

1 A bill to be entitled
2 An act relating to emergency management; amending s.
3 252.355, F.S.; providing that the Department of Community
4 Affairs shall be the designated lead agency responsible
5 for community education and outreach to the general
6 public, including special needs clients, regarding
7 registration as a person with special needs, special needs
8 shelters, and general information regarding shelter stays;
9 requiring the department to disseminate educational and
10 outreach information through local emergency management
11 offices; amending s. 381.0303, F.S.; removing a condition
12 of specified funding as a prerequisite to the assumption
13 of lead responsibility by the Department of Health for
14 specified coordination with respect to the development of
15 a plan for the staffing and medical management of special
16 needs shelters; providing that the local Children's
17 Medical Services offices shall assume lead responsibility
18 for specified coordination with respect to the development
19 of a plan for the staffing and medical management of
20 pediatric special needs shelters; requiring such plans to
21 be in conformance with the local comprehensive emergency
22 management plan; requiring county governments to assist in
23 the process of coordinating the recruitment of health care
24 practitioners to staff local special needs shelters;
25 providing that the appropriate county health department,
26 Children's Medical Services, and local emergency
27 management agency shall jointly determine the
28 responsibility for medical supervision in a special needs

29 | shelter; providing that the Department of Elderly Affairs
30 | shall be the lead agency responsible for ensuring the
31 | placement of special needs residents rendered homeless due
32 | to a disaster event and for appropriate and necessary
33 | discharge planning for special needs shelter residents;
34 | providing that the Department of Children and Family
35 | Services shall be the lead agency responsible for ensuring
36 | the placement of developmentally disabled persons, mental
37 | health special needs residents, and Alzheimer adult
38 | special needs residents rendered homeless due to a
39 | disaster event and for the appropriate and necessary
40 | discharge planning for special needs shelter residents;
41 | providing that state employees with a preestablished role
42 | in disaster response may be called upon to serve in times
43 | of disaster in specified capacities; requiring hospitals
44 | that are used to shelter special needs persons during and
45 | after an evacuation to submit invoices for reimbursement
46 | from the state for expenses incurred for medical care
47 | provided at the request of the Department of Health in
48 | special needs shelters or at other locations during times
49 | of emergency or major disaster; revising the role of the
50 | special needs shelter interagency committee with respect
51 | to the planning and operation of special needs shelters;
52 | providing required functions of the committee; providing
53 | for the inclusion of specified rules with respect to
54 | health practitioner recruitment for special needs
55 | shelters; providing that the requirement for submission of
56 | emergency management plans by home health agencies, nurse

57 registries, and hospice programs to local emergency
58 management agencies for review and approval remains in
59 effect; providing requirements with respect to such plans;
60 removing a condition of specified funding as a
61 prerequisite to the submission of such plans; amending s.
62 252.385, F.S.; requiring the Department of Management
63 Services to annually review the registry of persons with
64 special needs to ensure that the construction of special
65 needs shelters is sufficient and suitable to house such
66 persons during and after an evacuation; amending s.
67 400.492, F.S.; providing that home health, hospice, and
68 durable medical equipment provider agencies shall not be
69 required to continue to provide care to patients in
70 emergency situations that are beyond their control and
71 that make it impossible to provide services; authorizing
72 home health agencies and durable medical equipment
73 providers to establish links to local emergency operations
74 centers to determine a mechanism to approach areas within
75 a disaster area in order for the agency to reach its
76 clients; providing that the presentation of home care
77 clients to the special needs shelter without the home
78 health agency making a good faith effort to provide
79 services in the shelter setting constitutes abandonment of
80 the client; requiring regulatory review in such cases;
81 amending s. 408.831, F.S.; providing that entities
82 regulated or licensed by the Agency for Health Care
83 Administration may exceed their licensed capacity to act
84 as a receiving facility under specified circumstances;

85 providing requirements while such entities are in an
86 overcapacity status; providing for issuance of an inactive
87 license to such licensees under specified conditions;
88 providing requirements and procedures with respect to the
89 issuance and reactivation of an inactive license;
90 providing fees; providing an effective date.

91
92 Be It Enacted by the Legislature of the State of Florida:

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94 Section 1. Section 252.355, Florida Statutes, is amended
95 to read:

96 252.355 Registry of persons with special needs; notice.--

97 (1) In order to meet the special needs of persons who
98 would need assistance during evacuations and sheltering because
99 of physical, mental, or sensory disabilities, each local
100 emergency management agency in the state shall maintain a
101 registry of persons with special needs located within the
102 jurisdiction of the local agency. The registration shall
103 identify those persons in need of assistance and plan for
104 resource allocation to meet those identified needs. To assist
105 the local emergency management agency in identifying such
106 persons, the Department of Children and Family Services,
107 Department of Health, Agency for Health Care Administration,
108 Department of Labor and Employment Security, and Department of
109 Elderly Affairs shall provide registration information to all of
110 their special needs clients and to all incoming clients as a
111 part of the intake process. The registry shall be updated
112 annually. The registration program shall give persons with

113 special needs the option of preauthorizing emergency response
 114 personnel to enter their homes during search and rescue
 115 operations if necessary to assure their safety and welfare
 116 following disasters.

117 (2) The Department of Community Affairs shall be the
 118 designated lead agency responsible for community education and
 119 outreach to the general public, including special needs clients,
 120 regarding registration and special needs shelters and general
 121 information regarding shelter stays. The Department of Community
 122 Affairs shall disseminate such educational and outreach
 123 information through the local emergency management offices.

124 ~~(3)~~(2) On or before May 1 of each year each electric
 125 utility in the state shall annually notify residential customers
 126 in its service area of the availability of the registration
 127 program available through their local emergency management
 128 agency.

129 ~~(4)~~(3) All records, data, information, correspondence, and
 130 communications relating to the registration of persons with
 131 special needs as provided in subsection (1) are confidential and
 132 exempt from the provisions of s. 119.07(1), except that such
 133 information shall be available to other emergency response
 134 agencies, as determined by the local emergency management
 135 director.

136 ~~(5)~~(4) All appropriate agencies and community-based
 137 service providers, including home health care providers, shall
 138 assist emergency management agencies by collecting registration
 139 information for persons with special needs as part of program
 140 intake processes, establishing programs to increase the

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141 awareness of the registration process, and educating clients
142 about the procedures that may be necessary for their safety
143 during disasters. Clients of state or federally funded service
144 programs with physical, mental, or sensory disabilities who need
145 assistance in evacuating, or when in shelters, must register as
146 persons with special needs.

147 Section 2. Section 381.0303, Florida Statutes, is amended
148 to read:

149 381.0303 Health practitioner recruitment for special needs
150 shelters.--

151 (1) PURPOSE.--The purpose of this section is to designate
152 the Department of Health, through its county health departments,
153 as the lead agency for coordination of the recruitment of health
154 care practitioners, as defined in s. 456.001(4), to staff
155 special needs shelters in times of emergency or disaster and to
156 provide resources to the department to carry out this
157 responsibility. However, nothing in this section prohibits a
158 county health department from entering into an agreement with a
159 local emergency management agency to assume the lead
160 responsibility for recruiting health care practitioners.

161 (2) SPECIAL NEEDS SHELTER PLAN AND STAFFING.--~~Provided~~
162 ~~funds have been appropriated to support medical services~~
163 ~~disaster coordinator positions in county health departments,~~ The
164 department shall assume lead responsibility for the local
165 coordination of local medical and health care providers, the
166 American Red Cross, and other interested parties in developing a
167 plan for the staffing and medical management of special needs
168 shelters. The local Children's Medical Services offices shall

169 assume lead responsibility for the local coordination of local
 170 medical and health care providers, the American Red Cross, and
 171 other interested parties in developing a plan for the staffing
 172 and medical management of pediatric special needs shelters.

173 Plans ~~The plan~~ shall be in conformance with the local
 174 comprehensive emergency management plan.

175 (a) County health departments shall, in conjunction with
 176 the local emergency management agencies, have the lead
 177 responsibility for coordination of the recruitment of health
 178 care practitioners to staff local special needs shelters. County
 179 health departments shall assign their employees to work in
 180 special needs shelters when needed to protect the health of
 181 patients. County governments shall assist in this process.

182 (b) The appropriate county health department, Children's
 183 Medical Services, and local emergency management agency shall
 184 jointly determine who has responsibility for medical supervision
 185 in a special needs shelter.

186 (c) The Department of Elderly Affairs shall be the lead
 187 agency responsible for ensuring the placement of special needs
 188 residents rendered homeless due to a disaster event and for
 189 appropriate and necessary discharge planning for special needs
 190 shelter residents. Other elder service agencies and
 191 organizations shall assist Department of Elderly Affairs in this
 192 effort.

193 (d) The Department of Children and Family Services shall
 194 be the lead agency responsible for ensuring the placement of
 195 developmentally disabled special needs residents, mental health
 196 special needs residents, and Alzheimer adult special needs

197 residents rendered homeless due to a disaster event and the
 198 appropriate and necessary discharge planning for special needs
 199 shelter residents. Other social service agencies or
 200 organizations shall assist the Department of Children and Family
 201 Services in this effort.

202 (e) State employees with a preestablished role in disaster
 203 response may be called upon to serve in times of disaster
 204 commensurate with their knowledge, skills, and abilities and any
 205 needed activities related to the situation.

206 (f)(e) Local emergency management agencies shall be
 207 responsible for the designation and operation of special needs
 208 shelters during times of emergency or disaster. County health
 209 departments shall assist the local emergency management agency
 210 with regard to the management of medical services in special
 211 needs shelters.

212 (3) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS.--The
 213 Department of Health shall reimburse, subject to the
 214 availability of funds for this purpose, health care
 215 practitioners, as defined in s. 456.001, provided the
 216 practitioner is not providing care to a patient under an
 217 existing contract, and emergency medical technicians and
 218 paramedics licensed pursuant to chapter 401 for medical care
 219 provided at the request of the department in special needs
 220 shelters or at other locations during times of emergency or
 221 major disaster. Reimbursement for health care practitioners,
 222 except for physicians licensed pursuant to chapter 458 or
 223 chapter 459, shall be based on the average hourly rate that such
 224 practitioners were paid according to the most recent survey of

225 Florida hospitals conducted by the Florida Hospital Association.
 226 Reimbursement shall be requested on forms prepared by the
 227 Department of Health. If a Presidential Disaster Declaration has
 228 been made, and the Federal Government makes funds available, the
 229 department shall use such funds for reimbursement of eligible
 230 expenditures. In other situations, or if federal funds do not
 231 fully compensate the department for reimbursement made pursuant
 232 to this section, the department shall submit to the Cabinet or
 233 Legislature, as appropriate, a budget amendment to obtain
 234 reimbursement from the working capital fund. Hospitals that are
 235 used to shelter special needs persons during and after an
 236 evacuation shall submit invoices for reimbursement from the
 237 state for expenses incurred in this effort. Travel expense and
 238 per diem costs shall be reimbursed pursuant to s. 112.061.

239 (4) HEALTH CARE PRACTITIONER REGISTRY.--The department may
 240 use the registries established in ss. 401.273 and 456.38 when
 241 health care practitioners are needed to staff special needs
 242 shelters or to staff disaster medical assistance teams.

243 (5) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.--The
 244 Department of Health may establish a special needs shelter
 245 interagency committee, to be chaired and staffed by the
 246 department. The committee shall resolve problems related to
 247 special needs shelters not addressed in the state comprehensive
 248 emergency medical plan and shall serve in a consultative role in
 249 ~~as an oversight committee to monitor~~ the planning and operation
 250 of special needs shelters.

251 (a) The committee shall ~~may~~:

252 1. Develop and negotiate any necessary interagency
 253 agreements.

254 2. Undertake other such activities as the department deems
 255 necessary to facilitate the implementation of this section.

256 3. Submit recommendations to the Legislature as necessary.

257 (b) The special needs shelter interagency committee shall
 258 be composed of representatives of emergency management, health,
 259 medical, and social services organizations. Membership shall
 260 include, but shall not be limited to, the Departments of
 261 Community Affairs, Children and Family Services, Elderly
 262 Affairs, Labor and Employment Security, and Education; the
 263 Agency for Health Care Administration; the Florida Medical
 264 Association; the Florida Osteopathic Medical Association;
 265 Associated Home Health Industries of Florida, Inc.; the Florida
 266 Nurses Association; the Florida Health Care Association; the
 267 Florida Assisted Living Association; the Florida Hospital
 268 Association; the Florida Statutory Teaching Hospital Council;
 269 the Florida Association of Homes for the Aging; the Florida
 270 Emergency Preparedness Association; the American Red Cross;
 271 Florida Hospices, Inc.; the Association of Community Hospitals
 272 and Health Systems; the Florida Association of Health
 273 Maintenance Organizations; the Florida League of Health Systems;
 274 Private Care Association; and the Salvation Army.

275 (c) Meetings of the committee shall be held in
 276 Tallahassee, and members of the committee shall serve at the
 277 expense of the agencies or organizations they represent.

278 (6) RULES.--The department has the authority to adopt
 279 rules necessary to implement this section. Rules shall ~~may~~

280 include a definition of a special needs patient, specification
 281 with respect to ~~specify~~ physician reimbursement, and the
 282 designation of ~~designate which~~ county health departments which
 283 will have responsibility for the implementation of subsections
 284 (2) and (3).

285 (7) REVIEW OF EMERGENCY MANAGEMENT PLANS.--The requirement
 286 for submission of emergency management plans ~~to county health~~
 287 ~~departments~~ by home health agencies pursuant to s. 400.497(8)(c)
 288 and (d) and by nurse registries pursuant to s. 400.506(16)(e)
 289 and by hospice programs pursuant to s. 400.610(1)(b) to local
 290 emergency management agencies for review and approval remains in
 291 effect. These plans shall specifically address an agency's
 292 functional staffing plan for the shelters to ensure continuity
 293 of care and services for clients ~~is conditional upon the receipt~~
 294 ~~of an appropriation by the department to establish medical~~
 295 ~~services disaster coordinator positions in county health~~
 296 ~~departments unless the secretary of the department and a local~~
 297 ~~county commission jointly determine to require such plans to be~~
 298 ~~submitted based on a determination that there is a special need~~
 299 ~~to protect public health in the local area during an emergency.~~

300 Section 3. Subsection (4) of section 252.385, Florida
 301 Statutes, is amended to read:

302 252.385 Public shelter space.--

303 (4)(a) Public facilities, including schools, postsecondary
 304 education facilities, and other facilities owned or leased by
 305 the state or local governments, but excluding hospitals or
 306 nursing homes, which are suitable for use as public hurricane
 307 evacuation shelters shall be made available at the request of

308 the local emergency management agencies. Such agencies shall
309 coordinate with the appropriate school board, university,
310 community college, or local governing board when requesting the
311 use of such facilities as public hurricane evacuation shelters.

312 (b) The Department of Management Services shall
313 incorporate provisions for the use of suitable leased public
314 facilities as public hurricane evacuation shelters into lease
315 agreements for state agencies. Suitable leased public facilities
316 include leased public facilities that are solely occupied by
317 state agencies and have at least 2,000 square feet of net floor
318 area in a single room or in a combination of rooms having a
319 minimum of 400 square feet in each room. The net square footage
320 of floor area must be determined by subtracting from the gross
321 square footage the square footage of spaces such as mechanical
322 and electrical rooms, storage rooms, open corridors, restrooms,
323 kitchens, science or computer laboratories, shop or mechanical
324 areas, administrative offices, records vaults, and crawl spaces.

325 (c) The Department of Management Services shall annually
326 review the registry of persons with special needs to ensure that
327 the construction of special needs shelters is sufficient and
328 suitable to house such persons during and after an evacuation.

329 (d)~~(e)~~ The Department of Management Services shall, in
330 consultation with local and state emergency management agencies,
331 assess Department of Management Services facilities to identify
332 the extent to which each facility has public hurricane
333 evacuation shelter space. The Department of Management Services
334 shall submit proposed facility retrofit projects that
335 incorporate hurricane protection enhancements to the department

336 for assessment and inclusion in the annual report prepared in
 337 accordance with subsection (3).

338 Section 4. Subsection (3) of section 400.492, Florida
 339 Statutes, is amended to read:

340 400.492 Provision of services during an emergency.--Each
 341 home health agency shall prepare and maintain a comprehensive
 342 emergency management plan that is consistent with the standards
 343 adopted by national accreditation organizations and consistent
 344 with the local special needs plan. The plan shall be updated
 345 annually and shall provide for continuing home health services
 346 during an emergency that interrupts patient care or services in
 347 the patient's home. The plan shall describe how the home health
 348 agency establishes and maintains an effective response to
 349 emergencies and disasters, including: notifying staff when
 350 emergency response measures are initiated; providing for
 351 communication between staff members, county health departments,
 352 and local emergency management agencies, including a backup
 353 system; identifying resources necessary to continue essential
 354 care or services or referrals to other organizations subject to
 355 written agreement; and prioritizing and contacting patients who
 356 need continued care or services.

357 (3) Home health, hospice, and durable medical equipment
 358 provider agencies shall not be required to continue to provide
 359 care to patients in emergency situations that are beyond their
 360 control and that make it impossible to provide services, such as
 361 when roads are impassable or when patients do not go to the
 362 location specified in their patient records. Home health
 363 agencies and durable medical equipment providers may establish

364 links to local emergency operations centers to determine a
 365 mechanism to approach areas within the disaster area in order
 366 for the agency to reach its clients. The presentation of home
 367 care clients to a special needs shelter without the home health
 368 agency making a good faith effort to provide services in the
 369 shelter setting will constitute abandonment of the client and
 370 will result in regulatory review.

371 Section 5. Section 408.831, Florida Statutes, is amended
 372 to read:

373 408.831 Denial, suspension, or revocation of a license,
 374 registration, certificate, or application.--

375 (1) In addition to any other remedies provided by law, the
 376 agency may deny each application or suspend or revoke each
 377 license, registration, or certificate of entities regulated or
 378 licensed by it:

379 (a) If the applicant, licensee, registrant, or
 380 certificateholder, or, in the case of a corporation,
 381 partnership, or other business entity, if any officer, director,
 382 agent, or managing employee of that business entity or any
 383 affiliated person, partner, or shareholder having an ownership
 384 interest equal to 5 percent or greater in that business entity,
 385 has failed to pay all outstanding fines, liens, or overpayments
 386 assessed by final order of the agency or final order of the
 387 Centers for Medicare and Medicaid Services, not subject to
 388 further appeal, unless a repayment plan is approved by the
 389 agency; or

390 (b) For failure to comply with any repayment plan.

391 (2) In reviewing any application requesting a change of
 392 ownership or change of the licensee, registrant, or
 393 certificateholder, the transferor shall, prior to agency
 394 approval of the change, repay or make arrangements to repay any
 395 amounts owed to the agency. Should the transferor fail to repay
 396 or make arrangements to repay the amounts owed to the agency,
 397 the issuance of a license, registration, or certificate to the
 398 transferee shall be delayed until repayment or until
 399 arrangements for repayment are made.

400 (3) Entities subject to this section may exceed their
 401 licensed capacity to act as a receiving facility in accordance
 402 with an emergency operations plan for clients of evacuating
 403 providers from a geographic area where an evacuation order has
 404 been issued by a local authority having jurisdiction. While in
 405 an overcapacity status, each provider must furnish or arrange
 406 for appropriate care and services to all clients and comply with
 407 all firesafety requirements of state and local authorities.
 408 Overcapacity status in excess of 30 days requires written prior
 409 approval by the agency, which shall be based upon satisfactory
 410 justification and need.

411 (4) An inactive license may be issued to a licensee
 412 subject to this section when the provider is located in a
 413 geographic area where a state of emergency was declared by the
 414 Governor of Florida if the provider:

415 (a) Suffered damage to the provider's operation during
 416 that state of emergency;

417 (b) Is currently licensed;

418 (c) Does not have a provisional license; and

419 (d) Will be temporarily unable to provide services but is
420 reasonably expected to resume services within 12 months.

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422 An inactive license may be issued for a period not to
423 exceed 12 months but may be renewed by the agency for up to 6
424 additional months upon demonstration to the agency of progress
425 toward reopening. A request by a licensee for an inactive
426 license or to extend the previously approved inactive period
427 must be submitted in writing to the agency, accompanied by
428 written justification for the inactive license which states the
429 beginning and ending dates of inactivity, and including a plan
430 for the transfer of any clients to other providers and
431 appropriate licensure fees. Upon agency approval, the licensee
432 shall notify clients of any necessary discharge or transfer as
433 required by authorizing statutes or applicable rules. The
434 beginning of the inactive licensure period shall be the date the
435 provider ceases operations. The end of the inactive period shall
436 become the licensee expiration date and all licensure fees must
437 be current, paid in full, and may be prorated. Reactivation of
438 an inactive license requires the prior approval by the agency of
439 a renewal application, including payment of licensure fees and
440 agency inspections indicating compliance with all requirements
441 of this part and applicable rules and statutes.

442 (5)(3) This section provides standards of enforcement
443 applicable to all entities licensed or regulated by the Agency
444 for Health Care Administration. This section controls over any
445 conflicting provisions of chapters 39, 381, 383, 390, 391, 393,

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446 | 394, 395, 400, 408, 468, 483, and 641 or rules adopted pursuant
447 | to those chapters.

448 | Section 6. This act shall take effect July 1, 2005.