseminate the list to  
 974 service providers under contract to the department who are  
 975 responsible for referring persons to a facility for residency.  
 976 The agency may charge a fee commensurate with the cost of  
 977 printing and postage to other interested parties requesting a  
 978 copy of this list.

979 Section 22. Subsections (1) and (2) of section 400.0239,  
 980 Florida Statutes, are amended to read:

981 400.0239 Quality of Long-Term Care Facility Improvement  
 982 Trust Fund.--

983 (1) There is created within the Agency for Health Care  
 984 Administration a Quality of Long-Term Care Facility Improvement  
 985 Trust Fund to support activities and programs directly related  
 986 to improvement of the care of nursing home and assisted living  
 987 facility residents. The trust fund shall be funded through  
 988 proceeds generated pursuant to ss. 400.0238 and 400.4298,  
 989 through funds specifically appropriated by the Legislature, ~~and~~  
 990 through gifts, endowments, and other charitable contributions  
 991 allowed under federal and state law, and through federal nursing  
 992 home civil monetary penalties collected by the Centers for  
 993 Medicare and Medicaid Services and returned to the state. These  
 994 funds must be utilized in accordance with federal requirements.

995 (2) Expenditures from the trust fund shall be allowable  
 996 for direct support of the following:



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997 (a) Development and operation of a mentoring program, in  
998 consultation with the Department of Health and the Department of  
999 Elderly Affairs, for increasing the competence, professionalism,  
1000 and career preparation of long-term care facility direct care  
1001 staff, including nurses, nursing assistants, and social service  
1002 and dietary personnel.

1003 (b) Development and implementation of specialized training  
1004 programs for long-term care facility personnel who provide  
1005 direct care for residents with Alzheimer's disease and other  
1006 dementias, residents at risk of developing pressure sores, and  
1007 residents with special nutrition and hydration needs.

1008 (c) Addressing areas of deficient practice identified  
1009 through regulation or state monitoring.

1010 (d)~~(e)~~ Provision of economic and other incentives to  
1011 enhance the stability and career development of the nursing home  
1012 direct care workforce, including paid sabbaticals for exemplary  
1013 direct care career staff to visit facilities throughout the  
1014 state to train and motivate younger workers to commit to careers  
1015 in long-term care.

1016 (e)~~(d)~~ Promotion and support for the formation and active  
1017 involvement of resident and family councils in the improvement  
1018 of nursing home care.

1019 (f) Evaluation of special residents' needs in long-term  
1020 care facilities, including challenges in meeting special  
1021 residents' needs, appropriateness of placement and setting, and  
1022 cited deficiencies related to caring for special needs.

1023 (g) Other initiatives authorized by the Centers for  
1024 Medicare and Medicaid Services for the use of federal civil



1025 monetary penalties, including projects recommended through the  
 1026 Medicaid "Up-or-Out" Quality of Care Contract Management Program  
 1027 pursuant to s. 400.148.

1028 Section 23. Paragraph (d) of subsection (15) of section  
 1029 400.141, Florida Statutes, is amended, and a new paragraph (e)  
 1030 is added to said subsection, to read:

1031 400.141 Administration and management of nursing home  
 1032 facilities.--Every licensed facility shall comply with all  
 1033 applicable standards and rules of the agency and shall:

1034 (15) Submit semiannually to the agency, or more frequently  
 1035 if requested by the agency, information regarding facility  
 1036 staff-to-resident ratios, staff turnover, and staff stability,  
 1037 including information regarding certified nursing assistants,  
 1038 licensed nurses, the director of nursing, and the facility  
 1039 administrator. For purposes of this reporting:

1040 (d) A nursing facility that has failed to maintain  
 1041 certified nursing assistant staffing of at least 95 percent of  
 1042 the ~~comply with~~ state minimum-staffing requirements on any day  
 1043 or has certified nursing assistant staffing that is below the  
 1044 minimum requirements provided in s. 400.23(3)(a) for 2  
 1045 consecutive days is prohibited from accepting new admissions  
 1046 until the facility has achieved the minimum-staffing  
 1047 requirements for a period of 6 consecutive days. For the  
 1048 purposes of this paragraph, any person who was a resident of the  
 1049 facility and was absent from the facility for the purpose of  
 1050 receiving medical care at a separate location or was on a leave  
 1051 of absence is not considered a new admission. Failure to impose  
 1052 such an admissions moratorium constitutes a class II deficiency.



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1053           (e) A nursing facility may be cited for failure to comply  
 1054 with the standards for certified nursing assistants in s.  
 1055 400.23(3)(a) only if it has failed to meet those standards on 2  
 1056 consecutive days or if it has failed to meet at least 95 percent  
 1057 of those standards on any one day. Nothing in this section shall  
 1058 limit the agency's ability to impose a deficiency or take other  
 1059 actions if a facility does not have enough staff to meet the  
 1060 residents' needs.

1061  
 1062 Facilities that have been awarded a Gold Seal under the program  
 1063 established in s. 400.235 may develop a plan to provide  
 1064 certified nursing assistant training as prescribed by federal  
 1065 regulations and state rules and may apply to the agency for  
 1066 approval of their program.

1067           Section 24. Paragraph (b) of subsection (5) of section  
 1068 400.235, Florida Statutes, is amended to read:

1069           400.235 Nursing home quality and licensure status; Gold  
 1070 Seal Program.--

1071           (5) Facilities must meet the following additional criteria  
 1072 for recognition as a Gold Seal Program facility:

1073           (b) Evidence financial soundness and stability according  
 1074 to standards adopted by the agency in administrative rule. Such  
 1075 standards must include, but not be limited to, criteria for the  
 1076 use of financial statements that are prepared in accordance with  
 1077 generally accepted accounting principles and that are reviewed  
 1078 or audited by certified public accountants.

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1080 A facility assigned a conditional licensure status may not  
 1081 qualify for consideration for the Gold Seal Program until after  
 1082 it has operated for 30 months with no class I or class II  
 1083 deficiencies and has completed a regularly scheduled relicensure  
 1084 survey.

1085 Section 25. Subsections (1), (2), (7), (8), and (9) of  
 1086 section 400.452, Florida Statutes, are amended to read:

1087 400.452 Staff training and educational programs; core  
 1088 educational requirement.--

1089 (1) The department shall ensure that ~~provide, or cause to~~  
 1090 ~~be provided, training and educational programs for~~ the  
 1091 administrators and other assisted living facility staff have met  
 1092 training and education requirements that ~~to better~~ enable them  
 1093 to appropriately respond to the needs of residents, to maintain  
 1094 resident care and facility standards, and to meet licensure  
 1095 requirements.

1096 (2) The department shall ~~also~~ establish a core educational  
 1097 requirement ~~to be used in these programs~~. Successful completion  
 1098 of the core educational requirement must include successful  
 1099 completion of a competency test. ~~Programs must be provided by~~  
 1100 ~~the department or by a provider approved by the department at~~  
 1101 ~~least quarterly~~. The core educational requirement must cover at  
 1102 least the following topics:

1103 (a) State law and rules relating to assisted living  
 1104 facilities.

1105 (b) Resident rights and identifying and reporting abuse,  
 1106 neglect, and exploitation.





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1107 (c) Special needs of elderly persons, persons with mental  
1108 illness, and persons with developmental disabilities and how to  
1109 meet those needs.

1110 (d) Nutrition and food service, including acceptable  
1111 sanitation practices for preparing, storing, and serving food.

1112 (e) Medication management, recordkeeping, and proper  
1113 techniques for assisting residents with self-administered  
1114 medication.

1115 (f) Firesafety requirements, including fire evacuation  
1116 drill procedures and other emergency procedures.

1117 (g) Care of persons with Alzheimer's disease and related  
1118 disorders.

1119 ~~(7) A facility that does not have any residents who~~  
1120 ~~receive monthly optional supplementation payments must pay a~~  
1121 ~~reasonable fee for such training and education programs. A~~  
1122 ~~facility that has one or more such residents shall pay a reduced~~  
1123 ~~fee that is proportional to the percentage of such residents in~~  
1124 ~~the facility. Any facility more than 90 percent of whose~~  
1125 ~~residents receive monthly optional state supplementation~~  
1126 ~~payments is not required to pay for the training and continuing~~  
1127 ~~education programs required under this section.~~

1128 (7)(8) If the department or the agency determines that  
1129 there are problems in a facility that could be reduced through  
1130 specific staff training or education beyond that already  
1131 required under this section, the department or the agency may  
1132 require, and provide, or cause to be provided, the training or  
1133 education of any personal care staff in the facility.



1134        ~~(8)(9)~~ The department shall adopt rules to establish  
 1135 training programs, standards and curriculum for training, staff  
 1136 training requirements, procedures for approving training  
 1137 programs, and training fees.

1138        Section 26. Subsections (7), (8), and (9) are added to  
 1139 section 430.502, Florida Statutes, to read:

1140        430.502 Alzheimer's disease; memory disorder clinics and  
 1141 day care and respite care programs.--

1142        (7) The Agency for Health Care Administration and the  
 1143 department shall seek a federal waiver to implement a Medicaid  
 1144 home and community-based waiver targeted to persons with  
 1145 Alzheimer's disease to test the effectiveness of Alzheimer's  
 1146 specific interventions to delay or to avoid institutional  
 1147 placement.

1148        (8) The department will implement the waiver program  
 1149 specified in subsection (7). The agency and the department shall  
 1150 ensure that providers are selected that have a history of  
 1151 successfully serving persons with Alzheimer's disease. The  
 1152 department and the agency shall develop specialized standards  
 1153 for providers and services tailored to persons in the early,  
 1154 middle, and late stages of Alzheimer's disease and designate a  
 1155 level of care determination process and standard that is most  
 1156 appropriate to this population. The department and the agency  
 1157 shall include in the waiver services designed to assist the  
 1158 caregiver in continuing to provide in-home care. The department  
 1159 shall implement this waiver program subject to a specific  
 1160 appropriation or as provided in the General Appropriations Act.  
 1161 The department and the agency shall submit their program design



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1162 to the President of the Senate and the Speaker of the House of  
 1163 Representatives for consultation during the development process.

1164 (9) Authority to continue the waiver program specified in  
 1165 subsection (7) shall be automatically eliminated at the close of  
 1166 the 2008 Regular Session of the Legislature unless further  
 1167 legislative action is taken to continue it prior to such time.

1168 Section 27. Subsection (1) of section 400.557, Florida  
 1169 Statutes, is amended to read:

1170 400.557 Expiration of license; renewal; conditional  
 1171 license or permit.--

1172 (1) A license issued for the operation of an adult day  
 1173 care center, unless sooner suspended or revoked, expires 2 years  
 1174 after the date of issuance. The agency shall notify a licensee  
 1175 ~~by certified mail, return receipt requested,~~ at least 120 days  
 1176 before the expiration date that license renewal is required to  
 1177 continue operation. The notification must be provided  
 1178 electronically or by mail delivery. At least 90 days prior to  
 1179 the expiration date, an application for renewal must be  
 1180 submitted to the agency. A license shall be renewed, upon the  
 1181 filing of an application on forms furnished by the agency, if  
 1182 the applicant has first met the requirements of this part and of  
 1183 the rules adopted under this part. The applicant must file with  
 1184 the application satisfactory proof of financial ability to  
 1185 operate the center in accordance with the requirements of this  
 1186 part and in accordance with the needs of the participants to be  
 1187 served and an affidavit of compliance with the background  
 1188 screening requirements of s. 400.5572.



1189 Section 28. Subsection (3) of section 400.619, Florida  
1190 Statutes, is amended to read:

1191 400.619 Licensure application and renewal.--

1192 (3) The agency shall notify a licensee at least 120 days  
1193 before the expiration date that license renewal is required to  
1194 continue operation. The notification must be provided  
1195 electronically or by mail delivery. Application for a license or  
1196 annual license renewal must be made on a form provided by the  
1197 agency, signed under oath, and must be accompanied by a  
1198 licensing fee of \$100 per year.

1199 Section 29. Subsection (4) of section 400.980, Florida  
1200 Statutes, is reenacted and amended to read:

1201 400.980 Health care services pools.--

1202 (4) Each applicant for registration must comply with the  
1203 following requirements:

1204 (a) Upon receipt of a completed, signed, and dated  
1205 application, the agency shall require background screening, in  
1206 accordance with the level 1 standards for screening set forth in  
1207 chapter 435, of every individual who will have contact with  
1208 patients. The agency shall require background screening of the  
1209 managing employee or other similarly titled individual who is  
1210 responsible for the operation of the entity, and of the  
1211 financial officer or other similarly titled individual who is  
1212 responsible for the financial operation of the entity, including  
1213 billings for services in accordance with the level 2 standards  
1214 for background screening as set forth in chapter 435.

1215 (b) The agency may require background screening of any  
1216 other individual who is affiliated with the applicant if the



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1217 agency has a reasonable basis for believing that he or she has  
1218 been convicted of a crime or has committed any other offense  
1219 prohibited under the level 2 standards for screening set forth  
1220 in chapter 435.

1221 (c) Proof of compliance with the level 2 background  
1222 screening requirements of chapter 435 which has been submitted  
1223 within the previous 5 years in compliance with any other health  
1224 care or assisted living licensure requirements of this state is  
1225 acceptable in fulfillment of paragraph (a).

1226 (d) A provisional registration may be granted to an  
1227 applicant when each individual required by this section to  
1228 undergo background screening has met the standards for the  
1229 Department of Law Enforcement background check but the agency  
1230 has not yet received background screening results from the  
1231 Federal Bureau of Investigation. A standard registration may be  
1232 granted to the applicant upon the agency's receipt of a report  
1233 of the results of the Federal Bureau of Investigation background  
1234 screening for each individual required by this section to  
1235 undergo background screening which confirms that all standards  
1236 have been met, or upon the granting of a disqualification  
1237 exemption by the agency as set forth in chapter 435. Any other  
1238 person who is required to undergo level 2 background screening  
1239 may serve in his or her capacity pending the agency's receipt of  
1240 the report from the Federal Bureau of Investigation. However,  
1241 the person may not continue to serve if the report indicates any  
1242 violation of background screening standards and if a  
1243 disqualification exemption has not been requested of and granted  
1244 by the agency as set forth in chapter 435.



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1245       (e) Each applicant must submit to the agency, with its  
1246 application, a description and explanation of any exclusions,  
1247 permanent suspensions, or terminations of the applicant from the  
1248 Medicare or Medicaid programs. Proof of compliance with the  
1249 requirements for disclosure of ownership and controlling  
1250 interests under the Medicaid or Medicare programs may be  
1251 accepted in lieu of this submission.

1252       (f) Each applicant must submit to the agency a description  
1253 and explanation of any conviction of an offense prohibited under  
1254 the level 2 standards of chapter 435 which was committed by a  
1255 member of the board of directors of the applicant, its officers,  
1256 or any individual owning 5 percent or more of the applicant.  
1257 This requirement does not apply to a director of a not-for-  
1258 profit corporation or organization who serves solely in a  
1259 voluntary capacity for the corporation or organization, does not  
1260 regularly take part in the day-to-day operational decisions of  
1261 the corporation or organization, receives no remuneration for  
1262 his or her services on the corporation's or organization's board  
1263 of directors, and has no financial interest and no family  
1264 members having a financial interest in the corporation or  
1265 organization, if the director and the not-for-profit corporation  
1266 or organization include in the application a statement affirming  
1267 that the director's relationship to the corporation satisfies  
1268 the requirements of this paragraph.

1269       (g) A registration may not be granted to an applicant if  
1270 the applicant or managing employee has been found guilty of,  
1271 regardless of adjudication, or has entered a plea of nolo  
1272 contendere or guilty to, any offense prohibited under the level



1273 2 standards for screening set forth in chapter 435, unless an  
 1274 exemption from disqualification has been granted by the agency  
 1275 as set forth in chapter 435.

1276 ~~(h) The provisions of this section which require an~~  
 1277 ~~applicant for registration to undergo background screening shall~~  
 1278 ~~stand repealed on June 30, 2001, unless reviewed and saved from~~  
 1279 ~~repeal through reenactment by the Legislature.~~

1280 (h)(i) Failure to provide all required documentation  
 1281 within 30 days after a written request from the agency will  
 1282 result in denial of the application for registration.

1283 (i)(j) The agency must take final action on an application  
 1284 for registration within 60 days after receipt of all required  
 1285 documentation.

1286 (j)(k) The agency may deny, revoke, or suspend the  
 1287 registration of any applicant or registrant who:

1288 1. Has falsely represented a material fact in the  
 1289 application required by paragraph (e) or paragraph (f), or has  
 1290 omitted any material fact from the application required by  
 1291 paragraph (e) or paragraph (f); or

1292 2. Has had prior action taken against the applicant under  
 1293 the Medicaid or Medicare program as set forth in paragraph (e).

1294 3. Fails to comply with this section or applicable rules.

1295 4. Commits an intentional, reckless, or negligent act that  
 1296 materially affects the health or safety of a person receiving  
 1297 services.

1298 Section 30. Section 408.061, Florida Statutes, is amended  
 1299 to read:



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1300 408.061 Data collection; uniform systems of financial  
1301 reporting; information relating to physician charges;  
1302 confidential information; immunity.--

1303 (1) The agency may require the submission by health care  
1304 facilities, health care providers, and health insurers of data  
1305 necessary to carry out the agency's duties. Specifications for  
1306 data to be collected under this section shall be developed by  
1307 the agency with the assistance of technical advisory panels  
1308 including representatives of affected entities, consumers,  
1309 purchasers, and such other interested parties as may be  
1310 determined by the agency.

1311 (a) Data to be submitted by health care facilities may  
1312 include, but are not limited to: case-mix data, patient  
1313 admission or discharge data with patient and provider-specific  
1314 identifiers included, actual charge data by diagnostic groups,  
1315 financial data, accounting data, operating expenses, expenses  
1316 incurred for rendering services to patients who cannot or do not  
1317 pay, interest charges, depreciation expenses based on the  
1318 expected useful life of the property and equipment involved, and  
1319 demographic data. Data may be obtained from documents such as,  
1320 but not limited to: leases, contracts, debt instruments,  
1321 itemized patient bills, medical record abstracts, and related  
1322 diagnostic information.

1323 (b) Data to be submitted by health care providers may  
1324 include, but are not limited to: Medicare and Medicaid  
1325 participation, types of services offered to patients, amount of  
1326 revenue and expenses of the health care provider, and such other





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1327 data which are reasonably necessary to study utilization  
1328 patterns.

1329 (c) Data to be submitted by health insurers may include,  
1330 but are not limited to: claims, premium, administration, and  
1331 financial information.

1332 (d) Data required to be submitted by health care  
1333 facilities, health care providers, or health insurers shall not  
1334 include specific provider contract reimbursement information.  
1335 However, such specific provider reimbursement data shall be  
1336 reasonably available for onsite inspection by the agency as is  
1337 necessary to carry out the agency's regulatory duties. Any such  
1338 data obtained by the agency as a result of onsite inspections  
1339 may not be used by the state for purposes of direct provider  
1340 contracting and are confidential and exempt from the provisions  
1341 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1342 (e) A requirement to submit data shall be adopted by rule  
1343 if the submission of data is being required of all members of  
1344 any type of health care facility, health care provider, or  
1345 health insurer. Rules are not required, however, for the  
1346 submission of data for a special study mandated by the  
1347 Legislature or when information is being requested for a single  
1348 health care facility, health care provider, or health insurer.

1349 (2) The agency shall, by rule, after consulting with  
1350 appropriate professional and governmental advisory bodies and  
1351 holding public hearings and considering existing and proposed  
1352 systems of accounting and reporting utilized by health care  
1353 facilities, specify a uniform system of financial reporting for  
1354 each type of facility based on a uniform chart of accounts



1355 developed after considering any chart of accounts developed by  
 1356 the national association for such facilities and generally  
 1357 accepted accounting principles. Such systems shall, to the  
 1358 extent feasible, use existing accounting systems and shall  
 1359 minimize the paperwork required of facilities. This provision  
 1360 shall not be construed to authorize the agency to require health  
 1361 care facilities to adopt a uniform accounting system. As a part  
 1362 of such uniform system of financial reporting, the agency may  
 1363 require the filing of any information relating to the cost to  
 1364 the provider and the charge to the consumer of any service  
 1365 provided in such facility, except the cost of a physician's  
 1366 services which is billed independently of the facility.

1367 (3) When more than one licensed facility is operated by  
 1368 the reporting organization, the information required by this  
 1369 section shall be reported for each facility separately.

1370 (4)~~(a)~~ Within 120 days after the end of its fiscal year,  
 1371 each health care facility, excluding continuing care facilities  
 1372 and nursing homes as defined in s. 408.07(14) and (36), shall  
 1373 file with the agency, on forms adopted by the agency and based  
 1374 on the uniform system of financial reporting, its actual  
 1375 financial experience for that fiscal year, including  
 1376 expenditures, revenues, and statistical measures. Such data may  
 1377 be based on internal financial reports which are certified to be  
 1378 complete and accurate by the provider. However, hospitals'  
 1379 actual financial experience shall be their audited actual  
 1380 experience. ~~Nursing homes that do not participate in the~~  
 1381 ~~Medicare or Medicaid programs shall also submit audited actual~~  
 1382 ~~experience.~~ Every nursing home shall submit to the agency, in a



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1383 format designated by the agency, a statistical profile of the  
1384 nursing home residents. The agency, in conjunction with the  
1385 Department of Elderly Affairs and the Department of Health,  
1386 shall review these statistical profiles and develop  
1387 recommendations for the types of residents who might more  
1388 appropriately be placed in their homes or other noninstitutional  
1389 settings.

1390 ~~(b) Each nursing home shall also submit a schedule of the~~  
1391 ~~charges in effect at the beginning of the fiscal year and any~~  
1392 ~~changes that were made during the fiscal year. A nursing home~~  
1393 ~~which is certified under Title XIX of the Social Security Act~~  
1394 ~~and files annual Medicaid cost reports may substitute copies of~~  
1395 ~~such reports and any Medicaid audits to the agency in lieu of a~~  
1396 ~~report and audit required under this subsection. For such~~  
1397 ~~facilities, the agency may require only information in~~  
1398 ~~compliance with this chapter that is not contained in the~~  
1399 ~~Medicaid cost report. Facilities that are certified under Title~~  
1400 ~~XVIII, but not Title XIX, of the Social Security Act must submit~~  
1401 ~~a report as developed by the agency. This report shall be~~  
1402 ~~substantially the same as the Medicaid cost report and shall not~~  
1403 ~~require any more information than is contained in the Medicare~~  
1404 ~~cost report unless that information is required of all nursing~~  
1405 ~~homes. The audit under Title XVIII shall satisfy the audit~~  
1406 ~~requirement under this subsection.~~

1407 (5) In addition to information submitted in accordance  
1408 with subsection (4), each nursing home shall track and file with  
1409 the agency, on a form adopted by the agency, data related to  
1410 each resident's admission, discharge, or conversion to Medicaid;



1411 health and functional status; plan of care; and other  
 1412 information pertinent to the resident's placement in a nursing  
 1413 home.

1414 ~~(6) Any nursing home which assesses residents a separate~~  
 1415 ~~charge for personal laundry services shall submit to the agency~~  
 1416 ~~data on the monthly charge for such services, excluding~~  
 1417 ~~drycleaning. For facilities that charge based on the amount of~~  
 1418 ~~laundry, the most recent schedule of charges and the average~~  
 1419 ~~monthly charge shall be submitted to the agency.~~

1420 (6)~~(7)~~ The agency may require other reports based on the  
 1421 uniform system of financial reporting necessary to accomplish  
 1422 the purposes of this chapter.

1423 (7)~~(8)~~ Portions of patient records obtained or generated  
 1424 by the agency containing the name, residence or business  
 1425 address, telephone number, social security or other identifying  
 1426 number, or photograph of any person or the spouse, relative, or  
 1427 guardian of such person, or any other identifying information  
 1428 which is patient-specific or otherwise identifies the patient,  
 1429 either directly or indirectly, are confidential and exempt from  
 1430 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
 1431 Constitution.

1432 (8)~~(9)~~ The identity of any health care provider, health  
 1433 care facility, or health insurer who submits any data which is  
 1434 proprietary business information to the agency pursuant to the  
 1435 provisions of this section shall remain confidential and exempt  
 1436 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
 1437 State Constitution. As used in this section, "proprietary  
 1438 business information" shall include, but not be limited to,



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1439 information relating to specific provider contract reimbursement  
1440 information; information relating to security measures, systems,  
1441 or procedures; and information concerning bids or other  
1442 contractual data, the disclosure of which would impair efforts  
1443 to contract for goods or services on favorable terms or would  
1444 injure the affected entity's ability to compete in the  
1445 marketplace. Notwithstanding the provisions of this subsection,  
1446 any information obtained or generated pursuant to the provisions  
1447 of former s. 407.61, either by the former Health Care Cost  
1448 Containment Board or by the Agency for Health Care  
1449 Administration upon transfer to that agency of the duties and  
1450 functions of the former Health Care Cost Containment Board, is  
1451 not confidential and exempt from the provisions of s. 119.07(1)  
1452 and s. 24(a), Art. I of the State Constitution. Such proprietary  
1453 business information may be used in published analyses and  
1454 reports or otherwise made available for public disclosure in  
1455 such manner as to preserve the confidentiality of the identity  
1456 of the provider. This exemption shall not limit the use of any  
1457 information used in conjunction with investigation or  
1458 enforcement purposes under the provisions of s. 456.073.

1459 (9)~~(10)~~ No health care facility, health care provider,  
1460 health insurer, or other reporting entity or its employees or  
1461 agents shall be held liable for civil damages or subject to  
1462 criminal penalties either for the reporting of patient data to  
1463 the agency or for the release of such data by the agency as  
1464 authorized by this chapter.

1465 (10)~~(11)~~ The agency shall be the primary source for  
1466 collection and dissemination of health care data. No other



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1467 agency of state government may gather data from a health care  
1468 provider licensed or regulated under this chapter without first  
1469 determining if the data is currently being collected by the  
1470 agency and affirmatively demonstrating that it would be more  
1471 cost-effective for an agency of state government other than the  
1472 agency to gather the health care data. The director shall ensure  
1473 that health care data collected by the divisions within the  
1474 agency is coordinated. It is the express intent of the  
1475 Legislature that all health care data be collected by a single  
1476 source within the agency and that other divisions within the  
1477 agency, and all other agencies of state government, obtain data  
1478 for analysis, regulation, and public dissemination purposes from  
1479 that single source. Confidential information may be released to  
1480 other governmental entities or to parties contracting with the  
1481 agency to perform agency duties or functions as needed in  
1482 connection with the performance of the duties of the receiving  
1483 entity. The receiving entity or party shall retain the  
1484 confidentiality of such information as provided for herein.

1485 (11)~~(12)~~ The agency shall cooperate with local health  
1486 councils and the state health planning agency with regard to  
1487 health care data collection and dissemination and shall  
1488 cooperate with state agencies in any efforts to establish an  
1489 integrated health care database.

1490 (12)~~(13)~~ It is the policy of this state that philanthropic  
1491 support for health care should be encouraged and expanded,  
1492 especially in support of experimental and innovative efforts to  
1493 improve the health care delivery system.



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1494        (13)~~(14)~~ For purposes of determining reasonable costs of  
1495 services furnished by health care facilities, unrestricted  
1496 grants, gifts, and income from endowments shall not be deducted  
1497 from any operating costs of such health care facilities, and, in  
1498 addition, the following items shall not be deducted from any  
1499 operating costs of such health care facilities:

1500            (a) An unrestricted grant or gift, or income from such a  
1501 grant or gift, which is not available for use as operating funds  
1502 because of its designation by the health care facility's  
1503 governing board.

1504            (b) A grant or similar payment which is made by a  
1505 governmental entity and which is not available, under the terms  
1506 of the grant or payment, for use as operating funds.

1507            (c) The sale or mortgage of any real estate or other  
1508 capital assets of the health care facility which the health care  
1509 facility acquired through a gift or grant and which is not  
1510 available for use as operating funds under the terms of the gift  
1511 or grant or because of its designation by the health care  
1512 facility's governing board, except for recovery of the  
1513 appropriate share of gains and losses realized from the disposal  
1514 of depreciable assets.

1515            Section 31. Section 408.062, Florida Statutes, is amended  
1516 to read:

1517            408.062 Research, analyses, studies, and reports.--

1518            (1) The agency shall have the authority to conduct  
1519 research, analyses, and studies relating to health care costs  
1520 and access to and quality of health care services as access and  
1521 quality are affected by changes in health care costs. Such



1522 research, analyses, and studies shall include, but not be  
1523 limited to, research and analysis relating to:

1524 (a) The financial status of any health care facility or  
1525 facilities subject to the provisions of this chapter.

1526 (b) The impact of uncompensated charity care on health  
1527 care facilities and health care providers.

1528 (c) The state's role in assisting to fund indigent care.

1529 (d) The availability and affordability of health insurance  
1530 for small businesses.

1531 (e) Total health care expenditures in the state according  
1532 to the sources of payment and the type of expenditure.

1533 (f) The quality of health services, using techniques such  
1534 as small area analysis, severity adjustments, and risk-adjusted  
1535 mortality rates.

1536 (g) The development of physician payment systems which are  
1537 capable of taking into account the amount of resources consumed  
1538 and the outcomes produced in the delivery of care.

1539 (h) The impact of subacute admissions on hospital revenues  
1540 and expenses for purposes of calculating adjusted admissions as  
1541 defined in s. 408.07.

1542 ~~(2) The agency shall evaluate data from nursing home  
1543 financial reports and shall document and monitor:~~

1544 ~~(a) Total revenues, annual change in revenues, and  
1545 revenues by source and classification, including contributions  
1546 for a resident's care from the resident's resources and from the  
1547 family and contributions not directed toward any specific  
1548 resident's care.~~





1549           ~~(b) Average resident charges by geographic region, payor,~~  
1550 ~~and type of facility ownership.~~

1551           ~~(c) Profit margins by geographic region and type of~~  
1552 ~~facility ownership.~~

1553           ~~(d) Amount of charity care provided by geographic region~~  
1554 ~~and type of facility ownership.~~

1555           ~~(e) Resident days by payor category.~~

1556           ~~(f) Experience related to Medicaid conversion as reported~~  
1557 ~~under s. 408.061.~~

1558           ~~(g) Other information pertaining to nursing home revenues~~  
1559 ~~and expenditures.~~

1560

1561 ~~The findings of the agency shall be included in an annual report~~  
1562 ~~to the Governor and Legislature by January 1 each year.~~

1563           (2)~~(3)~~ The agency may assess annually the caesarean  
1564 section rate in Florida hospitals using the analysis methodology  
1565 that the agency determines most appropriate. To assist the  
1566 agency in determining the impact of this chapter on Florida  
1567 hospitals' caesarean section rates, each provider hospital, as  
1568 defined in s. 383.336, shall notify the agency of the date of  
1569 implementation of the practice parameters and the date of the  
1570 first meeting of the hospital peer review board created pursuant  
1571 to this chapter. The agency shall use these dates in monitoring  
1572 any change in provider hospital caesarean section rates. An  
1573 annual report based on this monitoring and assessment shall be  
1574 submitted to the Governor, the Speaker of the House of  
1575 Representatives, and the President of the Senate by the agency,  
1576 with the first annual report due January 1, 1993.



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1577        (3)~~(4)~~ The agency may also prepare such summaries and  
1578 compilations or other supplementary reports based on the  
1579 information analyzed by the agency under this section, as will  
1580 advance the purposes of this chapter.

1581        (4)~~(5)~~(a) The agency may conduct data-based studies and  
1582 evaluations and make recommendations to the Legislature and the  
1583 Governor concerning exemptions, the effectiveness of limitations  
1584 of referrals, restrictions on investment interests and  
1585 compensation arrangements, and the effectiveness of public  
1586 disclosure. Such analysis may include, but need not be limited  
1587 to, utilization of services, cost of care, quality of care, and  
1588 access to care. The agency may require the submission of data  
1589 necessary to carry out this duty, which may include, but need  
1590 not be limited to, data concerning ownership, Medicare and  
1591 Medicaid, charity care, types of services offered to patients,  
1592 revenues and expenses, patient-encounter data, and other data  
1593 reasonably necessary to study utilization patterns and the  
1594 impact of health care provider ownership interests in health-  
1595 care-related entities on the cost, quality, and accessibility of  
1596 health care.

1597        (b) The agency may collect such data from any health  
1598 facility as a special study.

1599        Section 32. Subsection (2) of section 408.831, Florida  
1600 Statutes, is renumbered as subsection (3) and a new subsection  
1601 (2) is added to said section to read:

1602        408.831 Denial, suspension, or revocation of a license,  
1603 registration, certificate, or application.--



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1604       (2) In reviewing any application requesting a change of  
1605 ownership or change of the licensee, registrant, or certificate  
1606 holder, the transferor shall, prior to agency approval of the  
1607 change, repay or make arrangements to repay any amounts owed to  
1608 the agency. Should the transferor fail to repay or make  
1609 arrangements to repay the amounts owed to the agency, the  
1610 issuance of a license, registration, or certificate to the  
1611 transferee shall be delayed until repayment or until  
1612 arrangements for repayment are made.

1613           Section 33. Subsection (1) of section 409.9116, Florida  
1614 Statutes, is amended to read:

1615           409.9116 Disproportionate share/financial assistance  
1616 program for rural hospitals.--In addition to the payments made  
1617 under s. 409.911, the Agency for Health Care Administration  
1618 shall administer a federally matched disproportionate share  
1619 program and a state-funded financial assistance program for  
1620 statutory rural hospitals. The agency shall make  
1621 disproportionate share payments to statutory rural hospitals  
1622 that qualify for such payments and financial assistance payments  
1623 to statutory rural hospitals that do not qualify for  
1624 disproportionate share payments. The disproportionate share  
1625 program payments shall be limited by and conform with federal  
1626 requirements. Funds shall be distributed quarterly in each  
1627 fiscal year for which an appropriation is made. Notwithstanding  
1628 the provisions of s. 409.915, counties are exempt from  
1629 contributing toward the cost of this special reimbursement for  
1630 hospitals serving a disproportionate share of low-income  
1631 patients.



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1632 (1) The following formula shall be used by the agency to  
 1633 calculate the total amount earned for hospitals that participate  
 1634 in the rural hospital disproportionate share program or the  
 1635 financial assistance program:

1636

1637 
$$TAERH = (CCD + MDD) / TPD$$

1638

1639 Where:

1640 CCD = total charity care-other, plus charity care-Hill-  
 1641 Burton, minus 50 percent of unrestricted tax revenue from local  
 1642 governments, and restricted funds for indigent care, divided by  
 1643 gross revenue per adjusted patient day; however, if CCD is less  
 1644 than zero, then zero shall be used for CCD.

1645 MDD = Medicaid inpatient days plus Medicaid HMO inpatient  
 1646 days.

1647 TPD = total inpatient days.

1648 TAERH = total amount earned by each rural hospital.

1649

1650 In computing the total amount earned by each rural hospital, the  
 1651 agency must use the most recent actual data reported in  
 1652 accordance with s. 408.061(4)~~(a)~~.

1653 Section 34. This act shall take effect upon becoming a  
 1654 law.

1655