

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representatives Fiorentino and Domino offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause,

and insert:

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

393.506 Administration of medication.--

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

(a) For day programs, as defined in s. 393.063, the director of the facility or program shall designate in writing

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28 unlicensed direct care services staff who are eligible to be
29 trained to assist in the administration of or to administer
30 medication.

31 (b) For intermediate care facilities for the
32 developmentally disabled licensed pursuant to part XI of chapter
33 400, unlicensed staff designated by the director may provide
34 medication assistance under the general supervision of a
35 registered nurse licensed pursuant to chapter 464.

36 (2) Each facility, institution, or program must include in
37 its policies and procedures a plan for training designated staff
38 to ensure the safe handling, storage, and administration of
39 prescription medication. These policies and procedures must be
40 approved by the department before unlicensed direct care
41 services staff assist with medication.

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

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

45 (b) The director of the facility, program, or provider
46 must maintain a copy of the written prescription, and that
47 prescription must include the name of the medication, the dosage
48 and administration schedule, the reason for the prescription,
49 and the termination date.

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

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

55 Section 2. Section 400.9685, Florida Statutes, is created
56 to read:

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57 400.9685 Administration of medication.--

58 (1) Notwithstanding the provisions of the Nurse Practice
59 Act, part I of chapter 464, unlicensed direct care services
60 staff who are providing services to clients in Intermediate Care
61 Facilities for the Developmentally Disabled, licensed pursuant
62 to this part, may administer prescribed, prepackaged, pre-
63 measured medications under the general supervision of a
64 registered nurse as provided in this section and applicable
65 rules. Training required by this section and applicable rules
66 must be conducted by a registered nurse licensed pursuant to
67 chapter 464, or a physician licensed pursuant to chapter 458 or
68 chapter 459.

69 (2) Each facility that allows unlicensed direct care
70 service staff to administer medications pursuant to this section
71 must:

72 (a) Develop and implement policies and procedures that
73 include a plan to ensure the safe handling, storage, and
74 administration of prescription medication.

75 (b) Maintain written evidence of the expressed and
76 informed consent for each client.

77 (c) Maintain a copy of the written prescription including
78 the name of the medication, the dosage, and administration
79 schedule.

80 (d) Maintain documentation regarding the prescription
81 including the name, dosage, and administration schedule, reason
82 for prescription, and the termination date.

83 (e) Maintain documentation of compliance with required
84 training.

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

87 (a) Medications authorized and packaging required.

88 (b) Acceptable methods of administration.

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

90 (d) Minimum educational requirements of staff.

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

94 (f) Requirements for safe handling, storage, and
95 administration of medications.

96 Section 3. Subsection (2) of section 394.74, Florida
97 Statutes, is amended, and subsection (6) is added to said
98 section, to read:

99 394.74 Contracts for provision of local substance abuse
100 and mental health programs.--

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

103 (b) Notwithstanding s. 394.76(3)(a) and (c), the
104 department may use unit cost methods of payment in contracts for
105 purchasing mental health and substance abuse services. The unit
106 cost contracting system must account for those patient fees that
107 are paid on behalf of a specific client and those that are
108 earned and used by the provider for those services funded in
109 whole or in part by the department. The department may also use
110 a fee-for-service arrangement, case rates, or a capitation
111 arrangement in order to account for those services.

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112 (c) The department may reimburse actual expenditures for
113 startup contracts and fixed capital outlay contracts in
114 accordance with contract specifications.

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

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

120 415.102 Definitions of terms used in ss. 415.101-
121 415.113.--As used in ss. 415.101-415.113, the term:

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

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

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

134 765.401 The proxy.--

135 (1) If an incapacitated or developmentally disabled
136 patient has not executed an advance directive, or designated a
137 surrogate to execute an advance directive, or the designated or
138 alternate surrogate is no longer available to make health care
139 decisions, health care decisions may be made for the patient by
140 any of the following individuals, in the following order of

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141 priority, if no individual in a prior class is reasonably
142 available, willing, or competent to act:

143 (h) A clinical social worker licensed pursuant to chapter
144 491, or who is a graduate of a court-approved guardianship
145 program. Such a proxy must be selected by the provider's
146 bioethics committee and must not be employed by the provider. If
147 the provider does not have a bioethics committee, then such a
148 proxy may be chosen through an arrangement with the bioethics
149 committee of another provider. The proxy will be notified that
150 upon request, the provider shall make available a second
151 physician, not involved in the patient's care to assist the
152 proxy in evaluating treatment. Decisions to withhold or withdraw
153 life-prolonging procedures will be reviewed by the facility's
154 bioethics committee. Documentation of efforts to locate proxies
155 from prior classes must be recorded in the patient record.

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

158 744.102 Definitions.--As used in this chapter, the term:

159 (15) "Professional guardian" means any guardian who
160 receives or has at any time received compensation for services
161 rendered to more than two wards as their guardian. A person
162 serving as a guardian for two or more relatives as defined in s.
163 744.309(2) is not considered a professional guardian. A public
164 guardian shall be considered a professional guardian for
165 purposes of regulation, education, and registration.

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

168 744.108 Guardian's and attorney's fees and expenses.--

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169 (8) When court proceedings are instituted to review or
170 determine a guardian's or an attorney's fees under subsection
171 (2), such proceedings are part of the guardianship
172 administration process and the costs, including fees for the
173 guardian's attorney, shall be determined by the court and paid
174 from the assets of the guardianship estate unless the court
175 finds the requested compensation under subsection (2) to be
176 substantially unreasonable.

177 Section 8. Section 744.1083, Florida Statutes, is amended
178 to read:

179 744.1083 Professional guardian registration.--

180 (1) ~~Effective January 1, 2003, A professional guardian~~
181 ~~must register with the Statewide Public Guardianship Office~~
182 ~~established in part IX of this chapter. The Statewide Public~~
183 ~~Guardianship Office may contract with the clerk of the court in~~
184 ~~each county to perform the administrative functions associated~~
185 ~~with registering professional guardians.~~

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

190 (3) Registration must include the following:

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

194 (b) If the professional guardian is a partnership or
195 association, the name, address, and date of birth of every
196 member, and the employer identification number of the
197 partnership or association.

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198 (c) If the professional guardian is a corporation, the
199 name, address, and employer identification number of the
200 corporation; the name, address, and date of birth of each of its
201 directors and officers; the name of its resident agent; and the
202 name, address, and date of birth of each person having at least
203 a 10-percent interest in the corporation.

204 (d) The name, address, date of birth, and employer
205 identification number, if applicable, of each person providing
206 guardian-delegated financial or personal guardianship services
207 for wards.

208 (e) Documentation that the bonding and educational
209 requirements of s. 744.1085 have been met, and that background
210 screening has been conducted pursuant to s. 744.3135. Compliance
211 with this section shall constitute compliance with the
212 attestation requirement of s. 435.04(5).

213 (f) Sufficient information to distinguish a guardian
214 providing guardianship services as a public guardian,
215 individually, through partnership, corporation, or any other
216 business organization.

217 (4) The Department of Elderly Affairs ~~Statewide Public~~
218 ~~Guardianship Office~~ may adopt rules necessary to administer this
219 section.

220 (5) A trust company, a state banking corporation or state
221 savings association authorized and qualified to exercise
222 fiduciary powers in this state, or a national banking
223 association or federal savings and loan association authorized
224 and qualified to exercise fiduciary powers in this state, may,
225 but shall not be required to, register as a professional
226 guardian under this section. If a trust company, state banking

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227 corporation, state savings association, national banking
228 association, or federal savings and loan association described
229 in this subsection elects to register as a professional guardian
230 under this subsection, the requirements of subsection (3) shall
231 not apply and the registration shall include only the name,
232 address, and employer identification number of the registrant,
233 the name and address of its registered agent, if any, and the
234 documentation described in paragraph (3)(e).

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

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

241 (8) A state college or university or an independent
242 college or university as described pursuant to s. 1009.98(3)(a),
243 may, but shall not be required to, register as a professional
244 guardian under this section. If a state college or university or
245 independent college or university elects to register as a
246 professional guardian under this subsection, the requirements of
247 subsection (3) shall not apply and the registration shall
248 include only the name, address, and employer identification
249 number of the registrant.

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

253 744.1085 Regulation of professional guardians;
254 application; bond required; educational requirements.--

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255 (3) Each professional guardian defined in s. 744.102(15)
256 and public guardian, on October 1, 1997, must receive a minimum
257 of 40 hours of instruction and training by October 1, 1998, or
258 within 1 year after becoming a professional guardian, whichever
259 occurs later. Each professional guardian must receive a minimum
260 of 16 hours of continuing education every 2 calendar years after
261 the year in which the initial 40-hour educational requirement is
262 met. The instruction and education must be completed through a
263 course approved or offered by the Statewide Public Guardianship
264 Office. The expenses incurred to satisfy the educational
265 requirements prescribed in this section may not be paid with the
266 assets of any ward. This subsection does not apply to any
267 attorney who is licensed to practice law in this state.

268 (4) Each professional guardian must allow, at the
269 guardian's expense, an investigation of the guardian's credit
270 history, and the credit history of employees of the guardian, in
271 a manner prescribed by the Department of Elderly Affairs.

272 (5) As required in s. 744.3135, each professional guardian
273 shall allow a level 2 background screening of the guardian and
274 employees of the guardian in accordance with the provisions of
275 s. 435.04.

276 (6) After July 1, 2005, each professional guardian shall
277 be required to demonstrate competency to act as a professional
278 guardian by taking an examination approved by the Department of
279 Elderly Affairs.

280 (a) The Department of Elderly Affairs shall determine the
281 minimum examination score necessary for passage of guardianship
282 examinations.

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

285 (c) The Department of Elderly Affairs or its contractor
286 shall charge an examination fee for the actual costs of the
287 development and the administration of the examination, not to
288 exceed \$500.

289 (d) The Department of Elderly Affairs may recognize
290 passage of a national guardianship examination in lieu of all or
291 part of the examination approved by the Department of Elderly
292 Affairs, except that all professional guardians must take and
293 pass an approved examination section related to Florida law and
294 procedure.

295 (7) The Department of Elderly Affairs shall set the
296 minimum score necessary to demonstrate professional guardianship
297 competency.

298 (8) The Department of Elderly Affairs shall waive the
299 examination requirement in paragraph (6) if a professional
300 guardian can provide:

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

303 (b) A letter from a circuit judge before whom the
304 professional guardian practiced at least 1 year which states
305 that the professional guardian had demonstrated to the court
306 competency as a professional guardian.

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

310 (10) This section does not apply to a professional
311 guardian or the employees of that professional guardian when

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312 that guardian is a trust company, a state banking corporation,
313 state savings association authorized and qualified to exercise
314 fiduciary powers in this state, or a national banking
315 association or federal savings and loan association authorized
316 and qualified to exercise fiduciary powers in this state.

317 Section 10. Section 744.3135, Florida Statutes, is amended
318 to read:

319 744.3135 Credit and criminal investigation.--The court may
320 require a nonprofessional guardian and shall require a
321 professional or public guardian, and all employees of a
322 professional guardian who have a fiduciary responsibility to a
323 ward, to submit, at their own expense, to an investigation of
324 the guardian's credit history and to undergo level 2 background
325 screening as required under s. 435.04. The clerk of the court
326 shall obtain fingerprint cards from the Federal Bureau of
327 Investigation and make them available to guardians. Any guardian
328 who is so required shall have his or her fingerprints taken and
329 forward the proper fingerprint card along with the necessary fee
330 to the Florida Department of Law Enforcement for processing. The
331 professional guardian shall pay to the clerk of the court a fee
332 of \$5 for handling and processing professional guardian files.
333 The results of the fingerprint checks shall be forwarded to the
334 clerk of court who shall maintain the results in a guardian file
335 and shall make the results available to the court. If credit or
336 criminal investigations are required, the court must consider
337 the results of the investigations in appointing a guardian.
338 Professional guardians and all employees of a professional
339 guardian who have a fiduciary responsibility to a ward, so
340 appointed, must resubmit, at their own expense, to an

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341 investigation of credit history, and undergo level 1 background
342 screening as required under s. 435.03, at least every 2 years
343 after the date of their appointment. At any time, the court may
344 require guardians or their employees to submit to an
345 investigation of credit history and undergo level 1 background
346 screening as required under s. 435.03. The court must consider
347 the results of these investigations in reappointing a guardian.
348 This section shall not apply to a professional guardian, or to
349 the employees of a professional guardian, that is a trust
350 company, a state banking corporation or state savings
351 association authorized and qualified to exercise fiduciary
352 powers in this state, or a national banking association or
353 federal savings and loan association authorized and qualified to
354 exercise fiduciary powers in this state.

355 Section 11. Section 744.3145, Florida Statutes, is amended
356 to read:

357 744.3145 Guardian education requirements.--

358 (1) Each ward is entitled to a guardian competent to
359 perform the duties of a guardian necessary to protect the
360 interests of the ward.

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

365 (a) The legal duties and responsibilities of the guardian;

366 (b) The rights of the ward;

367 (c) The availability of local resources to aid the ward;

368 and

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369 (d) The preparation of habilitation plans and annual
370 guardianship reports, including financial accounting for the
371 ward's property.

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

375 (a) The legal duties and responsibilities of the guardian
376 of the property;

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

379 (c) Use of guardianship assets.

380 (4)(3) Each person appointed by the court to be a guardian
381 must complete the required number of 8 hours of instruction and
382 education within 1 year after his or her appointment as
383 guardian. The instruction and education must be completed
384 through a course approved by the chief judge of the circuit
385 court and taught by a court-approved organization. Court-
386 approved organizations may include, but are not limited to,
387 community or junior colleges, guardianship organizations, and
388 the local bar association or The Florida Bar.

389 (5)(4) Expenses incurred by the guardian to satisfy the
390 education requirement may be paid from the ward's estate, unless
391 the court directs that such expenses be paid by the guardian
392 individually.

393 (6)(5) The court may, in its discretion, waive some or all
394 of the requirements of this section or impose additional
395 requirements. The court shall make its decision on a case-by-
396 case basis and, in making its decision, shall consider the

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397 experience and education of the guardian, the duties assigned to
398 the guardian, and the needs of the ward.

399 (7)~~(6)~~ The provisions of this section do not apply to
400 professional guardians.

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

404 744.444 Power of guardian without court approval.--Without
405 obtaining court approval, a plenary guardian of the property, or
406 a limited guardian of the property within the powers granted by
407 the order appointing the guardian or an approved annual or
408 amended guardianship report, may:

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

413 (16) Pay or reimburse costs incurred and reasonable fees
414 or compensation to persons, including attorneys, employed by the
415 guardian pursuant to subsection (13) from the assets of the
416 guardianship estate, subject to obtaining court approval of the
417 annual accounting.

418 (17) Provide confidential information about a ward that is
419 related to an investigation arising under part I of chapter 400
420 to a local or state ombudsman council member conducting such an
421 investigation. Any such ombudsman shall have a duty to maintain
422 the confidentiality of such information.

423 Section 13. Paragraph (c) of subsection (2) of section
424 744.534, Florida Statutes, is amended to read:

425 744.534 Disposition of unclaimed funds held by guardian.--

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426 (2)

427 (c) Within 5 years from the date of deposit with the State
428 Treasurer, on written petition to the court that directed the
429 deposit of the funds and informal notice to the Department of
430 Legal Affairs, and after proof of his or her right to them, any
431 person entitled to the funds, before or after payment to the
432 State Treasurer and deposit as provided for in paragraph (a),
433 may obtain a court order directing the payment of the funds to
434 him or her. All funds deposited with the State Treasurer and not
435 claimed within 5 years from the date of deposit shall escheat to
436 the state to be deposited in the Department of Elderly Affairs
437 Administrative Trust Fund to be used solely for the benefit of
438 public guardianship as determined by the Secretary of Elderly
439 Affairs ~~Statewide Public Guardianship Office established in part~~
440 ~~IX of this chapter.~~

441 Section 14. Section 744.7021, Florida Statutes, is amended
442 to read:

443 744.7021 Statewide Public Guardianship Office.--There is
444 hereby created the Statewide Public Guardianship Office within
445 the Department of Elderly Affairs. ~~The Department of Elderly~~
446 ~~Affairs shall provide administrative support and service to the~~
447 ~~office to the extent requested by the executive director within~~
448 ~~the available resources of the department. The Statewide Public~~
449 ~~Guardianship Office may request the assistance of the Inspector~~
450 ~~General of the Department of Elderly Affairs in providing~~
451 ~~auditing services, and the Office of General Counsel of the~~
452 ~~department may provide assistance in rulemaking and other~~
453 ~~matters as needed to assist the Statewide Public Guardianship~~
454 ~~Office. The Statewide Public Guardianship Office shall not be~~

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455 ~~subject to control, supervision, or direction by the Department~~
456 ~~of Elderly Affairs in the performance of its duties.~~

457 (1) The Secretary of Elderly Affairs shall appoint the
458 executive director, who shall be the head of the Statewide
459 Public Guardianship Office ~~is the executive director, who shall~~
460 ~~be appointed by the Governor.~~ The executive director must be a
461 member of The Florida Bar, knowledgeable of licensed attorney
462 ~~with a background in~~ guardianship law and knowledge of the
463 social services available to meet the needs of incapacitated
464 persons, shall serve on a full-time basis, and shall personally,
465 or through representatives of the office, carry out the purposes
466 and functions of the Statewide Public Guardianship Office in
467 accordance with state and federal law. The executive director
468 shall serve at the pleasure of and report to the Secretary
469 ~~Governor.~~

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

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

475 (b) The executive director ~~office~~, in consultation with
476 local guardianship offices, shall develop statewide performance
477 measures and standards.

478 (c) The executive director ~~office~~ shall review the various
479 methods of funding guardianship programs, the kinds of services
480 being provided by such programs, and the demographics of the
481 wards. In addition, the executive director ~~office~~ shall review
482 and make recommendations regarding the feasibility of recovering

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483 a portion or all of the costs of providing public guardianship
484 services from the assets or income of the wards.

485 ~~(d) No later than October 1, 2000, the office shall submit~~
486 ~~to the Governor, the President of the Senate, the Speaker of the~~
487 ~~House of Representatives, and the Chief Justice of the Supreme~~
488 ~~Court an interim report describing the progress of the office in~~
489 ~~meeting the goals as described in this section. No later than~~
490 ~~October 1, 2001, the office shall submit to the Governor, the~~
491 ~~President of the Senate, the Speaker of the House of~~
492 ~~Representatives, and the Chief Justice of the Supreme Court a~~
493 ~~proposed public guardianship plan including alternatives for~~
494 ~~meeting the state's guardianship needs. This plan may include~~
495 ~~recommendations for less than the entire state, may include a~~
496 ~~phase in system, and shall include estimates of the cost of each~~
497 ~~of the alternatives. By January 1, 2004, and by January 1 of~~
498 ~~each year thereafter, the executive director ~~office~~ shall~~
499 ~~provide a status report and provide further recommendations to~~
500 ~~the Secretary that address the need for public guardianship~~
501 ~~services and related issues.~~

502 (e) The executive director ~~office~~ may provide assistance
503 to local governments or entities in pursuing grant
504 opportunities. The executive director ~~office~~ shall review and
505 make recommendations in the annual report on the availability
506 and efficacy of seeking Medicaid matching funds. The executive
507 director ~~office~~ shall diligently seek ways to use existing
508 programs and services to meet the needs of public wards.

509 (f) The executive director, in consultation with the
510 Florida Guardianship Foundation, office shall develop a
511 guardianship training program curriculum that. ~~The training~~

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512 ~~program~~ may be offered to all guardians whether public or
513 private. ~~The office shall establish a curriculum committee to~~
514 ~~develop the training program specified in this part. The~~
515 ~~curriculum committee shall include, but not be limited to,~~
516 ~~probate judges. A fee may be charged to private guardians in~~
517 ~~order to defray the cost of providing the training. In addition,~~
518 ~~a fee may be charged to any training provider for up to the~~
519 ~~actual cost of the review and approval of their curriculum. Any~~
520 ~~fees collected pursuant to this paragraph shall be deposited in~~
521 ~~the Department of Elderly Affairs Administrative Trust Fund to~~
522 ~~be used for the guardianship training program.~~

523 (3) The executive director ~~office~~ may conduct or contract
524 for demonstration projects authorized by the Department of
525 Elderly Affairs, within funds appropriated or through gifts,
526 grants, or contributions for such purposes, to determine the
527 feasibility or desirability of new concepts of organization,
528 administration, financing, or service delivery designed to
529 preserve the civil and constitutional rights of persons of
530 marginal or diminished capacity. Any gifts, grants, or
531 contributions for such purposes shall be deposited in the
532 Department of Elderly Affairs Administrative Trust Fund.

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

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

538 744.704 Powers and duties.--

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

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541 ~~(a) if there is no family member or friend, other person,~~
542 ~~bank, or corporation willing and qualified to serve as guardian+~~
543 ~~and~~

544 ~~(b) If the assets of the ward do not exceed the asset~~
545 ~~level for Medicaid eligibility, exclusive of homestead and~~
546 ~~exempt property as defined in s. 4, Art. X of the State~~
547 ~~Constitution, and the ward's income, from all sources, is less~~
548 ~~than \$4,000 per year. Income from public welfare programs,~~
549 ~~supplemental security income, optional state supplement, a~~
550 ~~disability pension, or a social security pension shall be~~
551 ~~excluded in such computation. However, a ward whose total~~
552 ~~income, counting excludable income, exceeds \$30,000 a year may~~
553 ~~not be served.~~

554 (3) The public guardian shall primarily serve
555 incapacitated persons who are of limited financial means, as
556 defined by contract or rule of the Department of Elderly
557 Affairs. The public guardian may serve incapacitated persons of
558 greater financial means to the extent the Department of Elderly
559 Affairs determines to be appropriate ~~If the public guardian~~
560 ~~finds that the assets or the income of the ward exceeds the~~
561 ~~amounts set forth in paragraph (1)(b), the public guardian shall~~
562 ~~submit a resignation and petition the court for appointment of a~~
563 ~~successor guardian. The public guardian shall not be dismissed~~
564 ~~until such time that a private guardian is appointed. If a~~
565 ~~qualified successor guardian is not available, the public~~
566 ~~guardian may remain as guardian, provided the guardian makes~~
567 ~~reasonable efforts to find a successor and reports to the court~~
568 ~~every 6 months on efforts to obtain a successor.~~

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569 Section 16. (1) There is created within the Department of
570 Elderly Affairs a Guardianship Task Force for the purpose of
571 examining guardianship and incapacity and making recommendations
572 to the Governor and the Legislature for the improvement of
573 processes and procedures related to guardianship and incapacity.
574 The department shall staff the task force, and the Secretary of
575 Elderly Affairs shall appoint the chair from among the task
576 force membership. The members of the task force shall serve
577 without compensation. Unless specified otherwise, task force
578 members shall be appointed by the organizations they represent,
579 and the cost of members' participation shall be borne by their
580 appointing organization. Any member who is a public employee is
581 entitled to reimbursement for per diem and travel expenses by
582 the appointing department.

583 (2) The Guardianship Task Force shall identify the
584 characteristics of Florida guardianship practice. It shall also
585 identify best practices and recommend specific statutory and
586 other changes for achieving such best practices and for
587 achieving citizen access to quality guardianship services. The
588 task force shall make a preliminary report to the Secretary of
589 Elderly Affairs no later than January 1, 2004, and its final
590 report to the secretary shall be made no later than January 1,
591 2005.

592 (3) The Guardianship Task Force shall consist of ten
593 members, including a judge with experience in guardianship
594 proceedings who is appointed by the Florida Conference of
595 Circuit Judges, a representative of the Association of Clerks of
596 Court, a professor of law with experience in elder issues
597 appointed by the Secretary of Elderly Affairs, a representative

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598 of the Florida State Guardianship Association, a representative
599 of the Florida Guardianship Foundation, a representative of the
600 Real Property and Probate Section of The Florida Bar, a
601 representative of the Elder Law Section of The Florida Bar, a
602 professional as provided in s. 744.331(3), with experience
603 performing examinations and determining incapacity, a
604 representative of the Florida Banker's Association, and a
605 citizen or consumer appointed by the Executive Director of the
606 Florida office of the American Association of Retired Persons.

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

610 Section 17. Notwithstanding the provisions of section 64
611 of chapter 95-228, Laws of Florida, the provisions of chapter
612 435, Florida Statutes, as created therein and as subsequently
613 amended, and any reference thereto, shall apply to all offenses
614 regardless of the date on which offenses referenced in chapter
615 435, Florida Statutes, were committed, unless specifically
616 provided otherwise in a provision other than section 64 of
617 chapter 95-228, Laws of Florida.

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

620 400.071 Application for license.--

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

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

628 400.414 Denial, revocation, or suspension of license;
629 imposition of administrative fine; grounds.--

630 (1) The agency may deny, revoke, or suspend any license
631 issued under this part, or impose an administrative fine in the
632 manner provided in chapter 120, for any of the following actions
633 by an assisted living facility, for the actions of any person
634 subject to level 2 background screening under s. 400.4174, or
635 for the actions of any facility employee:

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

638 (b) The determination by the agency that the owner lacks
639 the financial ability to provide continuing adequate care to
640 residents.

641 (c) Misappropriation or conversion of the property of a
642 resident of the facility.

643 (d) Failure to follow the criteria and procedures provided
644 under part I of chapter 394 relating to the transportation,
645 voluntary admission, and involuntary examination of a facility
646 resident.

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

649 1. One or more cited class I deficiencies.

650 2. Three or more cited class II deficiencies.

651 3. Five or more cited class III deficiencies that have
652 been cited on a single survey and have not been corrected within
653 the times specified ~~One or more class I, three or more class II,~~
654 ~~or five or more repeated or recurring identical or similar class~~

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655 ~~III violations that are similar or identical to violations which~~
656 ~~were identified by the agency within the last 2 years.~~

657 (f) A determination that a person subject to level 2
658 background screening under s. 400.4174(1) does not meet the
659 screening standards of s. 435.04 or that the facility is
660 retaining an employee subject to level 1 background screening
661 standards under s. 400.4174(2) who does not meet the screening
662 standards of s. 435.03 and for whom exemptions from
663 disqualification have not been provided by the agency.

664 (g) A determination that an employee, volunteer,
665 administrator, or owner, or person who otherwise has access to
666 the residents of a facility does not meet the criteria specified
667 in s. 435.03(2), and the owner or administrator has not taken
668 action to remove the person. Exemptions from disqualification
669 may be granted as set forth in s. 435.07. No administrative
670 action may be taken against the facility if the person is
671 granted an exemption.

672 (h) Violation of a moratorium.

673 (i) Failure of the license applicant, the licensee during
674 relicensure, or a licensee that holds a provisional license to
675 meet the minimum license requirements of this part, or related
676 rules, at the time of license application or renewal.

677 (j) A fraudulent statement or omission of any material
678 fact on an application for a license or any other document
679 required by the agency, including the submission of a license
680 application that conceals the fact that any board member,
681 officer, or person owning 5 percent or more of the facility may
682 not meet the background screening requirements of s. 400.4174,

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683 or that the applicant has been excluded, permanently suspended,
684 or terminated from the Medicaid or Medicare programs.

685 (k) An intentional or negligent life-threatening act in
686 violation of the uniform firesafety standards for assisted
687 living facilities or other firesafety standards that threatens
688 the health, safety, or welfare of a resident of a facility, as
689 communicated to the agency by the local authority having
690 jurisdiction or the State Fire Marshal.

691 (l) Exclusion, permanent suspension, or termination from
692 the Medicare or Medicaid programs.

693 (m) Knowingly operating any unlicensed facility or
694 providing without a license any service that must be licensed
695 under this chapter.

696 (n) Any act constituting a ground upon which application
697 for a license may be denied.

698
699 Administrative proceedings challenging agency action under this
700 subsection shall be reviewed on the basis of the facts and
701 conditions that resulted in the agency action.

702 Section 20. Subsection (1) of section 400.417, Florida
703 Statutes, is amended to read:

704 400.417 Expiration of license; renewal; conditional
705 license.--

706 (1) Biennial licenses, unless sooner suspended or revoked,
707 shall expire 2 years from the date of issuance. Limited nursing,
708 extended congregate care, and limited mental health licenses
709 shall expire at the same time as the facility's standard
710 license, regardless of when issued. The agency shall notify the
711 facility ~~by certified mail~~ at least 120 days prior to expiration

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712 that a renewal license is necessary to continue operation. The
713 notification must be provided electronically or by mail
714 delivery. Ninety days prior to the expiration date, an
715 application for renewal shall be submitted to the agency. Fees
716 must be prorated. The failure to file a timely renewal
717 application shall result in a late fee charged to the facility
718 in an amount equal to 50 percent of the current fee.

719 Section 21. Section 400.419, Florida Statutes, is amended
720 to read:

721 400.419 Violations; imposition of administrative fines;
722 grounds.--

723 (1) The agency shall impose an administrative fine in the
724 manner provided in chapter 120 for any of the actions or
725 violations as set forth within this section by an assisted
726 living facility, for the actions of any person subject to level
727 2 background screening under s. 400.4174, for the actions of any
728 facility employee, or for an intentional or negligent act
729 seriously affecting the health, safety, or welfare of a resident
730 of the facility.

731 (2)(1) Each violation of this part and adopted rules shall
732 be classified according to the nature of the violation and the
733 gravity of its probable effect on facility residents. The agency
734 shall indicate the classification on the written notice of the
735 violation as follows:

736 (a) Class "I" violations are those conditions or
737 occurrences related to the operation and maintenance of a
738 facility or to the personal care of residents which the agency
739 determines present an imminent danger to the residents or guests
740 of the facility or a substantial probability that death or

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741 serious physical or emotional harm would result therefrom. The
742 condition or practice constituting a class I violation shall be
743 abated or eliminated within 24 hours, unless a fixed period, as
744 determined by the agency, is required for correction. The agency
745 shall impose an administrative fine for a cited class I
746 ~~violation is subject to an administrative fine~~ in an amount not
747 less than \$5,000 and not exceeding \$10,000 for each violation. A
748 fine may be levied notwithstanding the correction of the
749 violation.

750 (b) Class "II" violations are those conditions or
751 occurrences related to the operation and maintenance of a
752 facility or to the personal care of residents which the agency
753 determines directly threaten the physical or emotional health,
754 safety, or security of the facility residents, other than class
755 I violations. The agency shall impose an administrative fine for
756 a cited class II violation ~~is subject to an administrative fine~~
757 in an amount not less than \$1,000 and not exceeding \$5,000 for
758 each violation. A fine shall be levied notwithstanding the
759 correction of the violation ~~A citation for a class II violation~~
760 ~~must specify the time within which the violation is required to~~
761 ~~be corrected.~~

762 (c) Class "III" violations are those conditions or
763 occurrences related to the operation and maintenance of a
764 facility or to the personal care of residents which the agency
765 determines indirectly or potentially threaten the physical or
766 emotional health, safety, or security of facility residents,
767 other than class I or class II violations. The agency shall
768 impose an administrative fine for a cited class III violation in
769 an amount ~~is subject to an administrative fine of~~ not less than

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770 \$500 and not exceeding \$1,000 for each violation. A citation for
771 a class III violation must specify the time within which the
772 violation is required to be corrected. If a class III violation
773 is corrected within the time specified, no fine may be imposed,
774 unless it is a repeated offense.

775 (d) Class "IV" violations are those conditions or
776 occurrences related to the operation and maintenance of a
777 building or to required reports, forms, or documents that do not
778 have the potential of negatively affecting residents. These
779 violations are of a type that the agency determines do not
780 threaten the health, safety, or security of residents of the
781 facility. The agency shall impose an administrative fine for a
782 cited class IV violation in an amount ~~A facility that does not~~
783 ~~correct a class IV violation within the time specified in the~~
784 ~~agency approved corrective action plan is subject to an~~
785 ~~administrative fine of~~ not less than \$100 and not exceeding ~~nor~~
786 ~~more than~~ \$200 for each violation. A citation for a class IV
787 violation must specify the time within which the violation is
788 required to be corrected. If a class IV violation is corrected
789 within the time specified, no fine shall be imposed. Any class
790 IV violation that is corrected during the time an agency survey
791 is being conducted will be identified as an agency finding and
792 not as a violation.

793 ~~(3)~~(2) In determining if a penalty is to be imposed and in
794 fixing the amount of the fine, the agency shall consider the
795 following factors:

796 (a) The gravity of the violation, including the
797 probability that death or serious physical or emotional harm to
798 a resident will result or has resulted, the severity of the

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799 action or potential harm, and the extent to which the provisions
800 of the applicable laws or rules were violated.

801 (b) Actions taken by the owner or administrator to correct
802 violations.

803 (c) Any previous violations.

804 (d) The financial benefit to the facility of committing or
805 continuing the violation.

806 (e) The licensed capacity of the facility.

807 ~~(4)~~~~(3)~~ Each day of continuing violation after the date
808 fixed for termination of the violation, as ordered by the
809 agency, constitutes an additional, separate, and distinct
810 violation.

811 ~~(5)~~~~(4)~~ Any action taken to correct a violation shall be
812 documented in writing by the owner or administrator of the
813 facility and verified through followup visits by agency
814 personnel. The agency may impose a fine and, in the case of an
815 owner-operated facility, revoke or deny a facility's license
816 when a facility administrator fraudulently misrepresents action
817 taken to correct a violation.

818 ~~(6)~~~~(5)~~ For fines that are upheld following administrative
819 or judicial review, the violator shall pay the fine, plus
820 interest at the rate as specified in s. 55.03, for each day
821 beyond the date set by the agency for payment of the fine.

822 ~~(7)~~~~(6)~~ Any unlicensed facility that continues to operate
823 after agency notification is subject to a \$1,000 fine per day.

824 ~~(8)~~~~(7)~~ Any licensed facility whose owner or administrator
825 concurrently operates an unlicensed facility shall be subject to
826 an administrative fine of \$5,000 per day.

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827 ~~(9)(8)~~ Any facility whose owner fails to apply for a
828 change-of-ownership license in accordance with s. 400.412 and
829 operates the facility under the new ownership is subject to a
830 fine of \$5,000.

831 ~~(10)(9)~~ In addition to any administrative fines imposed,
832 the agency may assess a survey fee, equal to the lesser of one
833 half of the facility's biennial license and bed fee or \$500, to
834 cover the cost of conducting initial complaint investigations
835 that result in the finding of a violation that was the subject
836 of the complaint or monitoring visits conducted under s.
837 400.428(3)(c) to verify the correction of the violations.

838 ~~(11)(10)~~ The agency, as an alternative to or in
839 conjunction with an administrative action against a facility for
840 violations of this part and adopted rules, shall make a
841 reasonable attempt to discuss each violation and recommended
842 corrective action with the owner or administrator of the
843 facility, prior to written notification. The agency, instead of
844 fixing a period within which the facility shall enter into
845 compliance with standards, may request a plan of corrective
846 action from the facility which demonstrates a good faith effort
847 to remedy each violation by a specific date, subject to the
848 approval of the agency.

849 ~~(12)(11)~~ Administrative fines paid by any facility under
850 this section shall be deposited into the Health Care Trust Fund
851 and expended as provided in s. 400.418.

852 ~~(13)(12)~~ The agency shall develop and disseminate an
853 annual list of all facilities sanctioned or fined \$5,000 or more
854 for violations of state standards, the number and class of
855 violations involved, the penalties imposed, and the current

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856 status of cases. The list shall be disseminated, at no charge,
857 to the Department of Elderly Affairs, the Department of Health,
858 the Department of Children and Family Services, the area
859 agencies on aging, the Florida Statewide Advocacy Council, and
860 the state and local ombudsman councils. The Department of
861 Children and Family Services shall disseminate the list to
862 service providers under contract to the department who are
863 responsible for referring persons to a facility for residency.
864 The agency may charge a fee commensurate with the cost of
865 printing and postage to other interested parties requesting a
866 copy of this list.

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

869 400.0239 Quality of Long-Term Care Facility Improvement
870 Trust Fund.--

871 (1) There is created within the Agency for Health Care
872 Administration a Quality of Long-Term Care Facility Improvement
873 Trust Fund to support activities and programs directly related
874 to improvement of the care of nursing home and assisted living
875 facility residents. The trust fund shall be funded through
876 proceeds generated pursuant to ss. 400.0238 and 400.4298,
877 through funds specifically appropriated by the Legislature, ~~and~~
878 through gifts, endowments, and other charitable contributions
879 allowed under federal and state law, and through federal nursing
880 home civil monetary penalties collected by the Centers for
881 Medicare and Medicaid Services and returned to the state. These
882 funds must be utilized in accordance with federal requirements.

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

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885 (a) Development and operation of a mentoring program, in
886 consultation with the Department of Health and the Department of
887 Elderly Affairs, for increasing the competence, professionalism,
888 and career preparation of long-term care facility direct care
889 staff, including nurses, nursing assistants, and social service
890 and dietary personnel.

891 (b) Development and implementation of specialized training
892 programs for long-term care facility personnel who provide
893 direct care for residents with Alzheimer's disease and other
894 dementias, residents at risk of developing pressure sores, and
895 residents with special nutrition and hydration needs.

896 (c) Addressing areas of deficient practice identified
897 through regulation or state monitoring.

898 (d)(e) Provision of economic and other incentives to
899 enhance the stability and career development of the nursing home
900 direct care workforce, including paid sabbaticals for exemplary
901 direct care career staff to visit facilities throughout the
902 state to train and motivate younger workers to commit to careers
903 in long-term care.

904 (e)(d) Promotion and support for the formation and active
905 involvement of resident and family councils in the improvement
906 of nursing home care.

907 (f) Evaluation of special residents' needs in long-term
908 care facilities, including challenges in meeting special
909 residents' needs, appropriateness of placement and setting, and
910 cited deficiencies related to caring for special needs.

911 (g) Other initiatives authorized by the Centers for
912 Medicare and Medicaid Services for the use of federal civil
913 monetary penalties, including projects recommended through the

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914 Medicaid "Up-or-Out" Quality of Care Contract Management Program
915 pursuant to s. 400.148.

916 Section 23. Subsection (15) of section 400.141, Florida
917 Statutes, is amended to read:

918 400.141 Administration and management of nursing home
919 facilities.--Every licensed facility shall comply with all
920 applicable standards and rules of the agency and shall:

921 (15) Submit semiannually to the agency, or more frequently
922 if requested by the agency, information regarding facility
923 staff-to-resident ratios, staff turnover, and staff stability,
924 including information regarding certified nursing assistants,
925 licensed nurses, the director of nursing, and the facility
926 administrator. For purposes of this reporting:

927 (a) Staff-to-resident ratios must be reported in the
928 categories specified in s. 400.23(3)(a) and applicable rules.
929 The ratio must be reported as an average for the most recent
930 calendar quarter.

931 (b) Staff turnover must be reported for the most recent
932 12-month period ending on the last workday of the most recent
933 calendar quarter prior to the date the information is submitted.
934 The turnover rate must be computed quarterly, with the annual
935 rate being the cumulative sum of the quarterly rates. The
936 turnover rate is the total number of terminations or separations
937 experienced during the quarter, excluding any employee
938 terminated during a probationary period of 3 months or less,
939 divided by the total number of staff employed at the end of the
940 period for which the rate is computed, and expressed as a
941 percentage.

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942 (c) The formula for determining staff stability is the
943 total number of employees that have been employed for more than
944 12 months, divided by the total number of employees employed at
945 the end of the most recent calendar quarter, and expressed as a
946 percentage.

947 (d) A nursing facility that has failed to comply with
948 state minimum-staffing requirements for 2 consecutive days is
949 prohibited from accepting new admissions until the facility has
950 achieved the minimum-staffing requirements for a period of 6
951 consecutive days. For the purposes of this paragraph, any person
952 who was a resident of the facility and was absent from the
953 facility for the purpose of receiving medical care at a separate
954 location or was on a leave of absence is not considered a new
955 admission. Failure to impose such an admissions moratorium
956 constitutes a class II deficiency.

957 (e) A nursing facility which does not have a conditional
958 license may be cited for failure to comply with the standards in
959 s. 400.23(3)(a) only if it has failed to meet those standards on
960 2 consecutive days or if it has failed to meet at least 97
961 percent of those standards on any one day.

962 (f) A facility which has a conditional license must be in
963 compliance with the standards in s. 400.23(3)(a) at all times.

964
965 Nothing in this section shall limit the agency's ability to
966 impose a deficiency or take other actions if a facility does not
967 have enough staff to meet the residents' needs.

968
969 Facilities that have been awarded a Gold Seal under the program
970 established in s. 400.235 may develop a plan to provide

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971 certified nursing assistant training as prescribed by federal
972 regulations and state rules and may apply to the agency for
973 approval of their program.

974 Section 24. Paragraph (b) of subsection (5) of section
975 400.235, Florida Statutes, is amended to read:

976 400.235 Nursing home quality and licensure status; Gold
977 Seal Program.--

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

980 (b) Evidence financial soundness and stability according
981 to standards adopted by the agency in administrative rule. Such
982 standards must include, but not be limited to, criteria for the
983 use of financial statements that are prepared in accordance with
984 generally accepted accounting principles and that are reviewed
985 or audited by certified public accountants.

986
987 A facility assigned a conditional licensure status may not
988 qualify for consideration for the Gold Seal Program until after
989 it has operated for 30 months with no class I or class II
990 deficiencies and has completed a regularly scheduled relicensure
991 survey.

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

994 400.452 Staff training and educational programs; core
995 educational requirement.--

996 (1) The department shall ensure that ~~provide, or cause to~~
997 ~~be provided, training and educational programs for the~~
998 administrators and other assisted living facility staff have met
999 training and education requirements that ~~to better~~ enable them

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1000 to appropriately respond to the needs of residents, to maintain
1001 resident care and facility standards, and to meet licensure
1002 requirements.

1003 (2) The department shall ~~also~~ establish a core educational
1004 requirement ~~to be used in these programs~~. Successful completion
1005 of the core educational requirement must include successful
1006 completion of a competency test. ~~Programs must be provided by~~
1007 ~~the department or by a provider approved by the department at~~
1008 ~~least quarterly~~. The core educational requirement must cover at
1009 least the following topics:

1010 (a) State law and rules relating to assisted living
1011 facilities.

1012 (b) Resident rights and identifying and reporting abuse,
1013 neglect, and exploitation.

1014 (c) Special needs of elderly persons, persons with mental
1015 illness, and persons with developmental disabilities and how to
1016 meet those needs.

1017 (d) Nutrition and food service, including acceptable
1018 sanitation practices for preparing, storing, and serving food.

1019 (e) Medication management, recordkeeping, and proper
1020 techniques for assisting residents with self-administered
1021 medication.

1022 (f) Firesafety requirements, including fire evacuation
1023 drill procedures and other emergency procedures.

1024 (g) Care of persons with Alzheimer's disease and related
1025 disorders.

1026 ~~(7) A facility that does not have any residents who~~
1027 ~~receive monthly optional supplementation payments must pay a~~
1028 ~~reasonable fee for such training and education programs. A~~

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1029 ~~facility that has one or more such residents shall pay a reduced~~
1030 ~~fee that is proportional to the percentage of such residents in~~
1031 ~~the facility. Any facility more than 90 percent of whose~~
1032 ~~residents receive monthly optional state supplementation~~
1033 ~~payments is not required to pay for the training and continuing~~
1034 ~~education programs required under this section.~~

1035 (7)(8) If the department or the agency determines that
1036 there are problems in a facility that could be reduced through
1037 specific staff training or education beyond that already
1038 required under this section, the department or the agency may
1039 require, and provide, or cause to be provided, the training or
1040 education of any personal care staff in the facility.

1041 (8)(9) The department shall adopt rules to establish
1042 training programs, standards and curriculum for training, staff
1043 training requirements, procedures for approving training
1044 programs, and training fees.

1045 Section 26. Subsections (7), (8), and (9) are added to
1046 section 430.502, Florida Statutes, to read:

1047 430.502 Alzheimer's disease; memory disorder clinics and
1048 day care and respite care programs.--

1049 (7) The Agency for Health Care Administration and the
1050 department shall seek a federal waiver to implement a Medicaid
1051 home and community-based waiver targeted to persons with
1052 Alzheimer's disease to test the effectiveness of Alzheimer's
1053 specific interventions to delay or to avoid institutional
1054 placement.

1055 (8) The department will implement the waiver program
1056 specified in subsection (7). The agency and the department shall
1057 ensure that providers are selected that have a history of

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1058 successfully serving persons with Alzheimer's disease. The
1059 department and the agency shall develop specialized standards
1060 for providers and services tailored to persons in the early,
1061 middle, and late stages of Alzheimer's disease and designate a
1062 level of care determination process and standard that is most
1063 appropriate to this population. The department and the agency
1064 shall include in the waiver services designed to assist the
1065 caregiver in continuing to provide in-home care. The department
1066 shall implement this waiver program subject to a specific
1067 appropriation or as provided in the General Appropriations Act.
1068 The department and the agency shall submit their program design
1069 to the President of the Senate and the Speaker of the House of
1070 Representatives for consultation during the development process.

1071 (9) Authority to continue the waiver program specified in
1072 subsection (7) shall be automatically eliminated at the close of
1073 the 2008 Regular Session of the Legislature unless further
1074 legislative action is taken to continue it prior to such time.

1075 Section 27. Subsection (1) of section 400.557, Florida
1076 Statutes, is amended to read:

1077 400.557 Expiration of license; renewal; conditional
1078 license or permit.--

1079 (1) A license issued for the operation of an adult day
1080 care center, unless sooner suspended or revoked, expires 2 years
1081 after the date of issuance. The agency shall notify a licensee
1082 ~~by certified mail, return receipt requested,~~ at least 120 days
1083 before the expiration date that license renewal is required to
1084 continue operation. The notification must be provided
1085 electronically or by mail delivery. At least 90 days prior to
1086 the expiration date, an application for renewal must be

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1087 submitted to the agency. A license shall be renewed, upon the
1088 filing of an application on forms furnished by the agency, if
1089 the applicant has first met the requirements of this part and of
1090 the rules adopted under this part. The applicant must file with
1091 the application satisfactory proof of financial ability to
1092 operate the center in accordance with the requirements of this
1093 part and in accordance with the needs of the participants to be
1094 served and an affidavit of compliance with the background
1095 screening requirements of s. 400.5572.

1096 Section 28. Subsection (3) of section 400.619, Florida
1097 Statutes, is amended to read:

1098 400.619 Licensure application and renewal.--

1099 (3) The agency shall notify a licensee at least 120 days
1100 before the expiration date that license renewal is required to
1101 continue operation. The notification must be provided
1102 electronically or by mail delivery. Application for a license or
1103 annual license renewal must be made on a form provided by the
1104 agency, signed under oath, and must be accompanied by a
1105 licensing fee of \$100 per year.

1106 Section 29. Subsection (4) of section 400.980, Florida
1107 Statutes, is reenacted and amended to read:

1108 400.980 Health care services pools.--

1109 (4) Each applicant for registration must comply with the
1110 following requirements:

1111 (a) Upon receipt of a completed, signed, and dated
1112 application, the agency shall require background screening, in
1113 accordance with the level 1 standards for screening set forth in
1114 chapter 435, of every individual who will have contact with
1115 patients. The agency shall require background screening of the

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1116 managing employee or other similarly titled individual who is
1117 responsible for the operation of the entity, and of the
1118 financial officer or other similarly titled individual who is
1119 responsible for the financial operation of the entity, including
1120 billings for services in accordance with the level 2 standards
1121 for background screening as set forth in chapter 435.

1122 (b) The agency may require background screening of any
1123 other individual who is affiliated with the applicant if the
1124 agency has a reasonable basis for believing that he or she has
1125 been convicted of a crime or has committed any other offense
1126 prohibited under the level 2 standards for screening set forth
1127 in chapter 435.

1128 (c) Proof of compliance with the level 2 background
1129 screening requirements of chapter 435 which has been submitted
1130 within the previous 5 years in compliance with any other health
1131 care or assisted living licensure requirements of this state is
1132 acceptable in fulfillment of paragraph (a).

1133 (d) A provisional registration may be granted to an
1134 applicant when each individual required by this section to
1135 undergo background screening has met the standards for the
1136 Department of Law Enforcement background check but the agency
1137 has not yet received background screening results from the
1138 Federal Bureau of Investigation. A standard registration may be
1139 granted to the applicant upon the agency's receipt of a report
1140 of the results of the Federal Bureau of Investigation background
1141 screening for each individual required by this section to
1142 undergo background screening which confirms that all standards
1143 have been met, or upon the granting of a disqualification
1144 exemption by the agency as set forth in chapter 435. Any other

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1145 person who is required to undergo level 2 background screening
1146 may serve in his or her capacity pending the agency's receipt of
1147 the report from the Federal Bureau of Investigation. However,
1148 the person may not continue to serve if the report indicates any
1149 violation of background screening standards and if a
1150 disqualification exemption has not been requested of and granted
1151 by the agency as set forth in chapter 435.

1152 (e) Each applicant must submit to the agency, with its
1153 application, a description and explanation of any exclusions,
1154 permanent suspensions, or terminations of the applicant from the
1155 Medicare or Medicaid programs. Proof of compliance with the
1156 requirements for disclosure of ownership and controlling
1157 interests under the Medicaid or Medicare programs may be
1158 accepted in lieu of this submission.

1159 (f) Each applicant must submit to the agency a description
1160 and explanation of any conviction of an offense prohibited under
1161 the level 2 standards of chapter 435 which was committed by a
1162 member of the board of directors of the applicant, its officers,
1163 or any individual owning 5 percent or more of the applicant.
1164 This requirement does not apply to a director of a not-for-
1165 profit corporation or organization who serves solely in a
1166 voluntary capacity for the corporation or organization, does not
1167 regularly take part in the day-to-day operational decisions of
1168 the corporation or organization, receives no remuneration for
1169 his or her services on the corporation's or organization's board
1170 of directors, and has no financial interest and no family
1171 members having a financial interest in the corporation or
1172 organization, if the director and the not-for-profit corporation
1173 or organization include in the application a statement affirming

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1174 that the director's relationship to the corporation satisfies
1175 the requirements of this paragraph.

1176 (g) A registration may not be granted to an applicant if
1177 the applicant or managing employee has been found guilty of,
1178 regardless of adjudication, or has entered a plea of nolo
1179 contendere or guilty to, any offense prohibited under the level
1180 2 standards for screening set forth in chapter 435, unless an
1181 exemption from disqualification has been granted by the agency
1182 as set forth in chapter 435.

1183 ~~(h) The provisions of this section which require an~~
1184 ~~applicant for registration to undergo background screening shall~~
1185 ~~stand repealed on June 30, 2001, unless reviewed and saved from~~
1186 ~~repeal through reenactment by the Legislature.~~

1187 (h)(i) Failure to provide all required documentation
1188 within 30 days after a written request from the agency will
1189 result in denial of the application for registration.

1190 (i)(j) The agency must take final action on an application
1191 for registration within 60 days after receipt of all required
1192 documentation.

1193 (j)(k) The agency may deny, revoke, or suspend the
1194 registration of any applicant or registrant who:

1195 1. Has falsely represented a material fact in the
1196 application required by paragraph (e) or paragraph (f), or has
1197 omitted any material fact from the application required by
1198 paragraph (e) or paragraph (f); or

1199 2. Has had prior action taken against the applicant under
1200 the Medicaid or Medicare program as set forth in paragraph (e).

1201 3. Fails to comply with this section or applicable rules.

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1202 4. Commits an intentional, reckless, or negligent act that
1203 materially affects the health or safety of a person receiving
1204 services.

1205 Section 30. Section 408.061, Florida Statutes, is amended
1206 to read:

1207 408.061 Data collection; uniform systems of financial
1208 reporting; information relating to physician charges;
1209 confidential information; immunity.--

1210 (1) The agency may require the submission by health care
1211 facilities, health care providers, and health insurers of data
1212 necessary to carry out the agency's duties. Specifications for
1213 data to be collected under this section shall be developed by
1214 the agency with the assistance of technical advisory panels
1215 including representatives of affected entities, consumers,
1216 purchasers, and such other interested parties as may be
1217 determined by the agency.

1218 (a) Data to be submitted by health care facilities may
1219 include, but are not limited to: case-mix data, patient
1220 admission or discharge data with patient and provider-specific
1221 identifiers included, actual charge data by diagnostic groups,
1222 financial data, accounting data, operating expenses, expenses
1223 incurred for rendering services to patients who cannot or do not
1224 pay, interest charges, depreciation expenses based on the
1225 expected useful life of the property and equipment involved, and
1226 demographic data. Data may be obtained from documents such as,
1227 but not limited to: leases, contracts, debt instruments,
1228 itemized patient bills, medical record abstracts, and related
1229 diagnostic information.

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1230 (b) Data to be submitted by health care providers may
1231 include, but are not limited to: Medicare and Medicaid
1232 participation, types of services offered to patients, amount of
1233 revenue and expenses of the health care provider, and such other
1234 data which are reasonably necessary to study utilization
1235 patterns.

1236 (c) Data to be submitted by health insurers may include,
1237 but are not limited to: claims, premium, administration, and
1238 financial information.

1239 (d) Data required to be submitted by health care
1240 facilities, health care providers, or health insurers shall not
1241 include specific provider contract reimbursement information.
1242 However, such specific provider reimbursement data shall be
1243 reasonably available for onsite inspection by the agency as is
1244 necessary to carry out the agency's regulatory duties. Any such
1245 data obtained by the agency as a result of onsite inspections
1246 may not be used by the state for purposes of direct provider
1247 contracting and are confidential and exempt from the provisions
1248 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1249 (e) A requirement to submit data shall be adopted by rule
1250 if the submission of data is being required of all members of
1251 any type of health care facility, health care provider, or
1252 health insurer. Rules are not required, however, for the
1253 submission of data for a special study mandated by the
1254 Legislature or when information is being requested for a single
1255 health care facility, health care provider, or health insurer.

1256 (2) The agency shall, by rule, after consulting with
1257 appropriate professional and governmental advisory bodies and
1258 holding public hearings and considering existing and proposed

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1259 systems of accounting and reporting utilized by health care
1260 facilities, specify a uniform system of financial reporting for
1261 each type of facility based on a uniform chart of accounts
1262 developed after considering any chart of accounts developed by
1263 the national association for such facilities and generally
1264 accepted accounting principles. Such systems shall, to the
1265 extent feasible, use existing accounting systems and shall
1266 minimize the paperwork required of facilities. This provision
1267 shall not be construed to authorize the agency to require health
1268 care facilities to adopt a uniform accounting system. As a part
1269 of such uniform system of financial reporting, the agency may
1270 require the filing of any information relating to the cost to
1271 the provider and the charge to the consumer of any service
1272 provided in such facility, except the cost of a physician's
1273 services which is billed independently of the facility.

1274 (3) When more than one licensed facility is operated by
1275 the reporting organization, the information required by this
1276 section shall be reported for each facility separately.

1277 (4)~~(a)~~ Within 120 days after the end of its fiscal year,
1278 each health care facility, excluding continuing care facilities
1279 and nursing homes as defined in s. 408.07(14) and (36), shall
1280 file with the agency, on forms adopted by the agency and based
1281 on the uniform system of financial reporting, its actual
1282 financial experience for that fiscal year, including
1283 expenditures, revenues, and statistical measures. Such data may
1284 be based on internal financial reports which are certified to be
1285 complete and accurate by the provider. However, hospitals'
1286 actual financial experience shall be their audited actual
1287 experience. ~~Nursing homes that do not participate in the~~

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1288 ~~Medicare or Medicaid programs shall also submit audited actual~~
1289 ~~experience.~~ Every nursing home shall submit to the agency, in a
1290 format designated by the agency, a statistical profile of the
1291 nursing home residents. The agency, in conjunction with the
1292 Department of Elderly Affairs and the Department of Health,
1293 shall review these statistical profiles and develop
1294 recommendations for the types of residents who might more
1295 appropriately be placed in their homes or other noninstitutional
1296 settings.

1297 ~~(b) Each nursing home shall also submit a schedule of the~~
1298 ~~charges in effect at the beginning of the fiscal year and any~~
1299 ~~changes that were made during the fiscal year. A nursing home~~
1300 ~~which is certified under Title XIX of the Social Security Act~~
1301 ~~and files annual Medicaid cost reports may substitute copies of~~
1302 ~~such reports and any Medicaid audits to the agency in lieu of a~~
1303 ~~report and audit required under this subsection. For such~~
1304 ~~facilities, the agency may require only information in~~
1305 ~~compliance with this chapter that is not contained in the~~
1306 ~~Medicaid cost report. Facilities that are certified under Title~~
1307 ~~XVIII, but not Title XIX, of the Social Security Act must submit~~
1308 ~~a report as developed by the agency. This report shall be~~
1309 ~~substantially the same as the Medicaid cost report and shall not~~
1310 ~~require any more information than is contained in the Medicare~~
1311 ~~cost report unless that information is required of all nursing~~
1312 ~~homes. The audit under Title XVIII shall satisfy the audit~~
1313 ~~requirement under this subsection.~~

1314 (5) In addition to information submitted in accordance
1315 with subsection (4), each nursing home shall track and file with
1316 the agency, on a form adopted by the agency, data related to

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1317 each resident's admission, discharge, or conversion to Medicaid;
1318 health and functional status; plan of care; and other
1319 information pertinent to the resident's placement in a nursing
1320 home.

1321 ~~(6) Any nursing home which assesses residents a separate~~
1322 ~~charge for personal laundry services shall submit to the agency~~
1323 ~~data on the monthly charge for such services, excluding~~
1324 ~~drycleaning. For facilities that charge based on the amount of~~
1325 ~~laundry, the most recent schedule of charges and the average~~
1326 ~~monthly charge shall be submitted to the agency.~~

1327 ~~(6)(7)~~ The agency may require other reports based on the
1328 uniform system of financial reporting necessary to accomplish
1329 the purposes of this chapter.

1330 ~~(7)(8)~~ Portions of patient records obtained or generated
1331 by the agency containing the name, residence or business
1332 address, telephone number, social security or other identifying
1333 number, or photograph of any person or the spouse, relative, or
1334 guardian of such person, or any other identifying information
1335 which is patient-specific or otherwise identifies the patient,
1336 either directly or indirectly, are confidential and exempt from
1337 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
1338 Constitution.

1339 ~~(8)(9)~~ The identity of any health care provider, health
1340 care facility, or health insurer who submits any data which is
1341 proprietary business information to the agency pursuant to the
1342 provisions of this section shall remain confidential and exempt
1343 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
1344 State Constitution. As used in this section, "proprietary
1345 business information" shall include, but not be limited to,

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1346 information relating to specific provider contract reimbursement
1347 information; information relating to security measures, systems,
1348 or procedures; and information concerning bids or other
1349 contractual data, the disclosure of which would impair efforts
1350 to contract for goods or services on favorable terms or would
1351 injure the affected entity's ability to compete in the
1352 marketplace. Notwithstanding the provisions of this subsection,
1353 any information obtained or generated pursuant to the provisions
1354 of former s. 407.61, either by the former Health Care Cost
1355 Containment Board or by the Agency for Health Care
1356 Administration upon transfer to that agency of the duties and
1357 functions of the former Health Care Cost Containment Board, is
1358 not confidential and exempt from the provisions of s. 119.07(1)
1359 and s. 24(a), Art. I of the State Constitution. Such proprietary
1360 business information may be used in published analyses and
1361 reports or otherwise made available for public disclosure in
1362 such manner as to preserve the confidentiality of the identity
1363 of the provider. This exemption shall not limit the use of any
1364 information used in conjunction with investigation or
1365 enforcement purposes under the provisions of s. 456.073.

1366 ~~(9)(10)~~ No health care facility, health care provider,
1367 health insurer, or other reporting entity or its employees or
1368 agents shall be held liable for civil damages or subject to
1369 criminal penalties either for the reporting of patient data to
1370 the agency or for the release of such data by the agency as
1371 authorized by this chapter.

1372 ~~(10)(11)~~ The agency shall be the primary source for
1373 collection and dissemination of health care data. No other
1374 agency of state government may gather data from a health care

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1375 provider licensed or regulated under this chapter without first
1376 determining if the data is currently being collected by the
1377 agency and affirmatively demonstrating that it would be more
1378 cost-effective for an agency of state government other than the
1379 agency to gather the health care data. The director shall ensure
1380 that health care data collected by the divisions within the
1381 agency is coordinated. It is the express intent of the
1382 Legislature that all health care data be collected by a single
1383 source within the agency and that other divisions within the
1384 agency, and all other agencies of state government, obtain data
1385 for analysis, regulation, and public dissemination purposes from
1386 that single source. Confidential information may be released to
1387 other governmental entities or to parties contracting with the
1388 agency to perform agency duties or functions as needed in
1389 connection with the performance of the duties of the receiving
1390 entity. The receiving entity or party shall retain the
1391 confidentiality of such information as provided for herein.

1392 ~~(11)(12)~~ The agency shall cooperate with local health
1393 councils and the state health planning agency with regard to
1394 health care data collection and dissemination and shall
1395 cooperate with state agencies in any efforts to establish an
1396 integrated health care database.

1397 ~~(12)(13)~~ It is the policy of this state that philanthropic
1398 support for health care should be encouraged and expanded,
1399 especially in support of experimental and innovative efforts to
1400 improve the health care delivery system.

1401 ~~(13)(14)~~ For purposes of determining reasonable costs of
1402 services furnished by health care facilities, unrestricted
1403 grants, gifts, and income from endowments shall not be deducted

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1404 from any operating costs of such health care facilities, and, in
1405 addition, the following items shall not be deducted from any
1406 operating costs of such health care facilities:

1407 (a) An unrestricted grant or gift, or income from such a
1408 grant or gift, which is not available for use as operating funds
1409 because of its designation by the health care facility's
1410 governing board.

1411 (b) A grant or similar payment which is made by a
1412 governmental entity and which is not available, under the terms
1413 of the grant or payment, for use as operating funds.

1414 (c) The sale or mortgage of any real estate or other
1415 capital assets of the health care facility which the health care
1416 facility acquired through a gift or grant and which is not
1417 available for use as operating funds under the terms of the gift
1418 or grant or because of its designation by the health care
1419 facility's governing board, except for recovery of the
1420 appropriate share of gains and losses realized from the disposal
1421 of depreciable assets.

1422 Section 31. Section 408.062, Florida Statutes, is amended
1423 to read:

1424 408.062 Research, analyses, studies, and reports.--

1425 (1) The agency shall have the authority to conduct
1426 research, analyses, and studies relating to health care costs
1427 and access to and quality of health care services as access and
1428 quality are affected by changes in health care costs. Such
1429 research, analyses, and studies shall include, but not be
1430 limited to, research and analysis relating to:

1431 (a) The financial status of any health care facility or
1432 facilities subject to the provisions of this chapter.

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1433 (b) The impact of uncompensated charity care on health
1434 care facilities and health care providers.

1435 (c) The state's role in assisting to fund indigent care.

1436 (d) The availability and affordability of health insurance
1437 for small businesses.

1438 (e) Total health care expenditures in the state according
1439 to the sources of payment and the type of expenditure.

1440 (f) The quality of health services, using techniques such
1441 as small area analysis, severity adjustments, and risk-adjusted
1442 mortality rates.

1443 (g) The development of physician payment systems which are
1444 capable of taking into account the amount of resources consumed
1445 and the outcomes produced in the delivery of care.

1446 (h) The impact of subacute admissions on hospital revenues
1447 and expenses for purposes of calculating adjusted admissions as
1448 defined in s. 408.07.

1449 ~~(2) The agency shall evaluate data from nursing home
1450 financial reports and shall document and monitor:~~

1451 ~~(a) Total revenues, annual change in revenues, and
1452 revenues by source and classification, including contributions
1453 for a resident's care from the resident's resources and from the
1454 family and contributions not directed toward any specific
1455 resident's care.~~

1456 ~~(b) Average resident charges by geographic region, payor,
1457 and type of facility ownership.~~

1458 ~~(c) Profit margins by geographic region and type of
1459 facility ownership.~~

1460 ~~(d) Amount of charity care provided by geographic region
1461 and type of facility ownership.~~

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1462 ~~(e) Resident days by payor category.~~

1463 ~~(f) Experience related to Medicaid conversion as reported~~
1464 ~~under s. 408.061.~~

1465 ~~(g) Other information pertaining to nursing home revenues~~
1466 ~~and expenditures.~~

1467

1468 ~~The findings of the agency shall be included in an annual report~~
1469 ~~to the Governor and Legislature by January 1 each year.~~

1470 ~~(2)~~(3) The agency may assess annually the caesarean
1471 section rate in Florida hospitals using the analysis methodology
1472 that the agency determines most appropriate. To assist the
1473 agency in determining the impact of this chapter on Florida
1474 hospitals' caesarean section rates, each provider hospital, as
1475 defined in s. 383.336, shall notify the agency of the date of
1476 implementation of the practice parameters and the date of the
1477 first meeting of the hospital peer review board created pursuant
1478 to this chapter. The agency shall use these dates in monitoring
1479 any change in provider hospital caesarean section rates. An
1480 annual report based on this monitoring and assessment shall be
1481 submitted to the Governor, the Speaker of the House of
1482 Representatives, and the President of the Senate by the agency,
1483 with the first annual report due January 1, 1993.

1484 ~~(3)~~(4) The agency may also prepare such summaries and
1485 compilations or other supplementary reports based on the
1486 information analyzed by the agency under this section, as will
1487 advance the purposes of this chapter.

1488 ~~(4)~~(5)(a) The agency may conduct data-based studies and
1489 evaluations and make recommendations to the Legislature and the
1490 Governor concerning exemptions, the effectiveness of limitations

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1491 of referrals, restrictions on investment interests and
1492 compensation arrangements, and the effectiveness of public
1493 disclosure. Such analysis may include, but need not be limited
1494 to, utilization of services, cost of care, quality of care, and
1495 access to care. The agency may require the submission of data
1496 necessary to carry out this duty, which may include, but need
1497 not be limited to, data concerning ownership, Medicare and
1498 Medicaid, charity care, types of services offered to patients,
1499 revenues and expenses, patient-encounter data, and other data
1500 reasonably necessary to study utilization patterns and the
1501 impact of health care provider ownership interests in health-
1502 care-related entities on the cost, quality, and accessibility of
1503 health care.

1504 (b) The agency may collect such data from any health
1505 facility as a special study.

1506 Section 32. Subsection (2) of section 408.831, Florida
1507 Statutes, is renumbered as subsection (3) and a new subsection
1508 (2) is added to said section to read:

1509 408.831 Denial, suspension, or revocation of a license,
1510 registration, certificate, or application.--

1511 (2) In reviewing any application requesting a change of
1512 ownership or change of the licensee, registrant, or certificate
1513 holder, the transferor shall, prior to agency approval of the
1514 change, repay or make arrangements to repay any amounts owed to
1515 the agency. Should the transferor fail to repay or make
1516 arrangements to repay the amounts owed to the agency, the
1517 issuance of a license, registration, or certificate to the
1518 transferee shall be delayed until repayment or until
1519 arrangements for repayment are made.

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1520 Section 33. Subsection (1) of section 409.9116, Florida
1521 Statutes, is amended to read:

1522 409.9116 Disproportionate share/financial assistance
1523 program for rural hospitals.--In addition to the payments made
1524 under s. 409.911, the Agency for Health Care Administration
1525 shall administer a federally matched disproportionate share
1526 program and a state-funded financial assistance program for
1527 statutory rural hospitals. The agency shall make
1528 disproportionate share payments to statutory rural hospitals
1529 that qualify for such payments and financial assistance payments
1530 to statutory rural hospitals that do not qualify for
1531 disproportionate share payments. The disproportionate share
1532 program payments shall be limited by and conform with federal
1533 requirements. Funds shall be distributed quarterly in each
1534 fiscal year for which an appropriation is made. Notwithstanding
1535 the provisions of s. 409.915, counties are exempt from
1536 contributing toward the cost of this special reimbursement for
1537 hospitals serving a disproportionate share of low-income
1538 patients.

1539 (1) The following formula shall be used by the agency to
1540 calculate the total amount earned for hospitals that participate
1541 in the rural hospital disproportionate share program or the
1542 financial assistance program:

1543
1544
$$\text{TAERH} = (\text{CCD} + \text{MDD}) / \text{TPD}$$

1545
1546 Where:

1547 CCD = total charity care-other, plus charity care-Hill-
1548 Burton, minus 50 percent of unrestricted tax revenue from local

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1549 governments, and restricted funds for indigent care, divided by
1550 gross revenue per adjusted patient day; however, if CCD is less
1551 than zero, then zero shall be used for CCD.

1552 MDD = Medicaid inpatient days plus Medicaid HMO inpatient
1553 days.

1554 TPD = total inpatient days.

1555 TAERH = total amount earned by each rural hospital.

1556
1557 In computing the total amount earned by each rural hospital, the
1558 agency must use the most recent actual data reported in
1559 accordance with s. 408.061(4)(a).

1560 Section 34. This act shall take effect upon becoming a
1561 law.

1562
1563
1564
1565 ===== T I T L E A M E N D M E N T =====

1566
1567 Remove the entire title,

1568
1569 and insert:

1570
1571 A bill to be entitled
1572 An act relating to the protection and delivery of services
1573 to persons who are disabled, vulnerable, or elderly;
1574 creating s. 393.506, F.S.; allowing administration of
1575 medication by certain unlicensed staff for persons with
1576 developmental disabilities; providing requirements for
1577 such administration; creating s. 400.9685, F.S.; allowing

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1578 administration of medication by certain unlicensed staff
1579 in nursing homes and related health care facilities for
1580 persons with developmental disabilities; providing
1581 requirements for such administration; amending s. 394.74,
1582 F.S.; providing for alternative payment methods for
1583 contracts for provision of local substance abuse and
1584 mental health programs; amending s. 415.102, F.S.;
1585 clarifying definitions; amending s. 765.401, F.S.;
1586 providing additional persons which may be given a proxy
1587 for the making of health care decisions; amending s.
1588 744.102, F.S.; providing that a public guardian shall be
1589 considered a professional guardian for certain purposes;
1590 amending s. 744.108, F.S.; providing that certain costs
1591 relating to determination of certain fees shall be payable
1592 from the guardianship estate; amending s. 744.1083, F.S.;
1593 deleting obsolete language; increasing the maximum annual
1594 fee for registration as a professional guardian; requiring
1595 additional information for registration; transferring
1596 certain rule adoption authority and registration
1597 responsibilities from the Statewide Public Guardianship
1598 Office to the Department of Elderly Affairs; authorizing
1599 the Department of Elderly Affairs to contract with a not-
1600 for-profit entity to register professional guardians;
1601 providing that certain educational institutions may act as
1602 professional guardians without registering; amending s.
1603 744.1085, F.S.; providing for additional regulation of
1604 professional guardians; providing for a professional
1605 examination as a condition of registration; providing
1606 additional requirements for registration as a professional

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1607 guardian; providing that certain financial institutions
1608 are exempt from the regulations governing professional
1609 guardians; amending s. 744.3135, F.S.; limiting certain
1610 requirements to professional guardians; authorizing the
1611 court to require guardians to submit to credit history
1612 investigations and background screening; amending s.
1613 744.3145, F.S.; providing training requirements for
1614 parents appointed as guardians of the property of their
1615 minor children; amending s. 744.444, F.S.; allowing
1616 guardians to employ care managers and disclose
1617 confidential information to an ombudsman without court
1618 approval; providing that such information shall remain
1619 confidential; authorizing the payment of certain costs;
1620 amending ss. 744.534 and 744.7021, F.S.; providing that
1621 the executive director of the Statewide Public
1622 Guardianship Office shall be appointed by the Secretary of
1623 Elderly Affairs, rather than by the Governor; transferring
1624 certain responsibilities from the Statewide Public
1625 Guardianship Office to the Department of Elderly Affairs;
1626 amending s. 744.704, F.S.; removing a limitation on what
1627 wards a public guardian may serve; creating the
1628 Guardianship Task Force to examine and make
1629 recommendations regarding guardianship in this state;
1630 providing for membership; providing for appointment;
1631 providing for term of existence; providing that certain
1632 prior offenses shall be considered in conducting
1633 employment screening, notwithstanding the provisions of
1634 section 64 of ch. 95-228, Laws of Florida; amending s.
1635 400.071, F.S.; requiring applicants for licensure as a

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1636 nursing home to provide proof of a legal right to occupy
1637 the property; amending s. 400.414, F.S.; delineating the
1638 types and number of deficiencies justifying denial,
1639 revocation, or suspension of a license as an assisted
1640 living facility; amending s. 400.417, F.S.; providing an
1641 alternative method of providing notice to an assisted
1642 living facility that a license must be renewed; amending
1643 s. 400.419, F.S.; providing that administrative fines for
1644 assisted living facilities or its personnel shall be
1645 imposed by the Agency for Health Care Administration in
1646 the manner provided in ch. 120, F.S.; amending s.
1647 400.0239, F.S.; providing for deposit of civil monetary
1648 fines in the Quality of Long-Term Care Facility
1649 Improvement Trust Fund; providing for additional purposes
1650 for which funds from such trust fund may be expended;
1651 amending s. 400.141, F.S.; providing for enforcement of
1652 minimum staffing standards for a nursing facility within a
1653 range; amending s. 400.235, F.S.; allowing reviewed
1654 financial statements to be submitted for the Gold Seal
1655 program; amending s. 400.452, F.S.; revising training and
1656 education requirements of the Department of Elderly
1657 Affairs for assisted living facilities; deleting a
1658 requirement that fees for training and education programs
1659 be based on the percentage of residents receiving monthly
1660 optional supplementation payments; amending s. 430.502,
1661 F.S.; requiring the Agency for Health Care Administration
1662 and the Department of Health to seek and implement a
1663 Medicaid home and community-based waiver for persons with
1664 Alzheimer's disease; requiring the development of waiver

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1665 program standards; providing for consultation with the
1666 presiding officers of the Legislature; providing for a
1667 contingent future repeal of such waiver program; amending
1668 s. 400.557, F.S.; providing an alternative method of
1669 providing notice to an adult day care center that a
1670 license must be renewed; amending s. 400.619, F.S.;
1671 requiring that the Agency for Health Care Administration
1672 provide advance notice to an adult family-care home that a
1673 license must be renewed; reenacting and amending s.
1674 400.980, F.S.; providing that the provisions governing
1675 background screening of persons involved with health care
1676 services pools shall not stand repealed; amending s.
1677 408.061, F.S.; exempting nursing homes and continuing care
1678 facilities from certain financial reporting requirements;
1679 amending s. 408.062, F.S.; providing that the Agency for
1680 Health Care Administration is not required to evaluate
1681 financial reports of nursing homes; amending s. 408.831,
1682 F.S.; requiring that licensees of the Agency for Health
1683 Care Administration pay or arrange for payment of amounts
1684 owed to the agency by the licensee prior to transfer of
1685 the license or issuance of a license to a transferee;
1686 amending s. 409.9116, F.S.; correcting a cross reference;
1687 providing an effective date.