

By the Appropriations Committee on Health and Human Services;
the Committee on Children, Families, and Elder Affairs; and
Senator Garcia

603-02825-26

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A bill to be entitled
An act relating to child welfare; amending s. 39.407,
F.S.; providing that a new medical report relating to
the provision of psychotropic medication to a child in
the legal custody of the Department of Children and
Families may be required only under certain
circumstances; amending s. 409.175, F.S.; revising the
definition of the terms "personnel" and "placement
screening"; amending s. 409.912, F.S.; requiring a
physician to provide to a pharmacy a copy of certain
documentation, rather than a signed attestation, with
certain prescriptions; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) of section
39.407, Florida Statutes, is amended to read:

39.407 Medical, psychiatric, and psychological examination
and treatment of child; physical, mental, or substance abuse
examination of person with or requesting child custody.—

(3)

(c) Except as provided in paragraphs (b) and (e), the
department must file a motion seeking the court's authorization
to initially provide or continue to provide psychotropic
medication to a child in its legal custody. The motion must be
supported by a written report prepared by the department which
describes the efforts made to enable the prescribing physician
or psychiatric nurse, as defined in s. 394.455, to obtain
express and informed consent for providing the medication to the

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30 child and other treatments considered or recommended for the
31 child. In addition, the motion must be supported by the
32 prescribing physician's or psychiatric nurse's signed medical
33 report providing:

34 1. The name of the child, the name and range of the dosage
35 of the psychotropic medication, and that there is a need to
36 prescribe psychotropic medication to the child based upon a
37 diagnosed condition for which such medication is being
38 prescribed.

39 2. A statement indicating that the physician or psychiatric
40 nurse, as defined in s. 394.455, has reviewed all medical
41 information concerning the child which has been provided.

42 3. A statement indicating that the psychotropic medication,
43 at its prescribed dosage, is appropriate for treating the
44 child's diagnosed medical condition, as well as the behaviors
45 and symptoms the medication, at its prescribed dosage, is
46 expected to address.

47 4. An explanation of the nature and purpose of the
48 treatment; the recognized side effects, risks, and
49 contraindications of the medication; drug-interaction
50 precautions; the possible effects of stopping the medication;
51 and how the treatment will be monitored, followed by a statement
52 indicating that this explanation was provided to the child if
53 age appropriate and to the child's caregiver.

54 5. Documentation addressing whether the psychotropic
55 medication will replace or supplement any other currently
56 prescribed medications or treatments; the length of time the
57 child is expected to be taking the medication; and any
58 additional medical, mental health, behavioral, counseling, or

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other services that the prescribing physician or psychiatric nurse, as defined in s. 394.455, recommends.

A new medical report may be required only when there is a change in the dosage or dosage range of the medication, the type of medication prescribed, the manner of administration of the medication, or the prescribing physician or psychiatric nurse. For purposes of this paragraph, prescribing physicians and psychiatric nurses belonging to the same group practice are considered a single prescriber.

Section 2. Paragraphs (j) and (k) of subsection (2) of section 409.175, Florida Statutes, are amended to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies; public records exemption.—

(2) As used in this section, the term:

(j) "Personnel" means all owners, operators, employees, and volunteers working in a child-placing agency or residential child-caring agency who may be employed by or do volunteer work for a person, corporation, or agency that holds a license as a child-placing agency or a residential child-caring agency, but the term does not include those who do not work on the premises where child care is furnished and have no direct contact with a child or have no contact with a child outside of the presence of the child's parent or guardian. For purposes of screening, the term includes any member, over the age of 12 years, of the family of the owner or operator or any person other than a client, a child who is found to be dependent as defined in s. 39.01, or a child as defined in s. 39.6251(1), over the age of

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12 years, residing with the owner or operator if the agency is located in or adjacent to the home of the owner or operator or if the family member of, or person residing with, the owner or operator has any direct contact with the children. Members of the family of the owner or operator, or persons residing with the owner or operator, who are between the ages of 12 years and 18 years are not required to be fingerprinted, but must be screened for delinquency records. For purposes of screening, the term also includes owners, operators, employees, and volunteers working in summer day camps, or summer 24-hour camps providing care for children. A volunteer who assists on an intermittent basis for less than 10 hours per month shall not be included in the term "personnel" for the purposes of screening if a person who meets the screening requirement of this section is always present and has the volunteer in his or her line of sight.

(k) "Placement screening" means the act of assessing the background of household members in the family foster home and includes, but is not limited to, criminal history records checks as provided in s. 39.0138 using the standards for screening set forth in that section. The term "household member" means a member of the family or a person, other than the child being placed, a child who is found to be dependent as defined in s. 39.01, or a child as defined in s. 39.6251(1), over the age of 12 years who resides with the owner who operates the family foster home if such family member or person has any direct contact with the child. Household members who are between the ages of 12 and 18 years are not required to be fingerprinted but must be screened for delinquency records.

Section 3. Subsection (13) of section 409.912, Florida

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Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. s. 438.114. Such confirmation or second opinion shall be rendered in a manner approved by the agency. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The agency shall contract with a vendor to monitor and evaluate the clinical practice patterns of providers in order to identify trends that are outside the normal practice patterns of a provider's professional peers or the national guidelines of a provider's professional association. The vendor must be able to provide information and counseling to a provider whose practice patterns are outside the norms, in consultation with the agency, to improve patient care and reduce inappropriate utilization.

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146 The agency may mandate prior authorization, drug therapy
147 management, or disease management participation for certain
148 populations of Medicaid beneficiaries, certain drug classes, or
149 particular drugs to prevent fraud, abuse, overuse, and possible
150 dangerous drug interactions. The Pharmaceutical and Therapeutics
151 Committee shall make recommendations to the agency on drugs for
152 which prior authorization is required. The agency shall inform
153 the Pharmaceutical and Therapeutics Committee of its decisions
154 regarding drugs subject to prior authorization. The agency is
155 authorized to limit the entities it contracts with or enrolls as
156 Medicaid providers by developing a provider network through
157 provider credentialing. The agency may competitively bid single-
158 source-provider contracts if procurement of goods or services
159 results in demonstrated cost savings to the state without
160 limiting access to care. The agency may limit its network based
161 on the assessment of beneficiary access to care, provider
162 availability, provider quality standards, time and distance
163 standards for access to care, the cultural competence of the
164 provider network, demographic characteristics of Medicaid
165 beneficiaries, practice and provider-to-beneficiary standards,
166 appointment wait times, beneficiary use of services, provider
167 turnover, provider profiling, provider licensure history,
168 previous program integrity investigations and findings, peer
169 review, provider Medicaid policy and billing compliance records,
170 clinical and medical record audits, and other factors. Providers
171 are not entitled to enrollment in the Medicaid provider network.
172 The agency shall determine instances in which allowing Medicaid
173 beneficiaries to purchase durable medical equipment and other
174 goods is less expensive to the Medicaid program than long-term

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175 rental of the equipment or goods. The agency may establish rules
176 to facilitate purchases in lieu of long-term rentals in order to
177 protect against fraud and abuse in the Medicaid program as
178 defined in s. 409.913. The agency may seek federal waivers
179 necessary to administer these policies.

180 (13) The agency may not pay for psychotropic medication
181 prescribed for a child in the Medicaid program without the
182 express and informed consent of the child's parent or legal
183 guardian. The physician shall document the consent in the
184 child's medical record and provide a copy of such documentation
185 to the pharmacy ~~with a signed attestation of this documentation~~
186 with the prescription. The express and informed consent or court
187 authorization for a prescription of psychotropic medication for
188 a child in the custody of the Department of Children and
189 Families shall be obtained pursuant to s. 39.407.

190 Section 4. This act shall take effect July 1, 2026.