

Tab 1	SB 586 by Stargel; (Identical to H 0471) Responsibilities of Health Care Providers				
Tab 2	SB 994 by Negron (CO-INTRODUCERS) Sobel, Flores; (Similar to H 0819) Sunset Review of Medicaid Dental Services				
Tab 3	SB 974 by Sobel (CO-INTRODUCERS) Garcia; (Identical to H 1217) Hair Restoration or Transplant				
Tab 4	CS/SB 918 by HP, Richter; (Similar to H 0941) Licensure of Health Care Professionals				
573036	D	S	AHS, Richter	Delete everything after	01/25 04:35 PM
Tab 5	SB 12 by Garcia (CO-INTRODUCERS) Galvano, Ring; (Compare to CS/H 0439) Mental Health and Substance Abuse				
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND
HUMAN SERVICES
Senator Garcia, Chair
Senator Smith, Vice Chair

MEETING DATE: Tuesday, January 26, 2016

TIME: 3:30—6:00 p.m.

PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Garcia, Chair; Senator Smith, Vice Chair; Senators Abruzzo, Bean, Benacquisto, Grimsley, Richter, and Sobel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 586 Stargel (Identical H 471, Compare S 210, S 428, CS/S 676)	Responsibilities of Health Care Providers; Repealing provisions relating to practice parameters for physicians performing caesarean section deliveries in provider hospitals; requiring a hospital to notify certain obstetrical physicians within a specified timeframe before the hospital closes its obstetrical department or ceases to provide obstetrical services, etc. HP 12/01/2015 Favorable AHS 01/21/2016 AHS 01/26/2016 FP	
2	SB 994 Negron (Similar H 819)	Sunset Review of Medicaid Dental Services; Providing for the future removal of dental services as a minimum benefit of managed care plans; requiring the agency to implement a statewide Medicaid prepaid dental health program upon the occurrence of certain conditions; specifying requirements for the program and the selection of providers, etc. HP 01/11/2016 Favorable AHS 01/26/2016 AP	
3	SB 974 Sobel (Identical H 1217)	Hair Restoration or Transplant; Defining the term "hair restoration or transplant"; prohibiting a person who is not licensed or is not certified under specified provisions from performing a hair restoration or transplant or making incisions for the purpose of performing a hair restoration or transplant, etc. HP 01/11/2016 Favorable AHS 01/21/2016 AHS 01/26/2016 FP	

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Health and Human Services
Tuesday, January 26, 2016, 3:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 918 Health Policy / Richter (Similar H 941, Compare S 1504)	Licensure of Health Care Professionals; Deleting the requirement that applicants making initial application for certain licensure complete certain courses; providing for the issuance of a license to practice under certain conditions to a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required to practice in the military; providing for the issuance of a temporary professional license under certain conditions to the spouse of an active duty member of the Armed Forces of the United States who is a healthcare practitioner in a profession for which licensure in a state or jurisdiction may not be required, etc. HP 01/11/2016 Fav/CS AHS 01/21/2016 AHS 01/26/2016 AP	
5	SB 12 Garcia (Compare CS/H 439, H 977, H 979, S 1250, S 1336)	Mental Health and Substance Abuse; Including services provided to treatment-based mental health programs within case management funded from state revenues as an element of the state courts system; specifying certain persons who are prohibited from being appointed as a person's guardian advocate; authorizing county or circuit courts to enter ex parte orders for involuntary examinations; revising the criteria for involuntary admissions due to substance abuse or co-occurring mental health disorders, etc. CF 01/14/2016 Favorable AHS 01/26/2016 AP	
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: SB 586

INTRODUCER: Senator Stargel

SUBJECT: Responsibilities of Health Care Providers

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Favorable
2.	Brown	Pigott	AHS	Pre-meeting
3.			FP	

I. Summary:

SB 586 requires a hospital to notify obstetrical physicians at least 120 days before closing its obstetrical department or ceasing to provide obstetrical services.

The bill also repeals s. 383.336, F.S., which designates certain hospitals as “provider hospitals” and requires physicians in those hospitals to follow additional practice parameters when providing cesarean sections paid for by the state. Provider hospitals must also establish a peer review board to review all cesarean sections performed by the hospital and paid for by the state.

The bill has no fiscal impact on state government.

II. Present Situation:

Obstetrical Departments in Hospitals

Hospitals are required to report the services which will be provided by the hospital as a requirement of licensure. These services are listed on the hospital’s license. A hospital must notify the Agency for Health Care Administration (AHCA) of any change of service that affects information on the hospital’s license by submitting a revised licensure application between 60 and 120 days in advance of the change.¹ The list of services is also used for the AHCA’s inventory of hospital emergency services. According to the AHCA website, there are currently 143 hospitals in Florida that offer emergency obstetrical services.²

¹ AHCA, *Senate Bill 380 Analysis* (December 20, 2013) (on file with Senate Committee on Health Policy). See also ss. 408.806(2)(c) and 395.1041(2), F.S.

² Report generated by <http://www.floridahealthfinder.gov/index.html> on Nov. 24, 2015 (on file with the Senate Committee on Health Policy).

Provider Hospitals

Section 383.336, F.S., defines the term “provider hospital” and creates certain requirements for such hospitals. A provider hospital is defined as a hospital in which 30 or more births occur annually that are paid for partly or fully by state funds or federal funds administered by the state.³ Physicians in such hospitals are required to comply with additional practice parameters⁴ designed to reduce the number of unnecessary cesarean sections performed within the hospital. These parameters must be followed by physicians when performing cesarean sections partially or fully paid for by the state.

The statute also requires provider hospitals to establish a peer review board consisting of obstetric physicians and other persons with credentials to perform cesarean sections within the hospital. The board is required to review, on a monthly basis, all cesarean sections performed within the hospital that were partially or fully funded by the state.

These provisions are not currently being implemented, and Department of Health rules regarding provider hospitals were repealed by ss. 9-10 of ch. 2012-31, Laws of Florida.

Closure of an Obstetrical Department in Bartow, Florida

In June of 2007, Bartow Regional Medical Center in Polk County announced to patients and physicians that it would close its obstetrics department at the end of July of the same year.⁵ Although many obstetrical physicians could continue to see patients in their offices, they would no longer be able to deliver babies at the hospital.⁶ Physicians and the local community protested the short timeframe for ceasing to offer obstetrical services. According to the Florida Medical Association and several physicians who worked at the hospital, the short notice “endangered pregnant women who [were] too close to delivery for obstetricians at other hospitals to want them as patients.”⁷

III. Effect of Proposed Changes:

Section 1 repeals s. 383.336, F.S., relating to provider hospitals.

Section 2 creates s. 395.0192, F.S., to require hospitals to give at least a 120 day advanced notice to each obstetrical physician with clinical privileges at that hospital if the hospital intends to close its obstetrical department or cease providing obstetrical services.

³ Section 383.336 (1), F.S.

⁴ These parameters are established by the Office of the State Surgeon General in consultation with the Board of Medicine and the Florida Obstetric and Gynecologic Society and are required to address, at a minimum, the feasibility of attempting a vaginal delivery, dystocia, fetal distress, and fetal malposition.

⁵ Jennifer Starling, *Community Unites Against OB Closure*, THE POLK DEMOCRAT, July 12, 2007, available at <http://ufdc.ufl.edu/UF00028292/00258/1x?vo=12>, (last visited Nov. 24, 2015).

⁶ Robin W. Adams, *Bartow Hospital Plan Criticized*, THE LEDGER, July 11, 2007, available at <http://www.theledger.com/article/20070711/NEWS/707110433?p=1&tc=pg&tc=ar>. (last visited Nov. 24, 2015).

⁷ Id.

Although specific penalties are not listed for violating the notification provisions, the AHCA has the authority to fine a health care facility up to \$500 for a non-designated violation.⁸ Such non-designated violations include violating any provision of that health care facility's authorizing statute.⁹

Section 3 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 586 may have a positive fiscal impact for obstetrical physicians who receive this notice to allow them adequate time to ensure that they obtain privileges at another hospital. The bill may have a negative fiscal impact on hospitals that fail to comply due to potential administrative fines.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁸ A non-designated violation is any violation that is not designated as class I-IV. See s. 408.813(3), F.S.

⁹ Section 408.813(3)(b), F.S.

VIII. Statutes Affected:

This bill creates section 395.0192 of the Florida Statutes.

This bill repeals section 383.336 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Stargel

15-00526-16

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A bill to be entitled

An act relating to responsibilities of health care providers; repealing s. 383.336, F.S., relating to practice parameters for physicians performing caesarean section deliveries in provider hospitals; creating s. 395.0192, F.S.; requiring a hospital to notify certain obstetrical physicians within a specified timeframe before the hospital closes its obstetrical department or ceases to provide obstetrical services; providing an effective date.

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

Section 1. Section 383.336, Florida Statutes, is repealed.

Section 2. Section 395.0192, Florida Statutes, is created to read:

395.0192 Duty to notify physicians.—A hospital shall notify each obstetrical physician who has privileges at the hospital at least 120 days before the hospital closes its obstetrical department or ceases to provide obstetrical services.

Section 3. This act shall take effect July 1, 2016.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: SB 994

INTRODUCER: Senator Negron and others

SUBJECT: Sunset Review of Medicaid Dental Services

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lloyd</u>	<u>Stovall</u>	<u>HP</u>	Favorable
2.	<u>Brown</u>	<u>Pigott</u>	<u>AHS</u>	Pre-meeting
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

I. Summary:

SB 994 removes dental services as a required benefit from the Medicaid Managed Assistance (MMA) component of the Statewide Medicaid Managed Care (SMMC) program, effective March 1, 2019. The bill requires the Agency for Health Care Administration (AHCA) to provide the Governor, President of the Senate, and Speaker of the House of Representatives by December 1, 2016, a comprehensive report that examines how effective managed care plans within MMA have been in improving access, satisfaction, delivery, and value in dental services. The report must also examine historical trends in costs, utilization, and rates by plan and in the aggregate.

The Legislature may use the report to determine the scope of dental benefits in the Medicaid program in future managed care procurements and whether to provide dental benefits separate from medical benefits. If the Legislature takes no action before July 1, 2017, the AHCA is directed to implement a statewide competitive procurement for a separate dental program for children and adults with a choice of at least two vendors. Such dental care contracts must be for five years, be non-renewable, and include a medical loss ratio provision consistent with the requirement for health plans in the SMMC program.

The AHCA estimates the bill has a negative fiscal impact in general revenue of \$225,000 in Fiscal Year 2016-2017, \$261,428 in Fiscal Year 2017-2018, and \$235,720 in Fiscal Year 2018-2019.

The bill is effective July 1, 2016.

II. Present Situation:

The Florida Medicaid program is a partnership between the federal and state governments. Each state operates its own Medicaid program under a state plan that must be approved by the federal

Centers for Medicare & Medicaid Services (CMS). The state plan outlines Medicaid eligibility standards, policies, and reimbursement methodologies.

Florida Medicaid is administered by the AHCA and financed with federal and state funds. Over 3.7 million Floridians are currently enrolled in Medicaid, and the program's estimated expenditures for the 2015-2016 fiscal year are over \$23.4 billion.¹

Statewide Medicaid Managed Care

In 2011, the Legislature established the Statewide Medicaid Managed Care (SMMC) program as part IV of ch. 409, F.S.² The SMMC has two components: Long Term Care Managed Care (LTCMC) and Managed Medical Assistance (MMA). SMMC is an integrated, comprehensive, managed care program that provides for the delivery of primary and acute care in 11 regions through recipient enrollment in managed care plans.

To implement the two components and receive federal Medicaid funding, the AHCA received federal authorization through Medicaid waivers from CMS. The LTCMC waiver authority was approved on February 1, 2013, and is effective through June 30, 2016.³

The MMA component operates as a statewide expansion of the Medicaid Reform demonstration waiver that was originally approved in 2005 as a managed care pilot program in five counties. Waiver authority for MMA is effective through June 30, 2017.⁴

Managed care plan contracts for LTCMC and MMA include a provision requiring the managed care plans to report quarterly and annually on their respective medical loss ratios for the time period.⁵ The medical loss ratio is based on data collected from all plans on a statewide basis and then classified consistent with 45 C.F.R., part 158. Under the applicable federal regulations, plans must achieve a medical loss ratio of 85 percent or provide a rebate to the state. Achieving an 85 percent medical loss ratio means that a managed care plan must spend at least 85 percent of the premiums received on health care services and activities to improve health care quality.⁶

Managed Medical Assistance (MMA)

For the MMA component of SMMC, health care services were bid competitively using the 11 specified regions. Thirteen non-specialty managed care plans contract with AHCA across the different regions. Specialty plans are also available to serve distinct populations or conditions, such as children with special health care needs, children in the child welfare system, HIV/AIDS,

¹ Office of Economic and Demographic Research, *Social Services Estimating Conference of August 4, 2015*, <http://edr.state.fl.us/Content/conferences/medicaid/medltexp.pdf> (last visited Dec. 11, 2015).

² See Chapter Laws, 2011-134 and 2011-135.

³ Department of Health and Human Services, Disabled & Elderly Health Programs Group, *Approval Letter to Agency for Health Care Administration* (February 1, 2013), http://ahca.myflorida.com/medicaid/statewide_mc/pdf/Signed_approval_FL0962_new_1915c_02-01-2013.pdf (last visited Dec. 17, 2015).

⁴ Department of Health and Human Services, Centers for Medicare & Medicaid Services, *Medicaid 1115 Demonstration Fact Sheet* (July 31, 2014), <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/fl/fl-medicaid-reform-fs.pdf> (last visited Dec. 21, 2015).

⁵ See s. 409.967(4), F.S.

⁶ 45 C.F.R. §158.251 (2012).

serious mental illness, chronic obstructive pulmonary disease, congestive heart failure, or cardiovascular disease.

Statewide implementation of MMA started May 1, 2014, and was completed by August 1, 2014. MMA contracts were executed for a five-year period, and the current contracts are valid through August 31, 2019.

States determine the level of benefits offered in their own Medicaid program, provided that certain mandatory federal benefits are covered. Florida details its minimum benefits under s. 409.973, F.S., for those enrollees in MMA plans. A comparison of those mandatory minimum benefits are shown in the table below.

Comparison of Mandatory Medicaid Benefits	
Federal Mandatory Benefits⁷	Florida Managed Medical Assistance (s. 409.973, F.S.)
Inpatient hospital services	Inpatient hospital services
Outpatient hospital services	Outpatient hospital services
Early and periodic screening, diagnostic and treatment services (EPSDT)	Early and periodic screening, diagnostic and treatment services (EPSDT)
Nursing facility services	Nursing care
Home health services	Home health agency services
Physician services	Physician services, including physician assistant services
Rural health clinic services	Rural health clinic services
Federally qualified health center services	Federally qualified health center services, to the extent required under s. 409.975, F.S.
Laboratory and X-ray services	Laboratory and X-ray services
Family planning services	Family planning services
Nurse midwife services	Healthy start services
Certified pediatric and family nurse practitioner services	Advanced registered nurse practitioner services
Freestanding birth center services (when licensed or otherwise recognized)	Birthing center services
Transportation to medical care	Transportation to access covered services
Tobacco cessation counseling for pregnant women	Substance abuse treatment services
	Chiropractic services
	Ambulatory surgical treatment centers
	Dental services
	Emergency services
	Hospice services
	Medical supplies, equipment, prostheses, orthoses

⁷ Medicaid.gov, *Benefits*, <http://www.medicaid.gov/medicaid-chip-program-information/by-topics/benefits/medicaid-benefits.html> (last visited Dec. 17, 2015).

Comparison of Mandatory Medicaid Benefits	
Federal Mandatory Benefits⁷	Florida Managed Medical Assistance (s. 409.973, F.S.)
	Mental health services
	Optical services and supplies
	Optometrist services
	Physical, occupational, respiratory, and speech therapy services
	Podiatric services
	Prescription drugs
	Renal dialysis services
	Respiratory equipment and supplies

A contracted MMA health plan, including specialty plans, must provide all state minimum benefits for an enrollee when medically necessary. Many MMA plans chose to supplement the state required minimum benefits by offering enhanced options, such as expanded adult dental, hearing and vision coverage, outpatient hospital coverage, and physician services.

Most Medicaid recipients must be enrolled in the MMA program. Those individuals who are not required to enroll, but may choose to do so, are:

- Recipients who have other creditable coverage, excluding Medicare;
- Recipients who reside in residential commitment facilities through the Department of Juvenile Justice or mental health treatment facilities under s. 394.455(32), F.S.;
- Persons eligible for refugee assistance;
- Residents of a developmental disability center;
- Enrollees in the developmental disabilities home and community based waiver or those waiting for waiver services; and
- Children in a prescribed pediatric extended care center.⁸

Other Medicaid enrollees are exempt from the MMA program and receive Medicaid services on a fee-for-service basis. Exempt enrollees are:

- Women who are eligible for family planning services only;
- Women who are eligible only for breast and cervical cancer services; and
- Persons eligible for emergency Medicaid for aliens.

Non-MMA enrollees receiving services through fee-for-service have the same mandatory minimum benefits. These benefits are described under s. 409.905, F.S.

History of Prepaid Dental Plans

Comprehensive dental benefits are required for children at both the federal and state level, and coverage includes diagnostic, preventive, or corrective procedures, including orthodontia.^{9,10} MMA plans are required to provide adult dental coverage to the extent of covering medically

⁸ Section 409.972, F.S.

⁹ 42 U.S.C. 1396d(a)(i)

¹⁰ See Section 409.906(6), F.S.

necessary emergency procedures to eliminate pain or infection. Adult dental care may be restricted to emergency oral examinations, necessary radiographs, extractions, and incisions and drainage of abscesses. Full or partial dentures may also be provided under certain circumstances.¹¹

Prior to SMMC, dental coverage was delivered either through pre-paid dental health plans (PDHP) or individual providers using fee-for-service arrangements. PDHPs were first initiated in the Medicaid program in the 2001-2002 state fiscal year when proviso language in the 2001-2002 General Appropriations Act (GAA) authorized the AHCA to initiate a PDHP pilot program in Miami-Dade County.¹² The following chart provides a brief overview of the history of Medicaid prepaid dental health. Further elaboration is provided in subsequent paragraphs.

Brief Overview of Medicaid Prepaid Dental Plan History	
Year	Dental Delivery Systems
2001-2002 SFY	Legislature authorized AHCA to initiate PDHP pilot in Miami-Dade County.
2003-2004 SFY	Legislature authorized AHCA to contract on competitive basis using PDHPs; AHCA executed the first PDHP contract in 2004 in Miami-Dade for children.
2010-2011 SFY	Legislature authorized time-limited statewide PDHP competitive procurement, excluding the existing service programs in Miami-Dade and Medicaid Reform counties.
2012-2013 SFY	Legislature provided that Medicaid dental services should not be limited to PDHPs and also authorized fee-for-service dental services as well; Statewide PDHP program implemented in December 2012 for children.
July 1, 2013	Fee-for-service dental care option ended.
May 1, 2014	MMA roll-out began; PDHP contracts were terminated by region as MMA was implemented.
August 1, 2014	Completion of MMA roll-out; end of PDHP contracts.

The 2003 Legislature again authorized the AHCA to contract on a prepaid or fixed sum basis for dental services for Medicaid-eligible recipients specifically using PDHPs.¹³ Through a competitive bid process, the AHCA executed its first PDHP contract in 2004 to serve children under age 21 in Miami-Dade County.¹⁴

The Legislature added proviso in the 2010-2011 GAA authorizing the AHCA to contract by competitive procurement with one or more prepaid dental plans on a regional or statewide basis for a period not to exceed two years, in all counties except those participating in Miami-Dade County and Medicaid Reform, under a fee-for-service or managed care delivery system.¹⁵

¹¹ See Section 409.906(1), F.S.

¹² See Specific Proviso 135A, General Appropriations Act 2001-2002 (Conference Report on CS/SB 2C).

¹³ Chapter 2003-405, Laws of Fla.

¹⁴ Agency for Health Care Administration, *House Bill 27 Analysis*, p. 2, (Nov. 11, 2013) (on file with the Senate Committee on Health Policy).

¹⁵ See Specific Proviso 204, General Appropriations Act 2010-2011 (Conference Report on HB 5001).

The Legislature included proviso in the 2012-2013 GAA requiring that for all counties other than Miami-Dade, the AHCA could not limit Medicaid dental services to prepaid plans and must allow qualified dental providers to provide services on a fee-for-service basis.¹⁶ Similar language was also passed in the 2012-2013 appropriations implementing bill, which included additional directives to the AHCA to terminate existing contracts, as needed. The 2012-2013 implementing bill provisions became obsolete on July 1, 2013.

Two vendors were selected for a statewide program starting in 2012-2013 and contracts were implemented effective December 1, 2012.¹⁷ Under the program, Medicaid recipients selected one of the two PDHPs in their county for dental services. The existing dental plan contracts covered Medicaid recipients under age 21. Dental care through Medicaid fee-for-service providers ended July 1, 2013.

The Invitation to Negotiate (ITN) for PDHP limited renewal for the contracts to no more than a three-year period; however, with the final implementation of SMMC and the integration of dental coverage within MMA managed care plans, these PDHP contracts were non-renewed as each region under MMA was implemented.¹⁸ MMA began its regional roll-out on May 1, 2014, and completed the final regions on August 1, 2014.

While the MMA plans are required to collect data, including data related to access to care and quality, no formalized data is available yet which compares the different dental care delivery systems. However, the AHCA's health care information website, www.floridahealthfinder.gov, includes member satisfaction in Medicaid and quality of care indicators for health plans. The most recent member satisfaction surveys are from 2015.¹⁹

III. Effect of Proposed Changes:

Section 1 amends s. 409.973, F.S., to remove dental services from the list of minimum benefits that managed care plans must cover under MMA, effective March 1, 2019.

Section 2 amends s. 409.973, F.S., to require the AHCA to provide the Governor, the President of the Senate, and Speaker of the House of Representatives, a report on the provision of dental services in MMA by December 1, 2016. The AHCA may contract with an independent third party to assist with the report. The bill requires several components that must be included in the report:

- The effectiveness of the managed care plans in:
 - Increasing access to dental care;
 - Improving dental health;
 - Achieving satisfactory outcomes for recipients and providers; and

¹⁶See Specific Proviso 186, General Appropriations Act 2012-2013 (Conference Report on HB 5001).

¹⁷Six counties were excluded from the statewide roll-out. Miami-Dade was excluded because of the prepaid dental program that has been in existence since 2004. Baker, Broward, Clay, Duval and Nassau counties were excluded because they were part of the Medicaid Reform Pilot Project, which requires most Medicaid recipients to enroll in managed care plans that provide dental care as a covered service.

¹⁸ Agency for Health Care Administration, *supra* note 8 at 5.

¹⁹ See Agency for Health Care Administration, *FloridaHealthFinder.gov*, <http://www.floridahealthfinder.gov/HealthPlans/Default.aspx> (last visited Jan. 4, 2016).

- Delivering value and transparency to the state's taxpayers;
- The historical trends of rates paid to dental providers and dental plan subcontractors;
- Participation rates in plan networks; and
- Provider willingness to treat Medicaid recipients.

The bill also requires the report to review rate and participation trends by plan and in the aggregate. A comparison of current and historical efforts and trends and the experiences of other states in delivering dental services, increasing patient access, and improving dental care, must also be included.

The bill provides that findings of the report may be used:

- By the Legislature to set future minimum benefits for MMA; and
- For future procurement of dental services, including whether to include dental services as a minimum benefit via comprehensive MMA plans or to provide dental services as a separate benefit.

Under the bill, if the Legislature takes no action before July 1, 2017, with regard to the report's findings:

- The AHCA must implement a statewide Medicaid prepaid dental health program for children and adults with a choice of at least two licensed dental managed care providers who have substantial experience in providing care to Medicaid enrollees and children eligible for medical assistance under Title XXI of the Social Security Act and who meet all AHCA standards and requirements;
- Prepaid dental contracts must be awarded through a competitive procurement for a five-year period and may not be renewed; however, the AHCA may extend the term of a plan contract to cover any transition delays to a new plan provider;
- All prepaid dental contracts must include a medical loss ratio provision consistent with s. 409.967(4), F.S., which is applicable to comprehensive health plans in SMMC; and
- The AHCA is granted authority to seek any necessary state plan amendments or federal waivers in order to begin enrollment in prepaid dental plans no later than March 1, 2019.

Section 3 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Today, most of the Medicaid managed care plans subcontract with private sector dental managed care plans or prepaid dental health plans to deliver dental services to Medicaid enrollees. All MMA plans currently include some form of enhanced adult dental services.²⁰ A smaller portion of Medicaid dental services are also still delivered directly via fee-for-service.

Between the managed care plans and other private providers, the private vendors serve almost 4 million enrollees through the Medicaid program.²¹ If the Legislature determines that dental services should remain a minimum benefit in the MMA program but be procured separately, the dental plans that have contracts now may or may not retain those contracts through the competitive procurement process. The bill does not provide the incumbent providers any preference in the procurement process.

A new procurement process may also mean additional economic opportunities for other companies to provide services. Additionally, the MMA and LTCMC contracts are scheduled for rebid with implementation by 2019; therefore, if a decision is made to keep dental benefits as a minimum benefit, the managed care plans would seek dental care partners as part of that procurement process.

C. Government Sector Impact:

According to the AHCA, SB 994 requires budget authority of \$450,000 in state fiscal year (SFY) 2016-2017; \$522,856 in SFY 2017-18, and \$471,440 in SFY 18-19. General revenue would be required for 50 percent while the remainder would be paid by federal funds.²² The costs are detailed below:

- The AHCA must complete the report by December 1, 2016, and has authority under the bill to seek a third party's assistance with the report. The AHCA indicates that if the resources and expertise to perform the study do not exist internally, the agency will need approximately \$250,000 to contract with a third-party consultant to conduct such an evaluation.²³

²⁰ Agency for Health Care Administration, *A Snapshot of the Florida Medicaid Managed Assistance Program* (December 2015), http://ahca.myflorida.com/Medicaid/statewide_mc/pdf/mma/SMMC_MMA_Snapshot.pdf (last visited Dec. 22, 2015).

²¹ Agency for Health Care Administration, *Eligibles Report As of 10/31/2015*, http://ahca.myflorida.com/medicaid/Finance/data_analytics/eligibles_report/docs/age_assistance_category_2015-10-31.pdf (last visited Dec. 22, 2015).

²² Agency for Health Care Administration, *Senate Bill 994 Analysis*, p. 10 (Jan. 6, 2016) (on file with the Senate Committee on Health Policy).

²³ *Id.* at 2.

- Included in the AHCA's fiscal note is a request for five full-time-equivalent (FTE) positions to implement the bill, hired over two fiscal years, plus funding for the agency's current actuarial firm. The AHCA also contemplates the need for additional resources for outside legal counsel for challenges to the competitive dental procurement awards.²⁴

Fiscal Impact Estimated by the AHCA			
	FY 2016-2017	FY 2017-2018	FY 2018-2019
General Revenue			
Consultant for report	\$125,000		
Actuarial services	\$100,000	\$100,000	\$100,000
Legal services		\$50,000	
New agency FTE		\$111,428 (\$6,791 NR*)	\$135,720 (\$4,527 NR*)
Total General Revenue	\$225,000	\$261,428	\$235,720
Federal matching funds	\$225,000	\$261,428	\$235,720
Total Fiscal Impact	\$450,000	\$522,856	\$471,440

* Non-recurring funds

VI. Technical Deficiencies:

None.

VII. Related Issues:

Operationally, the AHCA notes it would need to seek waiver authority from the Centers for Medicare & Medicaid Services before the pre-paid dental program could be implemented and that waiver approval can take six to nine months to obtain.²⁵

VIII. Statutes Affected:

This bill substantially amends section 409.973 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

²⁴ Id at 3.

²⁵ Id.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Negron

32-00900A-16

2016994__

A bill to be entitled

An act relating to the sunset review of Medicaid Dental Services; amending s. 409.973, F.S.; providing for the future removal of dental services as a minimum benefit of managed care plans; requiring the Agency for Health Care Administration to provide a report to the Governor and the Legislature; specifying requirements for the report; providing for the use of the report's findings; requiring the agency to implement a statewide Medicaid prepaid dental health program upon the occurrence of certain conditions; specifying requirements for the program and the selection of providers; providing effective dates.

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

Section 1. Effective March 1, 2019, subsection (1) of section 409.973, Florida Statutes, is amended to read:

409.973 Benefits.—

(1) MINIMUM BENEFITS.—Managed care plans shall cover, at a minimum, the following services:

- (a) Advanced registered nurse practitioner services.
- (b) Ambulatory surgical treatment center services.
- (c) Birthing center services.
- (d) Chiropractic services.

~~(e) Dental services.~~

(e)(f) Early periodic screening diagnosis and treatment services for recipients under age 21.

(f)(g) Emergency services.

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2016994__

(g)(h) Family planning services and supplies. Pursuant to 42 C.F.R. s. 438.102, plans may elect to not provide these services due to an objection on moral or religious grounds, and must notify the agency of that election when submitting a reply to an invitation to negotiate.

(h)(i) Healthy start services, except as provided in s. 409.975(4).

(i)(j) Hearing services.

(j)(k) Home health agency services.

(k)(l) Hospice services.

(l)(m) Hospital inpatient services.

(m)(n) Hospital outpatient services.

(n)(o) Laboratory and imaging services.

(o)(p) Medical supplies, equipment, prostheses, and orthoses.

(p)(q) Mental health services.

(q)(r) Nursing care.

(r)(s) Optical services and supplies.

(s)(t) Optometrist services.

(t)(u) Physical, occupational, respiratory, and speech therapy services.

(u)(v) Physician services, including physician assistant services.

(v)(w) Podiatric services.

(w)(x) Prescription drugs.

(x)(y) Renal dialysis services.

(y)(z) Respiratory equipment and supplies.

(z)(aa) Rural health clinic services.

(aa)(bb) Substance abuse treatment services.

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~~(bb)(ee)~~ Transportation to access covered services.

Section 2. Subsection (5) is added to section 409.973, Florida Statutes, to read:

409.973 Benefits.—

(5) PROVISION OF DENTAL SERVICES.—

(a) The agency shall provide a comprehensive report on the provision of dental services under part IV of this chapter to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2016. The agency is authorized to contract with an independent third party to assist in the preparation of the report required by this paragraph.

1. The report must examine the effectiveness of medical managed care plans in increasing patient access to dental care, improving dental health, achieving satisfactory outcomes for Medicaid recipients and the dental provider community, providing outreach to Medicaid recipients, and delivering value and transparency to the state's taxpayers regarding the dollars intended for, and spent on, actual dental services. Additionally, the report must examine, by plan and in the aggregate, the historical trends of rates paid to dental providers and to dental plan subcontractors, dental provider participation in plan networks, and provider willingness to treat Medicaid recipients. The report must also compare current and historical efforts and trends and the experiences of other states in delivering dental services, increasing patient access to dental care, and improving dental health.

2. The Legislature may use the findings of this report in setting the scope of minimum benefits set forth in this section for future procurements of eligible plans as described in s.

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2016994

409.966. Specifically, the decision to include dental services as a minimum benefit under this section, or to provide Medicaid recipients with dental benefits separate from the Medicaid managed medical assistance program described in part IV of this chapter, may take into consideration the data and findings of the report.

(b) In the event the Legislature takes no action before July 1, 2017, with respect to the report findings required under subparagraph (a)2., the agency shall implement a statewide Medicaid prepaid dental health program for children and adults with a choice of at least two licensed dental managed care providers who must have substantial experience in providing dental care to Medicaid enrollees and children eligible for medical assistance under Title XXI of the Social Security Act and who meet all agency standards and requirements. The contracts for program providers shall be awarded through a competitive procurement process. The contracts must be for 5 years and may not be renewed; however, the agency may extend the term of a plan contract to cover delays during a transition to a new plan provider. The agency shall include in the contracts a medical loss ratio provision consistent with s. 409.967(4). The agency is authorized to seek any necessary state plan amendment or federal waiver to commence enrollment in the Medicaid prepaid dental health program no later than March 1, 2019.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2016.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: SB 974

INTRODUCER: Senator Sobel

SUBJECT: Hair Restoration or Transplant

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	Favorable
2.	Brown	Pigott	AHS	Pre-meeting
3.			FP	

I. Summary:

SB 974 prohibits anyone other than a physician or physician assistant (PA) licensed under the medical practice act or the osteopathic practice act, or an advanced registered nurse practitioner (ARNP), from performing a hair restoration or transplant or making incisions for the purpose of performing a hair restoration or transplant. The bill has the effect of restricting a physician from delegating certain aspects of a hair transplant or hair restoration surgery to a PA or an ARNP exclusively.

The bill has no fiscal impact on state government.

The effective date of the bill is July 1, 2016.

II. Present Situation:

Hair Restoration Procedures

There are several techniques a physician can employ to restore hair to bald or balding portions of the human scalp. The most recently developed procedure is the follicular unit transplant. This procedure involves the removal of a strip of tissue from the donor area of a patient's scalp which is then divided into a number of individual follicular units. The physician then grafts the individual follicular units into tiny holes made in the bald area of the scalp, called recipient sites.¹

Another type of hair restoration procedure is the bald scalp reduction procedure. As implied by the name, a bald scalp reduction procedure entails the removal of a bald area of the patient's

¹ Bernstein Medical Center for Hair Restoration, *Follicular Unit Transplant*, available at <http://www.bernsteinmedical.com/fut-hair-transplant/> (last visited on Jan. 7, 2016).

scalp, and hair-producing areas of the scalp are stretched to cover the area removed. A similar procedure, the scalp flap surgery, involves the cutting and grafting of an entire flap of hair-producing scalp onto a bald area of the scalp. Both bald scalp reduction and scalp flap surgeries can have rapid results, but the follicular unit transplant surgery is generally preferred due to the more natural look produced by the follicular unit transplant surgery and the risk of scarring or failure inherent with bald scalp reduction and scalp flap surgeries.²

Tissue or scalp expansion procedures can also be used to restore bald areas of the scalp. Tissue expansion uses a balloon, called an expander, to stretch the skin in order to create extra skin which can be removed and grafted onto the bald area. Tissue expansion can be used for scalp repair since the stretched skin on the scalp retains normal hair growth.³

Regulation of Physician Assistants in Florida

Chapter 458, F.S., provides for the regulation of the practice of medicine by the Board of Medicine. Chapter 459, F.S., similarly provides for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine. Physician assistants (PA) are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.⁴

Physician assistants are trained and required by statute to work under the supervision and control of medical physicians or osteopathic physicians.⁵ The Board of Medicine and the Board of Osteopathic Medicine have adopted rules that set out the general principles a supervising physician must use in developing the scope of practice of the PA under both direct⁶ and indirect⁷ supervision.

A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.⁸ Each physician or group of physicians supervising a licensed PA must be qualified in the medical areas in which the PA is to perform and must be individually or collectively responsible and liable for the performance and the acts and omissions of the PA.⁹

² Foundation for Hair Restoration, *Bald Scalp Reduction and Scalp Flap Surgery*, available at <http://www.foundhair.com/pages/baldScalp.shtml> (last visited on Jan. 7, 2016).

³ University of Pittsburgh Medical Center, Children's Hospital of Pittsburgh, *Tissue Expansion*, available at: <http://www.chp.edu/our-services/plastic-surgery/patient-procedures/tissue-expansion> (last visited on Jan. 7, 2016).

⁴ The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. (See s. 458.347(9) and s. 459.022(9), F.S.).

⁵ Section 458.347(4) and s. 459.022(4), F.S.

⁶ "Direct supervision" requires the physician to be on the premises and immediately available. (See Rules 64B8-30.001(4) and 64B15-6.001(4), F.A.C.)

⁷ "Indirect supervision" refers to the easy availability of the supervising physician to the PA, which includes the ability to communicate by telecommunications, and requires the physician to be within reasonable physical proximity. (See Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.)

⁸ Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

⁹ Section 458.347(3) and s. 459.022(3), F.S.

Regulation of Advanced Registered Nurse Practitioners in Florida

Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health and are regulated by the Board of Nursing (BON).¹⁰

An advanced registered nurse practitioner (ARNP) is a licensed nurse who is certified in advanced or specialized nursing.¹¹ Florida recognizes three types of ARNPs: nurse practitioner (NP), certified registered nurse anesthetist (CRNA), and certified nurse midwife (CNM).¹² To be certified as an ARNP, a nurse must hold a current license as a registered nurse¹³ and submit proof to the BON that he or she meets one of the following requirements:¹⁴

- Satisfactory completion of a formal post-basic educational program of specialized or advanced nursing practice;
- Certification by an appropriate specialty board;¹⁵ or
- Graduation from a master's degree program in a nursing clinical specialty area with preparation in specialized practitioner skills.

Advanced or specialized nursing functions may only be performed under protocol of a supervising physician or dentist. Within the established framework of the protocol, an ARNP may:¹⁶

- Monitor and alter drug therapies;
- Initiate appropriate therapies for certain conditions; and
- Order diagnostic tests and physical and occupational therapy.

Chapter 464, F.S., further describes additional functions that may be performed within an ARNP's specialty certification (CRNA, CNM, and NP).¹⁷

¹⁰ The BON is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve 4-year terms. Seven of the 13 members must be nurses who reside in Florida and have been engaged in the practice of professional nursing for at least 4 years. Of those seven members, one must be an advanced registered nurse practitioner, one a nurse educator at an approved nursing program, and one a nurse executive. Three members of the BON must be licensed practical nurses who reside in the state and have engaged in the practice of practical nursing for at least 4 years. The remaining three members must be Florida residents who have never been licensed as nurses and are in no way connected to the practice of nursing, any health care facility, agency, or insurer. Additionally, one member must be 60 years of age or older. (See s. 464.004(2), F.S.)

¹¹ "Advanced or specialized nursing practice" is defined as the performance of advanced-level nursing acts approved by the BON which, by virtue of post basic specialized education, training and experience, are appropriately performed by an advanced registered nurse practitioner. (See s. 464.003(2), F.S.)

¹² Section 464.003(3), F.S. Florida certifies clinical nurse specialists as a category distinct from advanced registered nurse practitioners. (See s. 464.003(7) and s. 464.0115, F.S.).

¹³ Practice of professional nursing. (See s. 464.003(20), F.S.).

¹⁴ Section 464.012(1), F.S.

¹⁵ Specialty boards expressly recognized by the BON include: Council on Certification of Nurse Anesthetists, or Council on Recertification of Nurse Anesthetists; American College of Nurse Midwives; American Nurses Association (American Nurses Credentialing Center); National Certification Corporation for OB/GYN, Neonatal Nursing Specialties; National Board of Pediatric Nurse Practitioners and Associates; National Board for Certification of Hospice and Palliative Nurses; American Academy of Nurse Practitioners; Oncology Nursing Certification Corporation; American Association of Critical-Care Nurses Adult Acute Care Nurse Practitioner Certification. (See Rule 64B9-4.002(2), F.A.C.).

¹⁶ Section 464.012(3), F.S.

¹⁷ Section 464.012(4), F.S.

An ARNP must meet financial responsibility requirements, as determined by rule of the BON and the practitioner profiling requirements.¹⁸ The BON requires professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the same amounts payable to the ARNP.¹⁹

III. Effect of Proposed Changes:

This bill creates new sections of Florida Statutes relating to hair restoration or transplant in the medical practice act, ch. 458, F.S., and the osteopathic medical practice act, ch. 459, F.S. The bill defines hair restoration or transplant to mean a surgical procedures that extracts or removes hair follicles from one location on a person's body for the purpose of redistributing the hair follicles to another location on that body.

The bill prohibits anyone other than a physician or PA licensed under either practice act or an ARNP from performing a health restoration or transplant or making incisions for the purpose of performing a hair restoration or transplant. This has the effect of restricting a physician from delegating certain aspects of a hair transplant or hair restoration surgery to anyone other than a PA or an ARNP.

The effective date of the bill is July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 974 would prevent persons other than licensed physicians or physicians assistants licensed under the medical practice act or osteopathic practice act and advanced

¹⁸ Sections 456.0391 and 456.041, F.S.

¹⁹ Rule 64B9-4.002(5), F.A.C.

registered nurse practitioners from performing a hair restoration or transplant or making incisions for the purpose of performing a hair restoration or transplant.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 458.352 and 459.027.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Sobel

33-00403B-16

2016974__

A bill to be entitled

An act relating to hair restoration or transplant; creating ss. 458.352 and 459.027, F.S.; defining the term "hair restoration or transplant"; prohibiting a person who is not licensed or is not certified under ch. 458, F.S., ch. 459, F.S., or s. 464.012, F.S., from performing a hair restoration or transplant or making incisions for the purpose of performing a hair restoration or transplant; providing an effective date.

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

Section 1. Section 458.352, Florida Statutes, is created to read:

458.352 Hair restoration or transplant.-

(1) As used in this section, the term "hair restoration or transplant" means a surgical procedure that extracts or removes hair follicles from one location on an individual living human body for the purpose of redistributing the hair follicles to another location on that body.

(2) A person who is not licensed under this chapter or chapter 459 or certified under s. 464.012 may not perform a hair restoration or transplant or make incisions for the purpose of performing a hair restoration or transplant.

Section 2. Section 459.027, Florida Statutes, is created to read:

459.027 Hair restoration or transplant.-

(1) As used in this section, the term "hair restoration or

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transplant" means a surgical procedure that extracts or removes hair follicles from one location on an individual living human body for the purpose of redistributing the hair follicles to another location on that body.

(2) A person who is not licensed under this chapter or chapter 458 or certified under s. 464.012 may not perform a hair restoration or transplant or make incisions for the purpose of performing a hair restoration or transplant.

Section 3. This act shall take effect July 1, 2016.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: CS/SB 918

INTRODUCER: Health Policy Committee and Senator Richter

SUBJECT: Licensure of Health Care Professionals

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rositto-Vann Winkle	Stovall	HP	Fav/CS
2.	Brown	Pigott	AHS	Pre-meeting
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 918 authorizes the Department of Health (DOH) to waive fees and issue health care licenses to active duty U.S. military personnel who are within six months of an honorable discharge and to issue temporary licenses to active duty military spouses under certain circumstances. The bill also eliminates the requirement that a military spouse who has been issued a temporary dental license may practice only under the supervision of a Florida dentist.

The bill also updates various provisions regulating health care professions to reflect current operations and to improve operational efficiencies, including:

- Conforming Florida Statute to reflect implementation of the integrated electronic continuing education (CE) tracking system regarding the licensure and renewal process;
- Authorizing the DOH to contract with a third party to serve as the custodian of medical records in the event of a practitioner's death, incapacitation, or abandonment of records;
- Modifying procedures for handling professions that have been operating with cash deficits and which are at the statutory fee cap;
- Deleting the requirement for pre-licensure courses relating to HIV/AIDS and medical errors for certain professions;
- Eliminating a loophole pertaining to the licensure and license renewal of certain felons, persons convicted of Medicaid fraud, or other excluded individuals;

- Eliminating the requirement for annual inspections of dispensing practitioners' facilities;¹
- Repealing the Council on Certified Nursing Assistants and the Advisory Council of Medical Physicists; and
- Providing for a one-year temporary license for medical physicists.

The bill is expected to result in cost savings of approximately \$630,000 in recurring funds within the DOH Medical Quality Assurance Trust Fund.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Health Care Practitioner Licensure

The Department of Health (DOH) is responsible for the regulation of health practitioners and health care facilities in Florida for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA), working in conjunction with 22 boards and six councils, licenses and regulates seven types of health care facilities and more than 200 license types in over 40 health care professions.² Any person desiring to be a licensed health care professional in Florida must apply to the DOH in writing.³ Most health care professions are regulated by a board or council in conjunction with the DOH and all professions have different requirements for initial licensure and licensure renewal.⁴

Initial Licensure Requirements

Military Health Care Practitioners

Section 456.024, F.S., provides that any member of the U.S. Armed Forces who has served as a health care practitioner on active duty in the military, reserves, National Guard, or in the United States Public Health Service, is also eligible for licensure in Florida. The DOH is required to waive fees and issue these individuals a license if they submit a completed application and proof of the following:

- An honorable discharge within six months before or after the date of submission of the application;⁵
- An active, unencumbered license issued by another state, the District of Columbia, or a U.S. possession or territory, with no disciplinary action taken in the five years preceding the date of submission of the application;
- An affidavit that he or she is not, at the time of submission, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the United States

¹ Under s. 465.0276, F.S., a person may not dispense medicinal drugs unless licensed as a pharmacist or otherwise authorized under ch. 465, F.S., to do so, except that a practitioner authorized by law to prescribe drugs may dispense such drugs to her or his patients in the regular course of her or his practice in compliance with s. 465.0276, F.S.

² Florida Dep't of Health, Medical Quality Assurance, *Annual Report and Long Range Plan, 2014-2015*, p.6, available at: http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1415.pdf

³ Section 456.013, F.S.

⁴ See chs. 401, 456-468, 478, 480, 483, 484, 486, 490, and 491, F.S.

⁵ A form DD-214 or an NGB-22 is required as proof of honorable discharge. Department of Health, *Veterans*, <http://www.floridahealth.gov/licensing-and-regulation/armed-forces/veterans/index.html> (last visited Dec. 15, 2015).

Department of Defense for reasons related to the practice of the profession for which he or she is applying;

- Documentation of actively practicing his or her profession for the three years preceding the date of submission of the application; and
- Fingerprints for a background screening, if required for the profession for which he or she is applying.⁶

Florida offers an expedited licensure process to facilitate veterans seeking licensure in a health care profession in Florida through its Veterans Application for Licensure Online Response system (VALOR).⁷ In order to qualify, a veteran must apply for the license within six months before, or six months after, he or she is honorably discharged from the Armed Forces. Under the VALOR system, there is no application fee, licensure fee, or unlicensed activity fee.⁸

A board, or the DOH if there is no board, may also issue a temporary health care professional license to the spouse of an active duty member of the Armed Forces upon submission of an application form and fees. The applicant must hold a valid license for the profession issued by another state, the District of Columbia, or a possession or territory of the United States and may not be the subject of any disciplinary proceeding in any jurisdiction relating to the practice of a regulated health care profession in Florida. A spouse who is issued a temporary professional license to practice as a dentist under this authority may practice only under the supervision of a Florida dentist.

HIV and AIDS Course Requirements

Section 381.0034(3), F.S. and s. 468.1201, F.S., require prospective licensees for midwifery, radiology technology, laboratory technicians, medical physicists, speech-language pathology, and audiology, as a condition of initial licensure, to complete an approved course on HIV and AIDS. An applicant who has not completed the required HIV and AIDS course at the time of initial licensure will, upon submission of an affidavit showing good cause, be allowed six months to complete this requirement.

Medical Errors Course Requirements

Section 456.013(7), F.S., requires that every practitioner regulated by DOH complete a DOH approved two-hour course relating to the prevention of medical errors as part of the licensure and renewal process. The two-hour course counts toward the total number of continuing education (CE) credits required for the profession.

⁶ *Id.* The Military Veteran Fee Waiver Request Form, also must be submitted with the application for licensure to receive waiver of fees and is available on the DOH website.

⁷ Florida Dep't of Health, *Veterans*, <http://www.floridahealth.gov/licensing-and-regulation/armed-forces/veterans/index.html>, (last visited Dec. 15, 2015).

⁸ *Id.*

Licensure Renewal Requirements

CE Tracking

Under s. 456.025(7), F.S., the DOH is required to utilize an electronic continuing education (CE) tracking system for each new biennial renewal cycle, and all approved CE providers must submit information on course attendance to the DOH for this system. The initial CE tracking system was not linked to the DOH license renewal system, so in order for a practitioner to renew his or her license, he or she certified that the required CEs had been completed. The DOH is currently deploying an integrated CE tracking system for all professions. Several practice acts still reference the submission of sworn affidavits, audits for compliance, and other methods for proof of completion of CE requirements.⁹

Felons, Medicaid Fraud, and Excluded Individuals

Section 456.0635(2), F.S., provides that a board or the DOH, if there is no board, must refuse to admit a candidate to any examination, and refuse to issue a license, certificate, or registration, to any applicant if the candidate, applicant, or principal, officer, agent, managing employee, or affiliated person of an applicant:

- Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, certain specified felonies;
- Has been terminated for cause from any Medicaid program; or
- Is listed on the U.S. Department of Health and Human Services' List of Excluded Individuals and Entities.

Section 456.0635(2), F.S., provides a tiered timeframe for these individuals to apply for a license, certificate, or registration, depending on the degree and age of the violation. There is a general exception for candidates or applicants for initial licensure or certification who were enrolled in an educational or training program on or before July 1, 2009, and who applied for licensure after July 1, 2012.

According to the DOH, recently, when the department refused to renew licenses based on the provisions of s. 456.0635(3), F.S., the licensees have immediately reapplied under the exception in s. 456.0635(2), F.S., and were granted a license. By taking advantage of the exception, licensees who were convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, certain specified felonies; or were terminated for cause from the Florida Medicaid or any other state's Medicaid program; or are currently listed on the United States Department of Health and Human Services' List of Excluded Individuals and Entities, have been able to regain a license to practice. When the next renewal cycle ends, those licensees will once again be denied renewal based on s. 456.0635(3), F.S., but the applicants can again reapply for licensure under the exception in s. 456.0635(2), F.S.¹⁰

⁹ See Florida Department of Health, *Senate Bill 918 Analysis*, p. 6, (Nov. 20, 2015) (on file with the Senate Committee on Health Policy).

¹⁰ *Id* at p. 7.

Continuing Education Reporting for Renewal

Section 463.007, F.S., authorizes the DOH to periodically require an optometrist to demonstrate his or her professional competence, as a condition of licensure renewal, by completing up to 30 CE hours in the two years preceding renewal. For certified optometrists, the 30 hours of CE must include six or more hours of approved transcript-quality coursework in ocular and systemic pharmacology and the diagnosis, treatment, and management of ocular and systemic conditions and diseases.

Section 464.203, F.S., requires a certified nursing assistant (CNA) to complete 12 CE hours of in-service training every year.

Sections 457.107(3), 458.347(4)(e)3., 466.0135(3), 466.014, 466.032(5), 484.047(2), and 486.109(4), F.S., require acupuncturists, physician assistants, dentists, dental hygienists, dental laboratories, hearing aid specialists, and physical therapists to provide an affidavit or written statement attesting to the completion of the required CEs for his or her biennial renewal period. The DOH is authorized to request that a licensee, with or without cause, produce documentation of his or her completed CEs reported for the biennial renewal period.

Licensure Regulation Costs

Section 456.025, F.S., sets forth the legislative intent that all costs of regulating health care professions must be borne solely by licensees and license applicants and that no profession is to operate with a negative cash flow balance. Fees are set by the board, or the DOH where there is no board, and are required to be reasonable while not creating a barrier to licensure. Fees are to be based on potential earnings of licensees, must be similar to similarly licensed professions, and must not be more than 10 percent higher than the actual cost of regulating the profession the previous biennium. All funds collected by the DOH from fees, fines, or costs awarded to the department by a court must be paid into the Medical Quality Assurance Trust Fund. The DOH may not expend funds from one profession to pay for the expenses incurred by another profession, except that the Board of Nursing is responsible for the costs incurred in regulating certified nursing assistants.

The DOH may adopt rules for advancing funds to professions operating with a negative cash balance. However, it may not advance funds to one profession for more than two consecutive years and must charge interest at the current rate earned on trust funds used by the DOH to implement ch. 456, F.S. Interest earned by the trust fund must be allocated to the professions in accordance with its respective investment. Each board or the DOH, by rule, may also assess a one-time fee to each active and inactive licensee in an amount necessary to eliminate a cash deficit in the profession or, if there is no deficit, to maintain the financial integrity of the profession. Not more than one such assessment may be made in any four-year period.

The DOH has provided the following recap of professions that have faced negative cash balances.¹¹ The boards have imposed four one-time assessments in the past 10 years as follows:

- Electrolysis: FY 2005-2006, \$1,306;
- Nursing Home Administrators: FY 2005-2006, \$200;

¹¹ *Id.* at p. 5.

- Dentistry: FY 2007-2008, \$250; and
- Midwifery: FY 2008-2009, \$250.

Three professions operate in a chronic deficit. Each is at its statutory fee cap and, according to the DOH, the midwifery and electrology professions do not have a large enough licensure base to generate adequate revenue to cover expenditures. These professions and the deficit amount under which they operate are:

	Cash Balance	Renewal Fee	Statutory Fee Cap	Total Licensees
Dentistry	\$ (2,144,333)	\$ 300	\$ 300	14,285
Electrology	\$ (638,545)	\$ 100	\$ 100	1,591
Midwifery	\$ (900,115)	\$ 500	\$ 500	206

If the boards or the DOH were to impose a one-time assessment, the amounts needed to eliminate the deficits and result in solvency though Fiscal Year 2019-2020 would be:

- Dentistry: \$450 per active/inactive licensee;
- Electrology: \$900 per active/inactive licensee; and
- Midwifery: \$5,500 per active/inactive licensee.

Section 456.025, F.S., allows the boards, or the DOH if there is no board, to collect up to \$250 from CE providers seeking approval or renewal of individual courses. The fees are required to be used to review the proposed courses and for implementation of the electronic CE tracking system which is integrated with the licensure and renewal systems.

Section 456.025, F.S., also requires the chairpersons of the boards and councils to meet annually to review the long-range policy plan and current and proposed fee schedules. The chairpersons are required to make recommendations for any necessary statutory changes relating to fees and fee caps which must be compiled by the DOH and included in its annual report to the Legislature.

Ownership and Control of Patient Records

Section 456.057(20), F.S., provides that the board or the DOH may appoint a medical records custodian for patient records in the event of the death or incapacitation of a practitioner or when patient records have been abandoned. The custodian is required to comply with all requirements of s. 456.057, F.S. The DOH reports that 10 or more times per year, most frequently upon the death or incarceration of a practitioner, patient records are abandoned and patients cannot access their own records. The DOH attempts to secure the abandoned records but does not have the manpower or storage capacity to assume control.¹²

Dispensing Practitioner Facility Inspections

Section 465.0276(3), F.S., requires the DOH to inspect any facility where a dispensing practitioner dispenses medicinal drugs in the same manner, and with the same frequency, as it inspects pharmacies to determine whether the practitioner is in compliance with all applicable statutes and rules. The DOH currently inspects pharmacies upon opening, annually, when they

¹² *Supra* note 9.

change locations, and when changing ownership.¹³ The DOH inspects a dispensing practitioner's practice location(s) prior to the registration being added to the practitioner's license and annually thereafter.¹⁴

Dispensing practitioners can dispense any prescription medication in their office, except Schedule II and III controlled substances. This prohibition against dispensing controlled substances does not apply to:

- The dispensing of complimentary packages of medicinal drugs which are labeled as a drug sample or complimentary drug to the practitioner's own patients in the regular course of her or his practice without the payment of a fee or remuneration of any kind, whether direct or indirect;
- The dispensing of controlled substances in the health care system of the Department of Corrections;
- In connection with a surgical procedure, and then no more than a 14-day supply;
- In an approved clinical trial;
- In a medication-assisted opiate treatment facility licensed under s. 397.427, F.S.; or
- In a hospice facility licensed under part IV of chapter 400.¹⁵

During the last two fiscal years, the DOH conducted 15,062 dispensing practitioner inspections with a passing rate of 99 percent.¹⁶

Council on Certified Nursing Assistants

Section 464.2085, F.S., creates the council on certified nursing assistants (CNA) within the DOH, under the board of nursing. The council consists of two members who are registered nurses, one member who is a licensed practical nurse, and two CNAs who are appointed by the State Surgeon General. The duties of the council are to make recommendations to the DOH and the board on:

- Policies and procedures for the certification of nursing assistants;
- Rules regulating the education, training, and certification process for nursing assistants; and
- Concerns and problems of certified nursing assistants to improve safety in the practice.

Historically, the council met every two months in conjunction with board of nursing meetings at an estimated cost of \$40,000 per year. The council's last face-to-face meeting was in 2013. Beginning in 2014, the council met by telephone conference call only on an as-needed basis. Both the board of nursing and the council have supported abolishment of the council since 2014.¹⁷

¹³ Florida Dep't of Health, *Inspection Programs – Who We Inspect* <http://www.floridahealth.gov/licensing-and-regulation/enforcement/inspection-program/index.html>, (last visited Dec. 23, 2015).

¹⁴ *Id.*

¹⁵ See s. 465.0276(1)(b), F.S.

¹⁶ *Supra* note 9, at p.8. The restrictions on dispensing controlled substances listed in Schedule II or Schedule III was enacted in 2011. See, ch. 2011-141, s. 15, Laws of Florida.

¹⁷ *Supra* note 9, at p.8.

Advisory Council of Medical Physicists

The Advisory Council of Medical Physicists (advisory council) was created in 1997 in s. 483.901(3), F.S., to advise the DOH in regulating the practice of medical physics. The nine-member advisory council is charged with recommending rules to administer the regulation of the practice of medical physics, recommending practice standards, and developing and recommending CE requirements for licensed medical physicists.

According to the DOH, the advisory council fulfilled its statutory role and last met in December 1998. The State Surgeon General appointed new members in 2015 and the advisory council will meet for the first time in 17 years at an estimated cost of \$3,535 per meeting. The DOH advises that an Advisory Council on Radiation Protection includes medical physicists as council members, and that group may be used for guidance on matters of practice and public safety pertaining to the practice of medical physics.¹⁸

III. Effect of Proposed Changes:

This bill updates various sections of law relating to the regulation of health care practitioners.

Initial Licensure Requirements

Military Health Care Practitioners¹⁹

The bill amends s. 456.024, F.S., to authorize the Department of Health (DOH) to waive fees and issue health care licenses to active duty U.S. military personnel who apply either six months before, or six months after, an honorable discharge, in professions that do not require licensure in other states,²⁰ if the applicant can provide evidence of training or experience equivalent to that required in Florida and proof of a passing score on a regional or national standards organization exam, if one is required in Florida.

The DOH may also issue temporary licenses to active duty military spouses, in professions that do not require licensure in other states,²¹ if the applicant can provide evidence of training or experience equivalent to that required in Florida and proof of a passing score on a regional or national standards organization exam, if one is required in Florida. The applicant must pay the required application fee.

The bill also eliminates the requirement that a military spouse who has been issued a temporary dental license may practice only under the supervision of a Florida dentist.

¹⁸ *Supra* note 9, at p. 9.

¹⁹ See section 3 of the bill.

²⁰ Professions not licensed in all states: Respiratory therapists (and assistants), Clinical Laboratory Personnel, Medical Physicists, Opticians, Athletics trainers, Electrologists, Nursing home administrators, Midwives, Orthotists (and assistants), Prosthetists (and assistants), Podiatrists (and assistants), Orthotic fitters (and assistants), Certified chiropractic physician assistants, Pharmacy Technicians.

²¹ *Id.*

Temporary Licensure for Medical Physicists

The bill amends s. 483.901, F.S., to allow the DOH to issue a temporary license for no more than one year upon proof that the physicist has completed a residency program and payment of a fee set forth by rule. The DOH may adopt by rule requirements for temporary licensure and renewal of temporary licenses.

HIV and AIDS Course Requirement - Deleted²²

The bill amends s. 381.0034, F.S., and repeals s. 468.1201, F.S., to delete the requirement that applicants under part IV of ch. 468, F.S., (radiological personnel), medical physicists under ch. 483, F.S., speech and language pathology practitioners, and audiology practitioners, must complete courses in HIV and AIDS before their license may be initially issued. According to the DOH, this will accelerate the initial licensure process and reduce costs to licensees.²³

Medical Errors Course Requirement - Deleted²⁴

The bill amends s. 456.013(7), F.S., to delete the requirement that health care practitioners take two hours of continuing education (CE) in medical errors before a license may be issued but keeps that requirement for biennial renewal. The bill clarifies that the two course hours count toward the total required CE hours for renewal and are not in addition to the required hours.

Licensure Renewal Requirements***CE Tracking²⁵***

The bill moves the requirement that DOH must establish an electronic CE tracking system which integrates tracking licensee CEs with the DOH licensure and renewal process from s. 456.025, F.S., to a newly created s. 456.0361, F.S. The bill prohibits the DOH from renewing licenses unless the licensee's CE requirements are complete, authorizes the imposition of additional penalties under the applicable practice act for the failure to comply with CE requirements, and authorizes the DOH to adopt rules to implement this section. This codifies in statute DOH's new CE tracking system and allows for uniformity in handling CEs across the various professions.

Accordingly, the bill amends ss. 457.107(3), 458.347(4)(e)3, 466.0135(3), 466.014, 466.032(5), 484.047(2), and 486.109(4), F.S., to simplify and conform the license renewal process for acupuncturists, physician assistants, dentists, dental hygienists, dental laboratories, hearing aid specialists, and physical therapists by eliminating the requirement of an affidavit or written statement attesting to the completion of the required CEs for the biennial renewal period, and by eliminating the DOH's authority to request a licensee, with or without cause, to produce documentation of his or her completed CEs for the biennial renewal period.²⁶

Similarly, the bill amends s. 463.007, F.S., to clarify and conform the CE requirements of an optometrist as a condition of license renewal and amends s. 464.203, F.S., to require CNAs to

²² See sections 1 and 18 of the bill.

²³ *Supra* note 9 at pp. 9 and 12.

²⁴ See section 2 of the bill.

²⁵ See sections 4 and 5 of the bill.

²⁶ See sections 8, 9, 14, 15, 16, 19 and 20 of the bill.

complete 24 CE hours of in-service training every biennium, rather than requiring hours annually. This change matches the two-year renewal cycle.²⁷

Felons, Medicaid Fraud, and Excluded Individuals²⁸

The bill amends s. 456.0635(2), F.S., to delete the exception to the requirement that a board or the DOH must deny the initial licensure of candidates or applicants who were convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, certain specified felonies primarily relating to health care fraud; have been terminated for cause from a Medicaid program; or who are listed on the U.S. Department of Health and Human Services' List of Excluded Individuals and Entities. The exception currently applies to candidates or applicants for initial licensure or certification who were enrolled in an educational or training program on or before July 1, 2009, and who applied for licensure after July 1, 2012. Under the bill, these individuals are unable to re-apply unless their sentence, and any probation, is scheduled to end within the time frame set out in s. 256.0635(2), F.S. Similar grounds exist for denial of a license renewal under s. 456.0635(3), F.S.

Licensure Regulation Costs²⁹

The bill amends s. 456.025, F.S., to include a method to address professions which operate in a chronic deficit and which have reached their statutory fee cap. The bill:

- Deletes the requirement for the DOH to increase license fees if the cap has not been reached;
- Deletes the requirement to include recommendations for increases to fee caps in the annual report;
- Deletes rule authority to authorize advances to the profession's account with interest;
- Deletes the prohibition on using funds from one profession for operating another profession;
- Allows the DOH to waive the deficit profession's allocated indirect administrative and operational costs until the profession has a positive cash balance; and
- Allows cash in the unlicensed activity account of the profession whose indirect costs have been waived to be transferred to the operating account up to the amount of the deficit.

According to the DOH, as of June 30, 2014, three of 34 professions regulated under ch. 456, F.S. were in a chronic cash flow deficit and at their statutory fee cap. These three professions are dentistry, electrolysis, and midwifery. The total amount of the deficit was \$3,682,993.³⁰

The bill deletes the requirement that the chairpersons of the boards and councils meet annually to review the long-range policy plan and current and proposed fee schedules and recommend statutory changes relating to fees and fee caps for compilation by the DOH for inclusion in its annual report to the Legislature.

²⁷ See sections 10 and 11 of the bill.

²⁸ See section 7 of the bill.

²⁹ See section 4 of the bill.

³⁰ *Supra* note 9 at p.10.

Council on Certified Nursing Assistants (CNA)³¹

The bill repeals s. 464.2085, F.S., which created the Council on Certified Nursing Assistants within the DOH under the Board of Nursing. Under the bill, the Board of Nursing will assume responsibility for all matters relating to CNAs.³²

Advisory Council of Medical Physicists³³

The bill repeals the advisory council in s. 483.901(3), F.S.

Ownership and Control of Patient Records³⁴

The bill amends s. 456.057(20), F.S., to require DOH approval of all board-appointed medical records custodians for the patient medical records of a practitioner who has died, become incapacitated, or abandoned his or her records. The bill further authorizes the DOH to contract with a third party to function as the medical records custodian in these instances and designates the vendor the “records owner” under the same disclosure and confidentiality requirements imposed on licensees.

Dispensing Practitioner Facility Inspections³⁵

The bill amends s.465.0276, F.S., to eliminate any required DOH inspection of the facilities of dispensing practitioners. Dispensing practitioners will still be required to register with their appropriate boards³⁶ but there will no longer be any statutory mandate for the DOH to inspect those facilities within specified timeframes. The DOH may inspect dispensing practitioner locations at such times as it determines necessary as a random, unannounced inspection or during the course of an investigation.³⁷ The DOH indicates that due to the restrictions on dispensing controlled substances in Schedules II or III, the frequency and manner in which inspections are conducted may no longer be necessary.³⁸

Technical Revisions and Effective Date

The bill makes technical and conforming changes and reenacts s. 921.022, F.S.

The bill is effective July 1, 2016.

³¹ See section 12 of the bill.

³² *Supra note 9* at p.11.

³³ See section 18 of the bill.

³⁴ See section 6 of bill.

³⁵ See section 13 of the bill.

³⁶ Section 465.0276(2)(a), F.S.

³⁷ See s. 456.069, F.S.

³⁸ See Florida Dep’t of Health, *Senate Bill 918 Agency Analysis*, pp. 11-12, (Nov. 20, 2015) (on file with the Senate Committee on Health Policy).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Sections 8, 9, 11, 14, 15, 16, 17, 19, and 20 of CS/SB 918 will reduce the costs associated with initial applications for licensure, and renewals, as practitioners will not incur the costs of taking additional specific courses, or for obtaining notarized affidavits before initial licensure or renewal. Section 7 of the bill will prevent practitioners who are prohibited from renewing their licenses by s.456.0635(3), F.S., from becoming licensed pursuant to s.456.0635(2), F.S.

C. Government Sector Impact:

Section 6 of the bill may require the DOH to incur costs related to maintaining the security and distribution of medical records for practitioners who have left practice. The DOH estimates a recurring cost of approximately \$4,020 for which current spending authority is reported to be adequate to absorb.

Section 12 of the bill eliminates the CNA Council, which will result in a cost savings to the DOH of approximately \$40,000 per fiscal year due to the elimination of costs associated with face-to-face meetings.

Section 13 of the bill eliminates the DOH's costs associated with the annual routine inspection of dispensing practitioners' facilities. The DOH reports that based on Fiscal Year 2014-2015 data, the total cost to complete these mandatory inspections was \$597,707.

Section 19 of the bill eliminates the Advisory Council of Medical Physicists which will result in a cost avoidance for reactivating the advisory council.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 13 of the bill eliminates the DOH's routine inspection of dispensing practitioners' facilities. Although speculative, this lack of routine oversight could result in a public health and safety risk to patients due to issues relating to cleanliness, improper storage and labeling of medications, use of counterfeit medication, etc. However, dispensing practitioners may experience less disruption in routine practice due to fewer inspections.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0034, 456.013, 456.024, 456.025, 456.0361, 456.057, 456.0635, 457.107, 458.347, 463.007, 464.203, 465.0276, 466.0135, 466.014, 466.032, 483.901, 484.047, 486.109, 499.028, and 921.0022.

This bill repeals the following sections of the Florida Statutes: 464.2085 and 468.1201.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on January 11, 2016:

The committee substitute recognizes a passing score for examinations approved by a regional, in addition to a national, standards organization for both the military and spousal exceptions from licensure in another state and provides a technical clarification pertaining to the description of the spouse's practice in health care.

The committee substitute also deletes sections pertaining to the Impaired Practitioner program.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

Appropriations Subcommittee on Health and Human Services
(Richter) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (10) and (12) of section 215.5602,
Florida Statutes, are amended to read:

215.5602 James and Esther King Biomedical Research
Program.—

(10) The council shall submit a fiscal-year progress report
on the programs under its purview to the Governor, the State



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Surgeon General, the President of the Senate, and the Speaker of the House of Representatives by December 15. The report must include:

(a) For each ~~A list of~~ research project ~~projects~~ supported by grants or fellowships awarded under the program:-

1. ~~(b)~~ A summary list of the research project and results or expected results of the research recipients of program grants or fellowships.

2. ~~(c)~~ The status of the research project, including whether it has concluded or the estimated date of completion.

3. The amount of the grant or fellowship awarded and the estimated or actual cost of the research project.

4. A list of the principal investigators on the research project.

5. The title, citation, and summary of findings of a publication ~~publications in a peer-reviewed journal resulting from the peer reviewed journals involving research supported by grants or fellowships awarded under the program.~~

6. ~~(d)~~ The source and amount of any federal, state, or local government grants or donations or private grants or donations generated as a result of the research project.

7. The status of a patent, if any, generated from the research project and an economic analysis of the impact of the resulting patent.

8. A list of the postsecondary educational institutions involved in the research project, a description of each postsecondary educational institution's involvement in the research project, and the number of students receiving training or performing research in the research project.



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40 (b) The state ranking and total amount of biomedical
41 research funding currently flowing into the state from the
42 National Institutes of Health.

43 ~~(e) New grants for biomedical research which were funded~~
44 ~~based on research supported by grants or fellowships awarded~~
45 ~~under the program.~~

46 (c) ~~(f)~~ Progress towards programmatic goals, particularly in
47 the prevention, diagnosis, treatment, and cure of diseases
48 related to tobacco use, including cancer, cardiovascular
49 disease, stroke, and pulmonary disease.

50 (d) ~~(g)~~ Recommendations to further the mission of the
51 programs.

52 (12) (a) Beginning in the 2011-2012 fiscal year and
53 thereafter, \$25 million from the revenue deposited into the
54 Health Care Trust Fund pursuant to ss. 210.011(9) and 210.276(7)
55 shall be reserved for research of tobacco-related or cancer-
56 related illnesses. Of the revenue deposited in the Health Care
57 Trust Fund pursuant to this section, \$25 million shall be
58 transferred to the Biomedical Research Trust Fund within the
59 Department of Health. Subject to annual appropriations in the
60 General Appropriations Act, \$5 million shall be appropriated to
61 the James and Esther King Biomedical Research Program, \$5
62 million shall be appropriated to the William G. "Bill" Bankhead,
63 Jr., and David Coley Cancer Research Program created under s.
64 381.922.

65 (b) Beginning July 1, 2014, an entity that ~~which~~ performs
66 or is associated with cancer research or care and that receives
67 a specific appropriation for biomedical research, research-
68 related functions, operations or other supportive functions, or



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expansion of operations in the General Appropriations Act without statutory reporting requirements for the receipt of those funds, must submit an annual fiscal-year progress report to the President of the Senate and the Speaker of the House of Representatives by December 15. The report must:

1. Describe the general use of the funds.

2. Summarize ~~Specify~~ the research, if any, funded by the appropriation, and provide:

a. The status of the research, including whether the research has concluded.

b. The results or expected results of the research.

c. The names of the principal investigators performing the research.

d. The title, citation, and summary of findings of a publication in a peer-reviewed journal resulting from the research.

e. The status of a patent, if any, generated from the research and an economic analysis of the impact of the resulting patent.

f. The list of the postsecondary educational institutions involved in the research, a description of each postsecondary educational institution's involvement in the research, and the number of students receiving training or performing research.

3. Describe any fixed capital outlay project funded by the appropriation, the need for the project, how the project will be utilized, and the timeline for and status of the project, if applicable.

4. Identify any federal, state, or local government grants or donations or private grants or donations generated as a



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result of the appropriation or activities funded by the appropriation, if applicable and traceable.

Section 2. Subsection (3) of section 381.0034, Florida Statutes, is amended to read:

381.0034 Requirement for instruction on HIV and AIDS.—

(3) The department shall require, as a condition of granting a license under chapter 467 or part III of chapter 483 ~~the chapters specified in subsection (1)~~, that an applicant making initial application for licensure complete an educational course acceptable to the department on human immunodeficiency virus and acquired immune deficiency syndrome. Upon submission of an affidavit showing good cause, an applicant who has not taken a course at the time of licensure must ~~shall, upon an affidavit showing good cause~~, be allowed 6 months to complete this requirement.

Section 3. Subsection (4) of section 381.82, Florida Statutes, is amended and subsection (8) is added to that section, to read:

381.82 Ed and Ethel Moore Alzheimer's Disease Research Program.—

(4) The board shall submit a fiscal-year progress report on the programs under its purview annually to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the State Surgeon General by February 15. The report must include:

(a) For each ~~A list of~~ research project ~~projects~~ supported by grants or fellowships awarded under the program:—

~~1. (b) A summary list of the research project and results or expected results of the research recipients of program grants or~~



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127 ~~fellows~~ships.

128 2. ~~(e)~~ The status of the research project, including whether
129 it has concluded or the estimated date of completion.

130 3. The amount of the grant or fellowship awarded and the
131 estimated or actual cost of the research project.

132 4. A list of the principal investigators on the research
133 project.

134 5. The title, citation, and summary of findings of a
135 publication ~~publications~~ in a peer-reviewed journal resulting
136 from the ~~journals involving~~ research supported by grants or
137 fellowships awarded under the program.

138 6. ~~(d)~~ The source and amount of any federal, state, or local
139 government grants or donations or private grants or donations
140 generated as a result of the research project.

141 7. The status of a patent, if any, generated from the
142 research project and an economic analysis of the impact of the
143 resulting patent.

144 8. A list of postsecondary educational institutions
145 involved in the research project, a description of each
146 postsecondary educational institution's involvement in the
147 research project, and the number of students receiving training
148 or performing research under the research project.

149 (b) The state ranking and total amount of Alzheimer's
150 disease research funding currently flowing into the state from
151 the National Institutes of Health.

152 ~~(e) New grants for Alzheimer's disease research which were~~
153 ~~funded based on research supported by grants or fellowships~~
154 ~~awarded under the program.~~

155 (c) ~~(f)~~ Progress toward programmatic goals, particularly in



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the prevention, diagnosis, treatment, and cure of Alzheimer's disease.

(d) ~~(g)~~ Recommendations to further the mission of the program.

(8) Notwithstanding s. 216.301 and pursuant to s. 216.351, the balance of any appropriation from the General Revenue Fund for the Ed and Ethel Moore Alzheimer's Disease Research Program which is not disbursed but which is obligated pursuant to contract or committed to be expended by June 30 of the fiscal year in which the funds are appropriated may be carried forward for up to 5 years after the effective date of the original appropriation.

Section 4. Subsection (6) is added to section 381.922, Florida Statutes, to read:

381.922 William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program.—

(6) The Biomedical Research Advisory Council shall submit a report relating to grants awarded under the program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 15 each year. The report must include:

(a) For each research project supported by grants awarded under the program:

1. A summary of the research project and results or expected results of the research.

2. The status of the research project, including whether it has concluded or the estimated date of completion.

3. The amount of the grant awarded and the estimated or actual cost of the research project.



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185 4. A list of the principal investigators on the research
186 project.

187 5. The title, citation, and summary of findings of a
188 publication in a peer-reviewed journal resulting from the
189 research.

190 6. The source and amount of any federal, state, or local
191 government grants or donations or private grants or donations
192 generated as a result of the research project.

193 7. The status of a patent, if any, generated from the
194 research project and an economic analysis of the impact of the
195 resulting patent.

196 8. A list of the postsecondary educational institutions
197 involved in the research project, a description of each
198 postsecondary educational institution's involvement in the
199 research project, and the number of students receiving training
200 or performing research in the research project.

201 (b) The state ranking and total amount of cancer research
202 funding currently flowing into the state from the National
203 Institutes of Health.

204 (c) Progress toward programmatic goals, particularly in the
205 prevention, diagnosis, treatment, and cure of cancer.

206 (d) Recommendations to further the mission of the program.

207 Section 5. Subsections (8) and (12) of section 401.27,
208 Florida Statutes, are amended to read:

209 401.27 Personnel; standards and certification.—

210 (8) Each emergency medical technician certificate and each
211 paramedic certificate will expire automatically and may be
212 renewed if the holder meets the qualifications for renewal as
213 established by the department. A certificate that is not renewed



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at the end of the 2-year period will automatically revert to an inactive status for a period not to exceed two renewal periods ~~180 days~~. Such certificate may be reactivated and renewed within the two renewal periods ~~180 days~~ if the certificateholder meets all other qualifications for renewal, including completion of continuing education requirements and passage of the state certification examination, and pays a \$25 late fee. Reactivation shall be in a manner and on forms prescribed by department rule.

(12) An applicant for certification as an emergency medical technician or paramedic who is trained outside the state or trained in the military must provide proof of current emergency medical technician or paramedic certification or registration that is considered by the department to be nationally recognized, successfully complete ~~based upon successful completion of~~ a training program approved by the department as equivalent to the most recent EMT-Basic or EMT-Paramedic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation, and hold a current certificate of successful course completion in cardiopulmonary resuscitation (CPR) or advanced cardiac life support for emergency medical technicians or paramedics, respectively, to be eligible for the certification ~~examination~~. ~~The applicant must successfully complete the certification examination within 2 years after the date of the receipt of his or her application by the department. After 2 years, the applicant must submit a new application, meet all eligibility requirements, and submit all fees to reestablish eligibility to take the certification examination.~~

Section 6. Subsection (7) of section 456.013, Florida



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Statutes, is amended to read:

456.013 Department; general licensing provisions.—

(7) The boards, or the department when there is no board, shall require the completion of a 2-hour course relating to prevention of medical errors as part of the biennial licensure and renewal process. The 2-hour course counts toward ~~shall count towards~~ the total number of continuing education hours required for the profession. The course must ~~shall~~ be approved by the board or department, as appropriate, and must ~~shall~~ include a study of root-cause analysis, error reduction and prevention, and patient safety. In addition, the course approved by the Board of Medicine and the Board of Osteopathic Medicine must ~~shall~~ include information relating to the five most misdiagnosed conditions during the previous biennium, as determined by the board. If the course is being offered by a facility licensed pursuant to chapter 395 for its employees, the board may approve up to 1 hour of the 2-hour course to be specifically related to error reduction and prevention methods used in that facility.

Section 7. Paragraph (a) of subsection (3) and subsection (4) of section 456.024, Florida Statutes, are amended to read:

456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses; licensure.—

(3) (a) A person is eligible for licensure as a health care practitioner in this state if he or she is:

1. A person who serves or has served as a health care practitioner in the United States Armed Forces, United States Reserve Forces, or the National Guard;

2. A ~~or a~~ person who serves or has served on active duty with the United States Armed Forces as a health care



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practitioner in the United States Public Health Service; or
3. A health care practitioner in another state, the
District of Columbia, or a possession or territory of the United
States whose spouse serves on active duty in the United States
Armed Forces is eligible for licensure in this state. The
department shall develop an application form, and each board, or
the department if there is no board, shall waive the application
fee, licensure fee, and unlicensed activity fee for such
applicants. For purposes of this subsection, the term "health
care practitioner" means a health care practitioner as defined
in s. 456.001 and a person licensed under part III of chapter
401 or part IV of chapter 468.

(b) ~~(a)~~ The board, or department if there is no board, shall
issue a license to practice in this state to a person who:

1. Submits a complete application.

2. If he or she is a member of the military, submits proof
of receipt of ~~Receives~~ an honorable discharge within 6 months
before, or that he or she will receive an honorable discharge
within 6 months after, the date of submission of the
application.

3.a. Holds an active, unencumbered license issued by
another state, the District of Columbia, or a possession or
territory of the United States and who has not had disciplinary
action taken against him or her in the 5 years preceding the
date of submission of the application;

b. Is a military health care practitioner in a profession
for which licensure in a state or jurisdiction is not required
to practice in the United States Armed Services, if the
applicant submits to the department evidence of military



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training or experience substantially equivalent to the
requirements for licensure in this state in that profession, and
evidence that the applicant has obtained a passing score on the
appropriate examination of a national or regional standards
organization if required for licensure in this state; or

c. Is a health care practitioner in a profession for which
licensure in another state or jurisdiction is not required and
whose spouse serves on active duty in the United States Armed
Forces, if the applicant submits to the department evidence of
training or experience substantially equivalent to the
requirements for licensure in this state in that profession, and
evidence that the applicant has obtained a passing score on the
appropriate examination of a national or regional standards
organization if required for licensure in this state.

4. Attests that he or she is not, at the time of
submission, the subject of a disciplinary proceeding in a
jurisdiction in which he or she holds a license or by the United
States Department of Defense for reasons related to the practice
of the profession for which he or she is applying.

5. Actively practiced the profession for which he or she is
applying for the 3 years preceding the date of submission of the
application.

6. Submits a set of fingerprints for a background screening
pursuant to s. 456.0135, if required for the profession for
which he or she is applying.

The department shall verify information submitted by the
applicant under this subsection using the National Practitioner
Data Bank.



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~~(4) (a) The board, or the department if there is no board, may issue a temporary professional license to the spouse of an active duty member of the Armed Forces of the United States who submits to the department:~~

~~1. A completed application upon a form prepared and furnished by the department in accordance with the board's rules;~~

~~2. The required application fee;~~

~~3. Proof that the applicant is married to a member of the Armed Forces of the United States who is on active duty;~~

~~4. Proof that the applicant holds a valid license for the profession issued by another state, the District of Columbia, or a possession or territory of the United States, and is not the subject of any disciplinary proceeding in any jurisdiction in which the applicant holds a license to practice a profession regulated by this chapter;~~

~~5. Proof that the applicant's spouse is assigned to a duty station in this state pursuant to the member's official active duty military orders; and~~

~~6. Proof that the applicant would otherwise be entitled to full licensure under the appropriate practice act, and is eligible to take the respective licensure examination as required in Florida.~~

~~(b) The applicant must also submit to the Department of Law Enforcement a complete set of fingerprints. The Department of Law Enforcement shall conduct a statewide criminal history check and forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check.~~

~~(c) Each board, or the department if there is no board,~~



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~~shall review the results of the state and federal criminal history checks according to the level 2 screening standards in s. 435.04 when granting an exemption and when granting or denying the temporary license.~~

~~(d) The applicant shall pay the cost of fingerprint processing. If the fingerprints are submitted through an authorized agency or vendor, the agency or vendor shall collect the required processing fees and remit the fees to the Department of Law Enforcement.~~

~~(e) The department shall set an application fee, which may not exceed the cost of issuing the license.~~

~~(f) A temporary license expires 12 months after the date of issuance and is not renewable.~~

~~(g) An applicant for a temporary license under this subsection is subject to the requirements under s. 456.013(3)(a) and (c).~~

~~(h) An applicant shall be deemed ineligible for a temporary license pursuant to this section if the applicant:~~

~~1. Has been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;~~

~~2. Has had a health care provider license revoked or suspended from another of the United States, the District of Columbia, or a United States territory;~~

~~3. Has been reported to the National Practitioner Data Bank, unless the applicant has successfully appealed to have his or her name removed from the data bank; or~~

~~4. Has previously failed the Florida examination required to receive a license to practice the profession for which the~~



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~~applicant is seeking a license.~~

~~(i) The board, or department if there is no board, may
revoke a temporary license upon finding that the individual
violated the profession's governing practice act.~~

~~(j) An applicant who is issued a temporary professional
license to practice as a dentist pursuant to this section must
practice under the indirect supervision, as defined in s.
466.003, of a dentist licensed pursuant to chapter 466.~~

Section 8. Section 456.0241, Florida Statutes, is created
to read:

456.0241 Temporary certificate for active duty military
health care practitioners.-

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

(a) "Military health care practitioner" means a person who
is practicing as a health care practitioner as that term is
defined in s. 456.001, is licensed under part III of chapter
401, or is licensed under part IV of chapter 468 and is serving
on active duty in the United States Armed Forces, the United
States Reserve Forces, or the National Guard, or is serving on
active duty in the United States Armed Forces and in the United
States Public Health Service.

(b) "Military platform" means a military training agreement
with a nonmilitary health care provider which is designed to
develop and support medical, surgical, or other health care
treatment opportunities in the nonmilitary health care provider
setting so that military health care practitioners may develop
and maintain technical proficiency to meet the present and
future health care needs of the United States Armed Forces. Such
agreements may include training affiliation agreements and



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external resource sharing agreements.

(2) The department may issue a temporary certificate to an active duty military health care practitioner to practice in a regulated profession, as that term is defined in s. 456.001, if the applicant meets all of the following requirements:

(a) Submits proof that he or she will be practicing pursuant to a military platform.

(b) Submits a complete application and a nonrefundable application fee.

(c) Holds a valid and unencumbered license to practice as a health care professional in another state, the District of Columbia, or a possession or territory of the United States or is a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required for practice in the United States Armed Services and who provides evidence of military training and experience substantially equivalent to the requirements for licensure in this state to practice in that profession.

(d) Attests that he or she is not, at the time of application, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying for a temporary certificate.

(e) Has been determined to be competent in the profession for which he or she is applying for a temporary certificate.

(f) Submits a set of fingerprints for a background screening pursuant to s. 456.0135, if required by the profession for which he or she is applying for a temporary certificate.



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The department shall verify information submitted by the applicant under this subsection using the National Practitioner Data Bank.

(3) A temporary certificate issued under this section expires 6 months after issuance, but may be renewed upon proof of continuing orders in this state and evidence that the military health care practitioner continues to be a military platform participant.

(4) A military health care practitioner applying under this section is exempt from the requirements of ss. 456.039-456.046. All other provisions of chapter 456 apply.

(5) An applicant for a temporary certificate under this section shall be deemed ineligible if the applicant:

(a) Has been convicted of or pled nolo contendere to, regardless of adjudication, a felony or misdemeanor related to the practice of a health care profession.

(b) Has had a health care provider license revoked or suspended in another state, the District of Columbia, or a possession or territory of the United States.

(c) Has failed to obtain a passing score on the Florida licensure examination required to practice the profession for which the applicant is seeking a temporary certificate.

(d) Is under investigation in another jurisdiction for an act that would constitute a violation of the applicable licensing chapter or chapter 456 until such time as the investigation is complete and the military health care practitioner is found innocent of all charges.

(6) The department shall establish by rule application and



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renewal fees not to exceed \$50 for a temporary certificate issued under this section.

(7) Application must be made on a form prepared and furnished by the department.

(8) The department shall adopt rules necessary to implement the provisions of this section.

Section 9. Present subsections (3) through (11) of section 456.025, Florida Statutes, are redesignated as subsections (2) through (10), respectively, and present subsections (2), (3), (7), and (8) of that section are amended, to read:

456.025 Fees; receipts; disposition.—

~~(2) The chairpersons of the boards and councils listed in s. 20.43(3)(g) shall meet annually at division headquarters to review the long-range policy plan required by s. 456.005 and current and proposed fee schedules. The chairpersons shall make recommendations for any necessary statutory changes relating to fees and fee caps. Such recommendations shall be compiled by the Department of Health and be included in the annual report to the Legislature required by s. 456.026 as well as be included in the long-range policy plan required by s. 456.005.~~

(2)(3) Each board within the jurisdiction of the department, or the department when there is no board, shall determine by rule the amount of license fees for the profession it regulates, based upon long-range estimates prepared by the department of the revenue required to implement laws relating to the regulation of professions by the department and the board. Each board, or the department if there is no board, shall ensure that license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by rule



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of the agency, with advice of the applicable board. ~~If sufficient action is not taken by a board within 1 year after notification by the department that license fees are projected to be inadequate, the department shall set license fees on behalf of the applicable board to cover anticipated costs and to maintain the required cash balance. The department shall include recommended fee cap increases in its annual report to the Legislature.~~ Further, it is the intent of the Legislature ~~legislative intent~~ that a no regulated profession not operate with a negative cash balance. If, however, a profession's fees are at their statutory fee cap and the requirements of subsections (1) and (4) are met, a profession may operate at a deficit until the deficit is eliminated ~~The department may provide by rule for advancing sufficient funds to any profession operating with a negative cash balance. The advancement may be for a period not to exceed 2 consecutive years, and the regulated profession must pay interest. Interest shall be calculated at the current rate earned on investments of a trust fund used by the department to implement this chapter. Interest earned shall be allocated to the various funds in accordance with the allocation of investment earnings during the period of the advance.~~

(6)(7) Each board, or the department if there is no board, shall establish, ~~by rule,~~ a fee of up to not to exceed \$250 for anyone seeking ~~approval~~ to provide continuing education courses or programs and ~~shall establish by rule~~ a biennial renewal fee of up to not to exceed \$250 for the renewal of an approval to provide providership of such courses. The fees collected ~~from continuing education providers~~ shall be used for the purposes of



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533 reviewing course provider applications, monitoring the integrity
534 of the courses provided, covering legal expenses incurred as a
535 result of not granting or renewing an approval ~~a providership~~,
536 and developing and maintaining an electronic continuing
537 education tracking system pursuant to s. 456.0361. ~~The~~
538 ~~department shall implement an electronic continuing education~~
539 ~~tracking system for each new biennial renewal cycle for which~~
540 ~~electronic renewals are implemented after the effective date of~~
541 ~~this act and shall integrate such system into the licensure and~~
542 ~~renewal system.~~ All approved continuing education providers
543 shall provide information on course attendance to the department
544 necessary to implement the electronic tracking system. The
545 department shall, by rule, specify the form and procedures by
546 which the information is to be submitted.

547 (7) ~~(8)~~ All moneys collected by the department from fees or
548 fines or from costs awarded to the agency by a court shall be
549 paid into a trust fund used by the department to implement this
550 chapter. The Legislature shall appropriate funds from this trust
551 fund sufficient to administer ~~carry out~~ this chapter and the
552 provisions of law with respect to professions regulated by the
553 Division of Medical Quality Assurance within the department and
554 the boards. The department may contract with public and private
555 entities to receive and deposit revenue pursuant to this
556 section. The department shall maintain separate accounts in the
557 trust fund used by the department to implement this chapter for
558 every profession within the department. To the maximum extent
559 possible, the department shall directly charge all expenses to
560 the account of each regulated profession. For the purpose of
561 this subsection, direct charge expenses include, but are not



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limited to, costs for investigations, examinations, and legal services. For expenses that cannot be charged directly, the department shall provide for the proportionate allocation among the accounts of expenses incurred by the department in the performance of its duties with respect to each regulated profession. If a profession has established renewal fees that meet the requirements of subsection (1), has fees that are at the statutory fee cap, and has been operating in a deficit for 2 or more fiscal years, the department may waive allocated administrative and operational indirect costs until such time as the profession has a positive cash balance. The costs related to administration and operations include, but are not limited to, the costs of the director's office and the costs of system support, communications, central records, and other such administrative functions. Such waived costs shall be allocated to the other professions that must meet the requirements of this section, and cash in the unlicensed activity account under s. 456.065 of the profession whose costs have been waived shall be transferred to the operating account in an amount not to exceed the amount of the deficit. The regulation by the department of professions, as defined in this chapter, must ~~shall~~ be financed solely from revenue collected by the department ~~it~~ from fees and other charges and deposited in the Medical Quality Assurance Trust Fund, and all such revenue is hereby appropriated to the department, which. ~~However, it is legislative intent that each profession shall operate within its anticipated fees. The department may not expend funds from the account of a profession to pay for the expenses incurred on behalf of another profession, except that the Board of Nursing must pay for any~~



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~~costs incurred in the regulation of certified nursing assistants. The department shall maintain adequate records to support its allocation of agency expenses. The department shall provide any board with reasonable access to these records upon request. On or before October 1 of each year, the department shall provide each board an annual report of revenue and direct and allocated expenses related to the operation of that profession. The board shall use these reports and the department's adopted long-range plan to determine the amount of license fees. A condensed version of this information, with the department's recommendations, shall be included in the annual report to the Legislature prepared under s. 456.026.~~

Section 10. Section 456.0361, Florida Statutes, is created to read:

456.0361 Compliance with continuing education requirements.—

(1) The department shall establish an electronic continuing education tracking system to monitor licensee compliance with applicable continuing education requirements and to determine whether a licensee is in full compliance with the requirements at the time of his or her application for license renewal. The tracking system shall be integrated into the department's licensure and renewal process.

(2) The department may not renew a license until the licensee complies with all applicable continuing education requirements. This subsection does not prohibit the department or the boards from imposing additional penalties under the applicable professional practice act or applicable rules for failure to comply with continuing education requirements.



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(3) The department may adopt rules to implement this section.

Section 11. Subsection (20) of section 456.057, Florida Statutes, is amended to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished; disclosure of information.—

(20) The board with department approval, or the department when there is no board, may temporarily or permanently appoint a person or an entity as a custodian of medical records in the event of the death of a practitioner, the mental or physical incapacitation of a ~~the~~ practitioner, or the abandonment of medical records by a practitioner. Such ~~The~~ custodian ~~appointed~~ shall comply with ~~all provisions of this section.~~ The department may contract with a third party to provide these services under the confidentiality and disclosure requirements of this section, ~~including the release of patient records.~~

Section 12. Subsection (2) of section 456.0635, Florida Statutes, is amended to read:

456.0635 Health care fraud; disqualification for license, certificate, or registration.—

(2) Each board within the jurisdiction of the department, or the department if there is no board, shall refuse to admit a candidate to any examination and refuse to issue a license, certificate, or registration to any applicant if the candidate or applicant or any principal, officer, agent, managing employee, or affiliated person of the applicant:

(a) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under chapter 409, chapter 817, or chapter 893, or a similar felony



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offense committed in another state or jurisdiction, unless the candidate or applicant has successfully completed a drug court program for that felony and provides proof that the plea has been withdrawn or the charges have been dismissed. Any such conviction or plea shall exclude the applicant or candidate from licensure, examination, certification, or registration unless the sentence and any subsequent period of probation for such conviction or plea ended:

1. For felonies of the first or second degree, more than 15 years before the date of application.

2. For felonies of the third degree, more than 10 years before the date of application, except for felonies of the third degree under s. 893.13(6)(a).

3. For felonies of the third degree under s. 893.13(6)(a), more than 5 years before the date of application;

(b) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the sentence and any subsequent period of probation for such conviction or plea ended more than 15 years before the date of the application;

(c) Has been terminated for cause from the Florida Medicaid program pursuant to s. 409.913, unless the candidate or applicant has been in good standing with the Florida Medicaid program for the most recent 5 years;

(d) Has been terminated for cause, pursuant to the appeals procedures established by the state, from any other state Medicaid program, unless the candidate or applicant has been in good standing with a state Medicaid program for the most recent



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5 years and the termination occurred at least 20 years before the date of the application; or

(e) Is currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities.

~~This subsection does not apply to candidates or applicants for initial licensure or certification who were enrolled in an educational or training program on or before July 1, 2009, which was recognized by a board or, if there is no board, recognized by the department, and who applied for licensure after July 1, 2012.~~

Section 13. Subsection (3) of section 457.107, Florida Statutes, is amended to read:

457.107 Renewal of licenses; continuing education.—

(3) The board shall ~~by rule~~ prescribe by rule continuing education requirements of up to, ~~not to exceed~~ 30 hours biennially, as a condition for renewal of a license. All education programs that contribute to the advancement, extension, or enhancement of professional skills and knowledge related to the practice of acupuncture, whether conducted by a nonprofit or profitmaking entity, are eligible for approval. The continuing professional education requirements must be in acupuncture or oriental medicine subjects, including, but not limited to, anatomy, biological sciences, adjunctive therapies, sanitation and sterilization, emergency protocols, and diseases. The board may ~~shall have the authority to~~ set a fee of up to, ~~not to exceed~~ \$100, for each continuing education provider. The licensee shall retain in his or her records the certificates of



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completion of continuing professional education requirements ~~to~~
~~prove compliance with this subsection. The board may request~~
~~such documentation without cause from applicants who are~~
~~selected at random.~~ All national and state acupuncture and
oriental medicine organizations and acupuncture and oriental
medicine schools are approved to provide continuing professional
education in accordance with this subsection.

Section 14. Paragraph (e) of subsection (4) of section
458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully
licensed physician assistant the authority to prescribe or
dispense any medication used in the supervisory physician's
practice unless such medication is listed on the formulary
created pursuant to paragraph (f). A fully licensed physician
assistant may only prescribe or dispense such medication under
the following circumstances:

1. A physician assistant must clearly identify to the
patient that he or she is a physician assistant and—
~~Furthermore, the physician assistant must~~ inform the patient
that the patient has the right to see the physician before a
~~prior to any~~ prescription is being prescribed or dispensed by
the physician assistant.

2. The supervisory physician must notify the department of
his or her intent to delegate, on a department-approved form,
before delegating such authority and ~~notify the department of~~
any change in prescriptive privileges of the physician
assistant. Authority to dispense may be delegated only by a



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supervising physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must complete ~~file with the department a signed affidavit that he or she has completed a~~ minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal ~~application~~.

4. The department may issue a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the ~~foregoing~~ requirements of this paragraph. The physician assistant ~~is shall~~ not be required to independently register pursuant to s. 465.0276.

5. The prescription must be written in a form that complies with chapter 499 and, in addition to the supervisory physician's name, address, and telephone number, must contain, ~~in addition to the supervisory physician's name, address, and telephone number,~~ the physician assistant's prescriber number. Unless it is a drug or drug sample dispensed by the physician assistant, the prescription must be filled in a pharmacy permitted under chapter 465 and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The inclusion ~~appearance~~ of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

6. The physician assistant must note the prescription or dispensing of medication in the appropriate medical record.

Section 15. Subsection (7) is added to section 460.402, Florida Statutes, to read:



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460.402 Exceptions.—The provisions of this chapter shall not apply to:

(7) A chiropractic physician who holds an active license in another jurisdiction and is performing chiropractic procedures or demonstrating equipment or supplies for educational purposes at a board-approved continuing education program.

Section 16. Subsection (3) of section 463.007, Florida Statutes, is amended to read:

463.007 Renewal of license; continuing education.—

(3) As a condition of license renewal, a licensee must
~~Unless otherwise provided by law, the board shall require licensees to periodically demonstrate his or her their~~
~~professional competence, as a condition of renewal of a license,~~
by completing up to 30 hours of continuing education during the 2-year period preceding license renewal. For certified optometrists, the 30-hour continuing education requirement includes ~~shall include~~ 6 or more hours of approved transcript-quality coursework in ocular and systemic pharmacology and the diagnosis, treatment, and management of ocular and systemic conditions and diseases during the 2-year period preceding application for license renewal.

Section 17. Subsection (7) of section 464.203, Florida Statutes, is amended to read:

464.203 Certified nursing assistants; certification requirement.—

(7) A certified nursing assistant shall complete 24 ~~12~~ hours of inservice training during each biennium ~~calendar year~~. The certified nursing assistant shall maintain ~~be responsible~~ ~~for maintaining~~ documentation demonstrating compliance with



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these provisions. ~~The Council on Certified Nursing Assistants,~~
~~in accordance with s. 464.2085(2)(b), shall propose rules to~~
~~implement this subsection.~~

Section 18. Section 464.2085, Florida Statutes, is
repealed.

Section 19. Paragraph (b) of subsection (1) and subsection
(3) of section 465.0276, Florida Statutes, are amended to read:

465.0276 Dispensing practitioner.—

(1)

(b) A practitioner registered under this section may not
dispense a controlled substance listed in Schedule II or
Schedule III as provided in s. 893.03. This paragraph does not
apply to:

1. The dispensing of complimentary packages of medicinal
drugs which are labeled as a drug sample or complimentary drug
as defined in s. 499.028 to the practitioner's own patients in
the regular course of her or his practice without the payment of
a fee or remuneration of any kind, whether direct or indirect,
as provided in subsection (4) ~~subsection (5)~~.

2. The dispensing of controlled substances in the health
care system of the Department of Corrections.

3. The dispensing of a controlled substance listed in
Schedule II or Schedule III in connection with the performance
of a surgical procedure. The amount dispensed pursuant to the
subparagraph may not exceed a 14-day supply. This exception does
not allow for the dispensing of a controlled substance listed in
Schedule II or Schedule III more than 14 days after the
performance of the surgical procedure. For purposes of this
subparagraph, the term "surgical procedure" means any procedure



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in any setting which involves, or reasonably should involve:

a. Perioperative medication and sedation that allows the patient to tolerate unpleasant procedures while maintaining adequate cardiorespiratory function and the ability to respond purposefully to verbal or tactile stimulation and makes intra- and postoperative monitoring necessary; or

b. The use of general anesthesia or major conduction anesthesia and preoperative sedation.

4. The dispensing of a controlled substance listed in Schedule II or Schedule III pursuant to an approved clinical trial. For purposes of this subparagraph, the term "approved clinical trial" means a clinical research study or clinical investigation that, in whole or in part, is state or federally funded or is conducted under an investigational new drug application that is reviewed by the United States Food and Drug Administration.

5. The dispensing of methadone in a facility licensed under s. 397.427 where medication-assisted treatment for opiate addiction is provided.

6. The dispensing of a controlled substance listed in Schedule II or Schedule III to a patient of a facility licensed under part IV of chapter 400.

~~(3) The department shall inspect any facility where a practitioner dispenses medicinal drugs pursuant to subsection (2) in the same manner and with the same frequency as it inspects pharmacies for the purpose of determining whether the practitioner is in compliance with all statutes and rules applicable to her or his dispensing practice.~~

Section 20. Subsection (3) of section 466.0135, Florida



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Statutes, is amended to read:

466.0135 Continuing education; dentists.—

(3) ~~A In applying for license renewal, the dentist shall complete submit a sworn affidavit, on a form acceptable to the department, attesting that she or he has completed the required continuing education as provided required in this section in accordance with the guidelines and provisions of this section and listing the date, location, sponsor, subject matter, and hours of completed continuing education courses. An~~ The applicant shall retain in her or his records any ~~such~~ receipts, vouchers, or certificates ~~as may be necessary to document completion of such the continuing education courses listed in accordance with this subsection. With cause, the board may request such documentation by the applicant, and the board may request such documentation from applicants selected at random without cause.~~

Section 21. Section 466.014, Florida Statutes, is amended to read:

466.014 Continuing education; dental hygienists.—In addition to the other requirements for relicensure for dental hygienists set out in this chapter act, the board shall require each licensed dental hygienist to complete at least ~~not less than~~ 24 hours but not ~~or~~ more than 36 hours of continuing professional education in dental subjects, biennially, in programs prescribed or approved by the board or in equivalent programs of continuing education. Programs of continuing education approved by the board are ~~shall be~~ programs of learning which, in the opinion of the board, contribute directly to the dental education of the dental hygienist. The board shall



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881 adopt rules and guidelines to administer and enforce the
882 ~~provisions of this section. In applying for license renewal, the~~
883 ~~dental hygienist shall submit a sworn affidavit, on a form~~
884 ~~acceptable to the department, attesting that she or he has~~
885 ~~completed the continuing education required in this section in~~
886 ~~accordance with the guidelines and provisions of this section~~
887 ~~and listing the date, location, sponsor, subject matter, and~~
888 ~~hours of completed continuing education courses. An~~ The
889 applicant shall retain in her or his records any ~~such~~ receipts,
890 vouchers, or certificates ~~as may be necessary to document~~
891 completion of such ~~the~~ continuing education courses ~~listed in~~
892 ~~accordance with this section. With cause, the board may request~~
893 ~~such documentation by the applicant, and the board may request~~
894 ~~such documentation from applicants selected at random without~~
895 ~~cause.~~ Compliance with the continuing education requirements is
896 ~~shall be~~ mandatory for issuance of the renewal certificate. The
897 board may ~~shall have the authority to~~ excuse licensees, as a
898 group or as individuals, from all or part of the continuing
899 educational requirements if, ~~or any part thereof, in the event~~
900 an unusual circumstance, emergency, or hardship has prevented
901 compliance with this section.

902 Section 22. Subsection (5) of section 466.032, Florida
903 Statutes, is amended to read:

904 466.032 Registration.—

905 (5) A ~~The~~ dental laboratory owner or at least one employee
906 of any dental laboratory renewing registration on or after July
907 1, 2010, shall complete 18 hours of continuing education
908 biennially. Programs of continuing education must ~~shall~~ be
909 programs of learning that contribute directly to the education



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of the dental technician and may include, but are not limited to, attendance at lectures, study clubs, college courses, or scientific sessions of conventions and research.

(a) The aim of continuing education for dental technicians is to improve dental health care delivery to the public as such is impacted through the design, manufacture, and use of artificial human oral prosthetics and related restorative appliances.

(b) Continuing education courses shall address one or more of the following areas of professional development, including, but not limited to:

1. Laboratory and technological subjects, including, but not limited to, laboratory techniques and procedures, materials, and equipment; and

2. Subjects pertinent to oral health, infection control, and safety.

(c) Programs that meet ~~meeting~~ the general requirements of continuing education may be developed and offered to dental technicians by the Florida Dental Laboratory Association and the Florida Dental Association. Other organizations, schools, or agencies may also be approved to develop and offer continuing education in accordance with specific criteria established by the department.

~~(d) Any dental laboratory renewing a registration on or after July 1, 2010, shall submit a sworn affidavit, on a form approved by the department, attesting that either the dental laboratory owner or one dental technician employed by the registered dental laboratory has completed the continuing education required in this subsection in accordance with the~~



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~~guidelines and provisions of this subsection and listing the date, location, sponsor, subject matter, and hours of completed continuing education courses. The dental laboratory shall retain in its records such receipts, vouchers, or certificates as may be necessary to document completion of the continuing education courses listed in accordance with this subsection. With cause, the department may request that the documentation be provided by the applicant. The department may also request the documentation from applicants selected at random without cause.~~

~~(d)(e)~~1. This subsection does not apply to a dental laboratory that is physically located within a dental practice operated by a dentist licensed under this chapter.

2. A dental laboratory in another state or country which provides service to a dentist licensed under this chapter is not required to register with the state and may continue to provide services to such dentist with a proper prescription. However, a dental laboratory in another state or country, ~~however~~, may voluntarily comply with this subsection.

Section 23. Section 468.1201, Florida Statutes, is repealed.

Section 24. Paragraph (a) of subsection (3), subsections (4) and (5), paragraphs (a) and (e) of subsection (6), and subsection (7) of section 483.901, Florida Statutes, are amended, and paragraph (k) is added to subsection (6) of that section, to read:

483.901 Medical physicists; definitions; licensure.—

(3) DEFINITIONS.—As used in this section, the term:

~~(a) "Council" means the Advisory Council of Medical Physicists in the Department of Health.~~



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~~(4) COUNCIL. The Advisory Council of Medical Physicists is created in the Department of Health to advise the department in regulating the practice of medical physics in this state.~~

~~(a) The council shall be composed of nine members appointed by the State Surgeon General as follows:~~

~~1. A licensed medical physicist who specializes in diagnostic radiological physics.~~

~~2. A licensed medical physicist who specializes in therapeutic radiological physics.~~

~~3. A licensed medical physicist who specializes in medical nuclear radiological physics.~~

~~4. A physician who is board certified by the American Board of Radiology or its equivalent.~~

~~5. A physician who is board certified by the American Osteopathic Board of Radiology or its equivalent.~~

~~6. A chiropractic physician who practices radiology.~~

~~7. Three consumer members who are not, and have never been, licensed as a medical physicist or licensed in any closely related profession.~~

~~(b) The State Surgeon General shall appoint the medical physicist members of the council from a list of candidates who are licensed to practice medical physics.~~

~~(c) The State Surgeon General shall appoint the physician members of the council from a list of candidates who are licensed to practice medicine in this state and are board certified in diagnostic radiology, therapeutic radiology, or radiation oncology.~~

~~(d) The State Surgeon General shall appoint the public members of the council.~~



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~~(e) As the term of each member expires, the State Surgeon General shall appoint the successor for a term of 4 years. A member shall serve until the member's successor is appointed, unless physically unable to do so.~~

~~(f) An individual is ineligible to serve more than two full consecutive 4-year terms.~~

~~(g) If a vacancy on the council occurs, the State Surgeon General shall appoint a member to serve for a 4-year term.~~

~~(h) A council member must be a United States citizen and must have been a resident of this state for 2 consecutive years immediately before being appointed.~~

~~1. A member of the council who is a medical physicist must have practiced for at least 6 years before being appointed or be board certified for the specialty in which the member practices.~~

~~2. A member of the council who is a physician must be licensed to practice medicine in this state and must have practiced diagnostic radiology or radiation oncology in this state for at least 2 years before being appointed.~~

~~3. The public members of the council must not have a financial interest in any endeavor related to the practice of medical physics.~~

~~(i) A council member may be removed from the council if the member:~~

~~1. Did not have the required qualifications at the time of appointment;~~

~~2. Does not maintain the required qualifications while serving on the council; or~~

~~3. Fails to attend the regularly scheduled council meetings in a calendar year as required by s. 456.011.~~



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~~(j) Members of the council may not receive compensation for their services; however, they are entitled to reimbursement, from funds deposited in the Medical Quality Assurance Trust Fund, for necessary travel expenses as specified in s. 112.061 for each day they engage in the business of the council.~~

~~(k) At the first regularly scheduled meeting of each calendar year, the council shall elect a presiding officer and an assistant presiding officer from among its members. The council shall meet at least once each year and at other times in accordance with department requirements.~~

~~(l) The department shall provide administrative support to the council for all licensing activities.~~

~~(m) The council may conduct its meetings electronically.~~

~~(5) POWERS OF COUNCIL.—The council shall:~~

~~(a) Recommend rules to administer this section.~~

~~(b) Recommend practice standards for the practice of medical physics which are consistent with the Guidelines for Ethical Practice for Medical Physicists prepared by the American Association of Physicists in Medicine and disciplinary guidelines adopted under s. 456.079.~~

~~(c) Develop and recommend continuing education requirements for licensed medical physicists.~~

~~(4)(6) LICENSE REQUIRED.—An individual may not engage in the practice of medical physics, including the specialties of diagnostic radiological physics, therapeutic radiological physics, medical nuclear radiological physics, or medical health physics, without a license issued by the department for the appropriate specialty.~~

~~(a) The department shall adopt rules to administer this~~



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section which specify license application and renewal fees, continuing education requirements, and standards for practicing medical physics. ~~The council shall recommend to the department continuing education requirements that shall be a condition of license renewal.~~ The department shall require a minimum of 24 hours per biennium of continuing education offered by an organization ~~recommended by the council and~~ approved by the department. The department, ~~upon recommendation of the council,~~ may adopt rules to specify continuing education requirements for persons who hold a license in more than one specialty.

(e) Upon ~~On~~ receipt of an application and fee as specified in this section, the department may issue a license to practice medical physics in this state ~~on or after October 1, 1997,~~ to a person who is board certified in the medical physics specialty in which the applicant applies to practice by the American Board of Radiology for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; by the American Board of Medical Physics for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; or by the American Board of Health Physics or an equivalent certifying body approved by the department.

(k) Upon proof of a completed residency program and receipt of the fee set forth by rule, the department may issue a temporary license for no more than 1 year. The department may adopt by rule requirements for temporary licensure and renewal of temporary licenses.

(5)(7) FEES.—The fee for the initial license application shall be \$500 and is nonrefundable. The fee for license renewal



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may not be more than \$500. These fees may cover only the costs incurred by the department ~~and the council~~ to administer this section. By July 1 each year, the department shall determine ~~advise the council~~ if the fees are insufficient to administer this section.

Section 25. Subsection (2) of section 484.047, Florida Statutes, is amended to read:

484.047 Renewal of license.—

(2) In addition to the other requirements for renewal provided in this section and by the board, the department shall renew a license upon receipt of the renewal application ~~and,~~ the renewal fee, ~~and a written statement affirming compliance with all other requirements set forth in this section and by the board.~~ A licensee must maintain, if applicable, a certificate from a manufacturer or independent testing agent certifying that the testing room meets the requirements of s. 484.0501(6) and, if applicable, a certificate from a manufacturer or independent testing agent stating that all audiometric testing equipment used by the licensee has been calibrated acoustically to American National Standards Institute standards on an annual basis ~~acoustically to American National Standards Institute standard specifications.~~ Possession of any applicable certificate is ~~the certificates shall be~~ a prerequisite to renewal.

Section 26. Subsections (1) and (4) of section 486.109, Florida Statutes, are amended to read:

486.109 Continuing education.—

(1) The board shall require licensees to ~~periodically~~ demonstrate their professional competence as a condition of



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renewal of a license by completing 24 hours of continuing education biennially.

(4) Each licensee shall maintain ~~be responsible for maintaining~~ sufficient records in a format as determined by rule which shall be subject to a random audit by the department to demonstrate ~~assure~~ compliance with this section.

Section 27. Paragraph (a) of subsection (15) of section 499.028, Florida Statutes, is amended to read:

499.028 Drug samples or complimentary drugs; starter packs; permits to distribute.-

(15) A person may not possess a prescription drug sample unless:

(a) The drug sample was prescribed to her or him as evidenced by the label required in s. 465.0276(4) ~~s. 465.0276(5)~~.

Section 28. Paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.-

(3) OFFENSE SEVERITY RANKING CHART

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.



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1137	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
1138	316.1935 (3) (b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
1139	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
1140	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
1141	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but



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1142			less than \$50,000.
	456.065 (2)	3rd	Practicing a health care profession without a license.
1143			
	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
1144			
	458.327 (1)	3rd	Practicing medicine without a license.
1145			
	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
1146			
	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
1147			
	461.012 (1)	3rd	Practicing podiatric medicine without a license.
1148			
	462.17	3rd	Practicing naturopathy without a license.
1149			



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1150	463.015 (1)	3rd	Practicing optometry without a license.
1151	464.016 (1)	3rd	Practicing nursing without a license.
1152	465.015 (2)	3rd	Practicing pharmacy without a license.
1153	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
1154	467.201	3rd	Practicing midwifery without a license.
1155	468.366	3rd	Delivering respiratory care services without a license.
1156	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
1157	<u>483.901 (7)</u> 483.901 (9)	3rd	Practicing medical physics without a license.
	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a



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1158			prescription.
	484.053	3rd	Dispensing hearing aids without a license.
1159			
	494.0018 (2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
1160			
	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
1161			
	560.125 (5) (a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
1162			
	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial



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			institution.
1163	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
1164	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
1165	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
1166	782.051 (3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
1167	782.07 (1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
1168			



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1169	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
1170	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
1171	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1172	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
1173	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1174	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
	784.048 (7)	3rd	Aggravated stalking;



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1175			violation of court order.
	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
1176			
	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
1177			
	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
1178			
	784.081 (1)	1st	Aggravated battery on specified official or employee.
1179			
	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
1180			
	784.083 (1)	1st	Aggravated battery on code inspector.
1181			
	787.06 (3) (a) 2.	1st	Human trafficking using coercion for labor and services of an adult.
1182			
	787.06 (3) (e) 2.	1st	Human trafficking using



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1183			coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
1183	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
1184	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
1185	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
1186	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1187	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.



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1188	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
1189	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
1190	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
1191	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
1192	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
1193	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim



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1194			younger than 12 years of age; offender younger than 18 years of age.
	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
1195			
	800.04 (5) (e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
1196			
	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
1197			
	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1198			
	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no



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1199			assault or battery.
	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1200			
	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1201			
	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
1202			
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1203			
	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
1204			
	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from



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1205			authorized emergency vehicle.
	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
1206			
	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
1207			
	812.131 (2) (a)	2nd	Robbery by sudden snatching.
1208			
	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1209			
	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
1210			
	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1211			
	817.234 (9)	2nd	Organizing, planning, or



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1212			participating in an intentional motor vehicle collision.
1213	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
1214	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
1215	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
1216	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
	825.103 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less



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			than \$50,000.
1217	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
1218	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
1219	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1220	838.015	2nd	Bribery.
1221	838.016	2nd	Unlawful compensation or reward for official behavior.
1222	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
1223	838.22	2nd	Bid tampering.
1224	843.0855 (2)	3rd	Impersonation of a public



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1225			officer or employee.
1226	843.0855 (3)	3rd	Unlawful simulation of legal process.
1227	843.0855 (4)	3rd	Intimidation of a public officer or employee.
1228	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1229	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1230	872.06	2nd	Abuse of a dead human body.
1231	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises



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1232

893.13(1)(c)1.

1st

criminal gang-related
activity.

1233

893.13(1)(e)1.

1st

Sell, manufacture, or
deliver cocaine (or other
drug prohibited under s.
893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or
(2)(c)4.) within 1,000
feet of a child care
facility, school, or
state, county, or
municipal park or publicly
owned recreational
facility or community
center.

1234

893.13(4)(a)

1st

Deliver to minor cocaine
(or other s. 893.03(1)(a),



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			(1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
1235	893.135 (1) (a) 1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
1236	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1237	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1238	893.135 (1) (c) 2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
1239	893.135 (1) (c) 2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
1240	893.135 (1) (c) 3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
1241	893.135	1st	Trafficking in oxycodone,



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	(1) (c) 3.b.		14 grams or more, less than 25 grams.
1242	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1243	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1244	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1245	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1246	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1247	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5



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1248			kilograms.
	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1249			
	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
1250			
	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1251			
	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
1252			
	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1253			



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1254	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1255	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
1256	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1257	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1258	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.
	944.607 (10) (a)	3rd	Sexual offender; failure to submit to the taking of



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1259			a digitized photograph.
	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1260			
	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1261			
	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1262			
	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1263			
	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification;



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providing false
registration information.

Section 29. This act shall take effect July 1, 2016.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to the Department of Health; amending s.
215.5602, F.S.; revising the reporting requirements for the
Biomedical Research Advisory Council under the James and Esther
King Biomedical Research Program; revising the reporting
requirements for entities that perform or are associated with
cancer research or care and that receive a specific
appropriation; amending s. 381.0034, F.S.; revising the
requirements for certain license applications; amending s.
381.82, F.S.; revising the reporting requirements for the
Alzheimer's Disease Research Grant Advisory Board under the Ed
and Ethel Moore Alzheimer's Disease Research Program; providing
for the carryforward of any unexpended balance of an
appropriation for the Ed and Ethel Moore Alzheimer's Disease
Research Program; amending s. 381.922, F.S.; requiring the
Biomedical Research Advisory Council under the William G. "Bill"
Bankhead, Jr., and David Coley Cancer Research Program to submit
a report to the Legislature; providing reporting requirements;
amending s. 401.27, F.S.; increasing the length of time a
certificate may remain in an inactive status; clarifying the



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1291 process for reactivating and renewing a certificate in an
1292 inactive status; authorizing emergency medical technicians or
1293 paramedics that are trained in the military to apply for
1294 certification; deleting a requirement that emergency medical
1295 technicians or paramedics who are trained outside the state or
1296 are trained in the military successfully complete a
1297 certification examination; amending s. 456.013, F.S.; revising
1298 course requirements for obtaining a certain license; amending s.
1299 456.024, F.S.; revising the eligibility criteria for certain
1300 members of the Armed Forces of the United States and their
1301 spouses to obtain licensure to practice as a health care
1302 practitioner in this state; authorizing the spouse of an active
1303 duty military member to be licensed as a health care
1304 practitioner in this state if he or she meets specified
1305 criteria; deleting temporary professional licensure for spouses
1306 of active duty members of the Armed Forces of the United States;
1307 creating s. 456.0241, F.S.; establishing a temporary certificate
1308 for active duty health care practitioners; defining terms;
1309 authorizing the department to issue a temporary certificate to
1310 active duty military health care practitioners to allow them to
1311 practice in specified professions; providing eligibility
1312 requirements; requiring the department to verify information
1313 submitted in support of establishing eligibility; providing for
1314 the automatic expiration of the temporary certificate within a
1315 specified time frame; providing for renewal of the temporary
1316 certificate if certain conditions are met; providing an
1317 exemption from specified requirements to military practitioners
1318 who apply for a temporary certificate; providing circumstances
1319 under which an applicant is ineligible to receive a temporary



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1320 certificate; requiring the department to adopt by rule
1321 application and renewal fees, which may not exceed a specified
1322 amount; requiring the department to adopt necessary rules;
1323 amending s. 456.025, F.S.; deleting the requirement for an
1324 annual meeting of chairpersons of Division of Medical Quality
1325 Assurance boards and councils; deleting the requirement that
1326 certain recommendations be included in a report to the
1327 Legislature; deleting a requirement that the Department of
1328 Health set license fees and recommend fee cap increases in
1329 certain circumstances; providing that a profession may operate
1330 at a deficit for a certain time period; deleting a provision
1331 authorizing the department to advance funds under certain
1332 circumstances; deleting a requirement that the department
1333 implement an electronic continuing education tracking system;
1334 authorizing the department to waive specified costs under
1335 certain circumstances; revising legislative intent; deleting a
1336 prohibition against the expenditure of funds by the department
1337 from the account of a profession to pay for the expenses of
1338 another profession; deleting a requirement that the department
1339 include certain information in an annual report to the
1340 Legislature; creating s. 456.0361, F.S.; requiring the
1341 department to establish an electronic continuing education
1342 tracking system; prohibiting the department from renewing a
1343 license unless the licensee has complied with all continuing
1344 education requirements; authorizing the department to adopt
1345 rules; amending s. 456.057, F.S.; revising a provision for a
1346 person or an entity appointed by the board to be approved by the
1347 department; authorizing the department to contract with a third
1348 party to provide record custodian services; amending s.



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1349 456.0635, F.S.; deleting a provision on applicability relating
1350 to the issuance of licenses; amending s. 457.107, F.S.; deleting
1351 a provision authorizing the Board of Acupuncture to request
1352 certain documentation from applicants; amending s. 458.347,
1353 F.S.; deleting a requirement that a physician assistant file a
1354 signed affidavit with the department; amending s. 460.402;
1355 providing an additional exception to licensure requirements for
1356 chiropractic physicians; amending s. 463.007, F.S.; making
1357 technical changes; amending s. 464.203, F.S.; revising inservice
1358 training requirements for certified nursing assistants; deleting
1359 a rulemaking requirement; repealing s. 464.2085, F.S., relating
1360 to the Council on Certified Nursing Assistants; amending s.
1361 465.0276, F.S.; deleting a requirement that the department
1362 inspect certain facilities; amending s. 466.0135, F.S.; deleting
1363 a requirement that a dentist file a signed affidavit with the
1364 department; deleting a provision authorizing the Board of
1365 Dentistry to request certain documentation from applicants;
1366 amending s. 466.014, F.S.; deleting a requirement that a dental
1367 hygienist file a signed affidavit with the department; deleting
1368 a provision authorizing the board to request certain
1369 documentation from applicants; amending s. 466.032, F.S.;
1370 deleting a requirement that a dental laboratory file a signed
1371 affidavit with the department; deleting a provision authorizing
1372 the department to request certain documentation from applicants;
1373 repealing s. 468.1201, F.S., relating to a requirement for
1374 instruction on human immunodeficiency virus and acquired immune
1375 deficiency syndrome; amending s. 483.901, F.S.; deleting
1376 provisions relating to the Advisory Council of Medical
1377 Physicists in the department; authorizing the department to



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1378 issue temporary licenses in certain circumstances; authorizing
1379 the department to adopt rules; amending s. 484.047, F.S.;
1380 deleting a requirement for a written statement from an applicant
1381 in certain circumstances; amending s. 486.109, F.S.; deleting a
1382 provision authorizing the department to conduct a random audit
1383 for certain information; amending ss. 499.028 and 921.0022,
1384 F.S.; conforming cross-references; providing an effective date.

By the Committee on Health Policy; and Senator Richter

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1 A bill to be entitled
 2 An act relating to licensure of health care
 3 professionals; amending s. 381.0034, F.S.; deleting
 4 the requirement that applicants making initial
 5 application for certain licensure complete certain
 6 courses; amending s. 456.013, F.S.; revising course
 7 requirements for renewing a certain license; amending
 8 s. 456.024, F.S.; providing for the issuance of a
 9 license to practice under certain conditions to a
 10 military health care practitioner in a profession for
 11 which licensure in a state or jurisdiction is not
 12 required to practice in the military; providing for
 13 the issuance of a temporary professional license under
 14 certain conditions to the spouse of an active duty
 15 member of the Armed Forces of the United States who is
 16 a healthcare practitioner in a profession for which
 17 licensure in a state or jurisdiction may not be
 18 required; deleting the requirement that an applicant
 19 who is issued a temporary professional license to
 20 practice as a dentist must practice under the indirect
 21 supervision of a licensed dentist; amending s.
 22 456.025, F.S.; deleting the requirement for an annual
 23 meeting of chairpersons of Division of Medical Quality
 24 Assurance boards and professions; deleting the
 25 requirement that certain recommendations be included
 26 in a report to the Legislature; deleting a requirement
 27 that the Department of Health set license fees and
 28 recommend fee cap increases in certain circumstances;
 29 providing that a profession may operate at a deficit
 30 for a certain time period; deleting a provision
 31 authorizing the department to advance funds under
 32 certain circumstances; deleting a requirement that the

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33 department implement an electronic continuing
 34 education tracking system; authorizing the department
 35 to waive specified costs under certain circumstances;
 36 revising legislative intent; deleting a prohibition
 37 against the expenditure of funds by the department
 38 from the account of a profession to pay for the
 39 expenses of another profession; deleting a requirement
 40 that the department include certain information in an
 41 annual report to the Legislature; creating s.
 42 456.0361, F.S.; requiring the department to establish
 43 an electronic continuing education tracking system;
 44 prohibiting the department from renewing a license
 45 unless the licensee has complied with all continuing
 46 education requirements; authorizing the department to
 47 adopt rules; amending s. 456.057, F.S.; revising a
 48 provision for a person or an entity appointed by a
 49 board to be approved by the department; authorizing
 50 the department to contract with a third party to
 51 provide record custodian services; amending s.
 52 456.0635, F.S.; deleting a provision on applicability
 53 relating to the issuance of licenses; amending s.
 54 457.107, F.S.; deleting a provision authorizing the
 55 Board of Acupuncture to request certain documentation
 56 from applicants; amending s. 458.347, F.S.; deleting a
 57 requirement that a physician assistant file a signed
 58 affidavit with the department; amending s. 463.007,
 59 F.S.; making technical changes; amending s. 464.203,
 60 F.S.; revising inservice training requirements for
 61 certified nursing assistants; deleting a rulemaking

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62 requirement; repealing s. 464.2085, F.S., relating to
 63 the Council on Certified Nursing Assistants; amending
 64 s. 465.0276, F.S.; deleting a requirement that the
 65 department inspect certain facilities; amending s.
 66 466.0135, F.S.; deleting a requirement that a dentist
 67 file a signed affidavit with the department; deleting
 68 a provision authorizing the Board of Dentistry to
 69 request certain documentation from applicants;
 70 amending s. 466.014, F.S.; deleting a requirement that
 71 a dental hygienist file a signed affidavit with the
 72 department; deleting a provision authorizing the board
 73 to request certain documentation from applicants;
 74 amending s. 466.032, F.S.; deleting a requirement that
 75 a dental laboratory file a signed affidavit with the
 76 department; deleting a provision authorizing the
 77 department to request certain documentation from
 78 applicants; repealing s. 468.1201, F.S., relating to a
 79 requirement for instruction on human immunodeficiency
 80 virus and acquired immune deficiency syndrome;
 81 amending s. 483.901, F.S.; deleting provisions
 82 relating to the Advisory Council of Medical Physicists
 83 in the department; authorizing the department to issue
 84 temporary licenses in certain circumstances;
 85 authorizing the department to adopt rules; amending s.
 86 484.047, F.S.; deleting a requirement for a written
 87 statement from an applicant in certain circumstances;
 88 amending s. 486.109, F.S.; deleting a provision
 89 authorizing the department to conduct a random audit
 90 for certain information; amending ss. 499.028 and

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91 921.0022, F.S.; conforming cross-references; providing
 92 an effective date.
 93

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

95
 96 Section 1. Subsection (3) of section 381.0034, Florida
 97 Statutes, is amended to read:

98 381.0034 Requirement for instruction on HIV and AIDS.—
 99 (3) The department shall require, as a condition of
 100 granting a license under chapter 467 or part III of chapter 483
 101 ~~the chapters specified in subsection (1)~~, that an applicant
 102 making initial application for licensure complete an educational
 103 course acceptable to the department on human immunodeficiency
 104 virus and acquired immune deficiency syndrome. Upon submission
 105 of an affidavit showing good cause, an applicant who has not
 106 taken a course at the time of licensure must ~~shall, upon an~~
 107 ~~affidavit showing good cause~~, be allowed 6 months to complete
 108 this requirement.

109 Section 2. Subsection (7) of section 456.013, Florida
 110 Statutes, is amended to read:

111 456.013 Department; general licensing provisions.—
 112 (7) The boards, or the department when there is no board,
 113 shall require the completion of a 2-hour course relating to
 114 prevention of medical errors as part of the biennial licensure
 115 ~~and~~ renewal process. The 2-hour course counts toward ~~shall count~~
 116 ~~towards~~ the total number of continuing education hours required
 117 for the profession. The course must ~~shall~~ be approved by the
 118 board or department, as appropriate, and must ~~shall~~ include a
 119 study of root-cause analysis, error reduction and prevention,

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and patient safety. In addition, the course approved by the Board of Medicine and the Board of Osteopathic Medicine must ~~shall~~ include information relating to the five most misdiagnosed conditions during the previous biennium, as determined by the board. If the course is being offered by a facility licensed pursuant to chapter 395 for its employees, the board may approve up to 1 hour of the 2-hour course to be specifically related to error reduction and prevention methods used in that facility.

Section 3. Paragraph (a) of subsection (3) and paragraphs (a) and (j) of subsection (4) of section 456.024, Florida Statutes, are amended to read:

456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses; licensure.-

(3) A person who serves or has served as a health care practitioner in the United States Armed Forces, United States Reserve Forces, or the National Guard or a person who serves or has served on active duty with the United States Armed Forces as a health care practitioner in the United States Public Health Service is eligible for licensure in this state. The department shall develop an application form, and each board, or the department if there is no board, shall waive the application fee, licensure fee, and unlicensed activity fee for such applicants. For purposes of this subsection, "health care practitioner" means a health care practitioner as defined in s. 456.001 and a person licensed under part III of chapter 401 or part IV of chapter 468.

(a) The board, or department if there is no board, shall issue a license to practice in this state to a person who:

1. Submits a complete application.

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2. Receives an honorable discharge within 6 months before, or will receive an honorable discharge within 6 months after, the date of submission of the application.

3. Holds an active, unencumbered license issued by another state, the District of Columbia, or a possession or territory of the United States and who has not had disciplinary action taken against him or her in the 5 years preceding the date of submission of the application, or who is a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required to practice in the United States Armed Services, who provides evidence of military training or experience substantially equivalent to the requirements for licensure in this state in that profession, and who obtained a passing score on the appropriate examination of a national or regional standards organization if required for licensure in this state.

4. Attests that he or she is not, at the time of submission, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying.

5. Actively practiced the profession for which he or she is applying for the 3 years preceding the date of submission of the application.

6. Submits a set of fingerprints for a background screening pursuant to s. 456.0135, if required for the profession for which he or she is applying.

The department shall verify information submitted by the

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applicant under this subsection using the National Practitioner Data Bank.

(4) (a) The board, or the department if there is no board, may issue a temporary professional license to the spouse of an active duty member of the Armed Forces of the United States who submits to the department:

1. A completed application upon a form prepared and furnished by the department in accordance with the board's rules;

2. The required application fee;

3. Proof that the applicant is married to a member of the Armed Forces of the United States who is on active duty;

4. Proof that the applicant holds a valid license for the profession issued by another state, the District of Columbia, or a possession or territory of the United States, and is not the subject of any disciplinary proceeding in any jurisdiction in which the applicant holds a license to practice a profession regulated by this chapter; or proof that the applicant is a practitioner of health care in a profession for which licensure in another state or jurisdiction is not required, has training or experience substantially equivalent to the requirements for licensure in this state in that profession, and has obtained a passing score on the appropriate examination of a national or regional standards organization if required for licensure in this state; and

5. Proof that the applicant's spouse is assigned to a duty station in this state pursuant to the member's official active duty military orders; ~~and~~

~~6. Proof that the applicant would otherwise be entitled to~~

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~~full licensure under the appropriate practice act, and is eligible to take the respective licensure examination as required in Florida.~~

~~(j) An applicant who is issued a temporary professional license to practice as a dentist pursuant to this section must practice under the indirect supervision, as defined in s. 466.003, of a dentist licensed pursuant to chapter 466.~~

Section 4. Present subsections (3) through (11) of section 456.025, Florida Statutes, are redesignated as subsections (2) through (10), respectively, and present subsections (2), (3), (7), and (8) of that section are amended, to read:

456.025 Fees; receipts; disposition.—

~~(2) The chairpersons of the boards and councils listed in s. 20.43(3)(g) shall meet annually at division headquarters to review the long-range policy plan required by s. 456.005 and current and proposed fee schedules. The chairpersons shall make recommendations for any necessary statutory changes relating to fees and fee caps. Such recommendations shall be compiled by the Department of Health and be included in the annual report to the Legislature required by s. 456.026 as well as be included in the long-range policy plan required by s. 456.005.~~

(2)(3) Each board within the jurisdiction of the department, or the department when there is no board, shall determine by rule the amount of license fees for the profession it regulates, based upon long-range estimates prepared by the department of the revenue required to implement laws relating to the regulation of professions by the department and the board. Each board, or the department if there is no board, shall ensure that license fees are adequate to cover all anticipated costs

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and to maintain a reasonable cash balance, as determined by rule of the agency, with advice of the applicable board. ~~If sufficient action is not taken by a board within 1 year after notification by the department that license fees are projected to be inadequate, the department shall set license fees on behalf of the applicable board to cover anticipated costs and to maintain the required cash balance. The department shall include recommended fee cap increases in its annual report to the Legislature.~~ Further, it is the intent of the Legislature legislative intent that a regulated profession not operate with a negative cash balance. If, however, a profession's fees are at their statutory fee cap and the requirements of subsections (1) and (4) are met, a profession may operate at a deficit until the deficit is eliminated The department may provide by rule for advancing sufficient funds to any profession operating with a negative cash balance. The advancement may be for a period not to exceed 2 consecutive years, and the regulated profession must pay interest. Interest shall be calculated at the current rate earned on investments of a trust fund used by the department to implement this chapter. Interest earned shall be allocated to the various funds in accordance with the allocation of investment earnings during the period of the advance.

(6)(7) Each board, or the department if there is no board, shall establish, by rule, a fee of up to not to exceed \$250 for anyone seeking approval to provide continuing education courses or programs and ~~shall establish by rule~~ a biennial renewal fee of up to not to exceed \$250 for the renewal of an approval to provide providership of such courses. The fees collected from

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~~continuing education providers~~ shall be used for the purposes of reviewing course provider applications, monitoring the integrity of the courses provided, covering legal expenses incurred as a result of not granting or renewing an approval a providership, and developing and maintaining an electronic continuing education tracking system pursuant to s. 456.0361. ~~The department shall implement an electronic continuing education tracking system for each new biennial renewal cycle for which electronic renewals are implemented after the effective date of this act and shall integrate such system into the licensure and renewal system.~~ All approved continuing education providers shall provide information on course attendance to the department necessary to implement the electronic tracking system. The department shall, by rule, specify the form and procedures by which the information is to be submitted.

(7)(8) All moneys collected by the department from fees or fines or from costs awarded to the agency by a court shall be paid into a trust fund used by the department to implement this chapter. The Legislature shall appropriate funds from this trust fund sufficient to administer ~~carry out~~ this chapter and the provisions of law with respect to professions regulated by the Division of Medical Quality Assurance within the department and the boards. The department may contract with public and private entities to receive and deposit revenue pursuant to this section. The department shall maintain separate accounts in the trust fund used by the department to implement this chapter for every profession within the department. To the maximum extent possible, the department shall directly charge all expenses to the account of each regulated profession. For the purpose of

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294 this subsection, direct charge expenses include, but are not
 295 limited to, costs for investigations, examinations, and legal
 296 services. For expenses that cannot be charged directly, the
 297 department shall provide for the proportionate allocation among
 298 the accounts of expenses incurred by the department in the
 299 performance of its duties with respect to each regulated
 300 profession. If a profession has established renewal fees that
 301 meet the requirements of subsection (1), has fees that are at
 302 the statutory fee cap, and has been operating in a deficit for 2
 303 or more fiscal years, the department may waive allocated
 304 administrative and operational indirect costs until such time as
 305 the profession has a positive cash balance. The costs related to
 306 administration and operations include, but are not limited to,
 307 the costs of the director's office and the costs of system
 308 support, communications, central records, and other such
 309 administrative functions. Such waived costs shall be allocated
 310 to the other professions that must meet the requirements of this
 311 section, and cash in the unlicensed activity account under s.
 312 456.065 of the profession whose costs have been waived shall be
 313 transferred to the operating account in an amount not to exceed
 314 the amount of the deficit. The regulation by the department of
 315 professions, as defined in this chapter, must shall be financed
 316 solely from revenue collected by the department it from fees and
 317 other charges and deposited in the Medical Quality Assurance
 318 Trust Fund, and all such revenue is hereby appropriated to the
 319 department, which. However, it is legislative intent that each
 320 profession shall operate within its anticipated fees. The
 321 department may not expend funds from the account of a profession
 322 to pay for the expenses incurred on behalf of another

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323 ~~profession, except that the Board of Nursing must pay for any~~
 324 ~~costs incurred in the regulation of certified nursing~~
 325 ~~assistants. The department shall maintain adequate records to~~
 326 ~~support its allocation of agency expenses. The department shall~~
 327 ~~provide any board with reasonable access to these records upon~~
 328 ~~request. On or before October 1 of each year, the department~~
 329 ~~shall provide each board an annual report of revenue and direct~~
 330 ~~and allocated expenses related to the operation of that~~
 331 ~~profession. The board shall use these reports and the~~
 332 ~~department's adopted long-range plan to determine the amount of~~
 333 ~~license fees. A condensed version of this information, with the~~
 334 ~~department's recommendations, shall be included in the annual~~
 335 ~~report to the Legislature prepared under s. 456.026.~~

336 Section 5. Section 456.0361, Florida Statutes, is created
 337 to read:

338 456.0361 Compliance with continuing education
 339 requirements.—

340 (1) The department shall establish an electronic continuing
 341 education tracking system to monitor licensee compliance with
 342 applicable continuing education requirements and to determine
 343 whether a licensee is in full compliance with the requirements
 344 at the time of his or her application for license renewal. The
 345 tracking system shall be integrated into the department's
 346 licensure and renewal process.

347 (2) The department may not renew a license until the
 348 licensee complies with all applicable continuing education
 349 requirements. This subsection does not prohibit the department
 350 or the boards from imposing additional penalties under the
 351 applicable professional practice act or applicable rules for

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failure to comply with continuing education requirements.

(3) The department may adopt rules to implement this section.

Section 6. Subsection (20) of section 456.057, Florida Statutes, is amended to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished; disclosure of information.—

(20) The board with department approval, or department when there is no board, may temporarily or permanently appoint a person or an entity as a custodian of medical records in the event of the death of a practitioner, the mental or physical incapacitation of a ~~the~~ practitioner, or the abandonment of medical records by a practitioner. Such ~~The~~ custodian ~~appointed~~ shall comply with all provisions of this section. The department may contract with a third party to provide these services under the confidentiality and disclosure requirements of this section, ~~including the release of patient records.~~

Section 7. Subsection (2) of section 456.0635, Florida Statutes, is amended to read:

456.0635 Health care fraud; disqualification for license, certificate, or registration.—

(2) Each board within the jurisdiction of the department, or the department if there is no board, shall refuse to admit a candidate to any examination and refuse to issue a license, certificate, or registration to any applicant if the candidate or applicant or any principal, officer, agent, managing employee, or affiliated person of the applicant:

(a) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under

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chapter 409, chapter 817, or chapter 893, or a similar felony offense committed in another state or jurisdiction, unless the candidate or applicant has successfully completed a drug court program for that felony and provides proof that the plea has been withdrawn or the charges have been dismissed. Any such conviction or plea shall exclude the applicant or candidate from licensure, examination, certification, or registration unless the sentence and any subsequent period of probation for such conviction or plea ended:

1. For felonies of the first or second degree, more than 15 years before the date of application.

2. For felonies of the third degree, more than 10 years before the date of application, except for felonies of the third degree under s. 893.13(6)(a).

3. For felonies of the third degree under s. 893.13(6)(a), more than 5 years before the date of application;

(b) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the sentence and any subsequent period of probation for such conviction or plea ended more than 15 years before the date of the application;

(c) Has been terminated for cause from the Florida Medicaid program pursuant to s. 409.913, unless the candidate or applicant has been in good standing with the Florida Medicaid program for the most recent 5 years;

(d) Has been terminated for cause, pursuant to the appeals procedures established by the state, from any other state Medicaid program, unless the candidate or applicant has been in

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good standing with a state Medicaid program for the most recent 5 years and the termination occurred at least 20 years before the date of the application; or

(e) Is currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities.

~~This subsection does not apply to candidates or applicants for initial licensure or certification who were enrolled in an educational or training program on or before July 1, 2009, which was recognized by a board or, if there is no board, recognized by the department, and who applied for licensure after July 1, 2012.~~

Section 8. Subsection (3) of section 457.107, Florida Statutes, is amended to read:

457.107 Renewal of licenses; continuing education.—

(3) The board shall ~~by rule~~ prescribe by rule continuing education requirements of up to, ~~not to exceed~~ 30 hours biennially, as a condition for renewal of a license. All education programs that contribute to the advancement, extension, or enhancement of professional skills and knowledge related to the practice of acupuncture, whether conducted by a nonprofit or profitmaking entity, are eligible for approval. The continuing professional education requirements must be in acupuncture or oriental medicine subjects, including, but not limited to, anatomy, biological sciences, adjunctive therapies, sanitation and sterilization, emergency protocols, and diseases. The board may ~~shall have the authority to~~ set a fee of up to, ~~not to exceed~~ \$100, for each continuing education provider. The

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licensee shall retain in his or her records the certificates of completion of continuing professional education requirements ~~to prove compliance with this subsection. The board may request such documentation without cause from applicants who are selected at random.~~ All national and state acupuncture and oriental medicine organizations and acupuncture and oriental medicine schools are approved to provide continuing professional education in accordance with this subsection.

Section 9. Paragraph (e) of subsection (4) of section 458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervisory physician's practice unless such medication is listed on the formulary created pursuant to paragraph (f). A fully licensed physician assistant may only prescribe or dispense such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that he or she is a physician assistant and, ~~Furthermore, the physician assistant must~~ inform the patient that the patient has the right to see the physician before a ~~prior to any~~ prescription is being ~~is being~~ prescribed or dispensed by the physician assistant.

2. The supervisory physician must notify the department of his or her intent to delegate, on a department-approved form, before delegating such authority and ~~notify the department of~~ any change in prescriptive privileges of the physician

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assistant. Authority to dispense may be delegated only by a supervising physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must complete file with the ~~department a signed affidavit that he or she has completed a~~ minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

4. The department may issue a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the ~~foregoing~~ requirements of this paragraph. The physician assistant is ~~shall not be~~ required to independently register pursuant to s. 465.0276.

5. The prescription must be written in a form that complies with chapter 499 and, in addition to the supervisory physician's name, address, and telephone number, ~~in addition to the supervisory physician's name, address, and telephone number,~~ the physician assistant's prescriber number. Unless it is a drug or drug sample dispensed by the physician assistant, the prescription must be filled in a pharmacy permitted under chapter 465 and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The inclusion ~~appearance~~ of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

6. The physician assistant must note the prescription or dispensing of medication in the appropriate medical record.

Section 10. Subsection (3) of section 463.007, Florida

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Statutes, is amended to read:

463.007 Renewal of license; continuing education.—

(3) As a condition of license renewal, a licensee must ~~Unless otherwise provided by law, the board shall require licensees to periodically demonstrate his or her their~~ professional competence, ~~as a condition of renewal of a license,~~ by completing up to 30 hours of continuing education during the 2-year period preceding license renewal. For certified optometrists, the 30-hour continuing education requirement includes ~~shall include~~ 6 or more hours of approved transcript-quality coursework in ocular and systemic pharmacology and the diagnosis, treatment, and management of ocular and systemic conditions and diseases during the 2-year period preceding application for license renewal.

Section 11. Subsection (7) of section 464.203, Florida Statutes, is amended to read:

464.203 Certified nursing assistants; certification requirement.—

(7) A certified nursing assistant shall complete 24 ~~12~~ hours of inservice training during each biennium ~~calendar year~~. The certified nursing assistant shall maintain ~~be responsible for maintaining~~ documentation demonstrating compliance with these provisions. ~~The Council on Certified Nursing Assistants, in accordance with s. 464.2085(2)(b), shall propose rules to implement this subsection.~~

Section 12. Section 464.2085, Florida Statutes, is repealed.

Section 13. Paragraph (b) of subsection (1) and subsection (3) of section 465.0276, Florida Statutes, are amended to read:

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526 465.0276 Dispensing practitioner.—

527 (1)

528 (b) A practitioner registered under this section may not
529 dispense a controlled substance listed in Schedule II or
530 Schedule III as provided in s. 893.03. This paragraph does not
531 apply to:

532 1. The dispensing of complimentary packages of medicinal
533 drugs which are labeled as a drug sample or complimentary drug
534 as defined in s. 499.028 to the practitioner's own patients in
535 the regular course of her or his practice without the payment of
536 a fee or remuneration of any kind, whether direct or indirect,
537 as provided in subsection (4) ~~subsection (5)~~.

538 2. The dispensing of controlled substances in the health
539 care system of the Department of Corrections.

540 3. The dispensing of a controlled substance listed in
541 Schedule II or Schedule III in connection with the performance
542 of a surgical procedure. The amount dispensed pursuant to the
543 subparagraph may not exceed a 14-day supply. This exception does
544 not allow for the dispensing of a controlled substance listed in
545 Schedule II or Schedule III more than 14 days after the
546 performance of the surgical procedure. For purposes of this
547 subparagraph, the term "surgical procedure" means any procedure
548 in any setting which involves, or reasonably should involve:

549 a. Perioperative medication and sedation that allows the
550 patient to tolerate unpleasant procedures while maintaining
551 adequate cardiorespiratory function and the ability to respond
552 purposefully to verbal or tactile stimulation and makes intra-
553 and postoperative monitoring necessary; or

554 b. The use of general anesthesia or major conduction

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555 anesthesia and preoperative sedation.

556 4. The dispensing of a controlled substance listed in
557 Schedule II or Schedule III pursuant to an approved clinical
558 trial. For purposes of this subparagraph, the term "approved
559 clinical trial" means a clinical research study or clinical
560 investigation that, in whole or in part, is state or federally
561 funded or is conducted under an investigational new drug
562 application that is reviewed by the United States Food and Drug
563 Administration.

564 5. The dispensing of methadone in a facility licensed under
565 s. 397.427 where medication-assisted treatment for opiate
566 addiction is provided.

567 6. The dispensing of a controlled substance listed in
568 Schedule II or Schedule III to a patient of a facility licensed
569 under part IV of chapter 400.

570 ~~(3) The department shall inspect any facility where a~~
571 ~~practitioner dispenses medicinal drugs pursuant to subsection~~
572 ~~(2) in the same manner and with the same frequency as it~~
573 ~~inspects pharmacies for the purpose of determining whether the~~
574 ~~practitioner is in compliance with all statutes and rules~~
575 ~~applicable to her or his dispensing practice.~~

576 Section 14. Subsection (3) of section 466.0135, Florida
577 Statutes, is amended to read:

578 466.0135 Continuing education; dentists.—

579 (3) A ~~In applying for license renewal,~~ the dentist shall
580 complete ~~submit a sworn affidavit, on a form acceptable to the~~
581 department, attesting that she or he has completed the required
582 continuing education as provided ~~required~~ in this section ~~in~~
583 ~~accordance with the guidelines and provisions of this section~~

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and listing the date, location, sponsor, subject matter, and hours of completed continuing education courses. An The applicant shall retain in her or his records any such receipts, vouchers, or certificates ~~as may be necessary to document completion of such the continuing education courses listed in accordance with this subsection. With cause, the board may request such documentation by the applicant, and the board may request such documentation from applicants selected at random without cause.~~

Section 15. Section 466.014, Florida Statutes, is amended to read:

466.014 Continuing education; dental hygienists.—In addition to the other requirements for relicensure for dental hygienists set out in this chapter ~~act~~, the board shall require each licensed dental hygienist to complete at least not less than 24 hours but not ~~or~~ more than 36 hours of continuing professional education in dental subjects, biennially, in programs prescribed or approved by the board or in equivalent programs of continuing education. Programs of continuing education approved by the board are ~~shall be~~ programs of learning which, in the opinion of the board, contribute directly to the dental education of the dental hygienist. The board shall adopt rules and guidelines to administer and enforce ~~the provisions of this section. In applying for license renewal, the dental hygienist shall submit a sworn affidavit, on a form acceptable to the department, attesting that she or he has completed the continuing education required in this section in accordance with the guidelines and provisions of this section and listing the date, location, sponsor, subject matter, and~~

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~~hours of completed continuing education courses. An~~ The applicant shall retain in her or his records any such receipts, vouchers, or certificates ~~as may be necessary to document completion of such the continuing education courses listed in accordance with this section. With cause, the board may request such documentation by the applicant, and the board may request such documentation from applicants selected at random without~~ ~~cause.~~ Compliance with the continuing education requirements is ~~shall be~~ mandatory for issuance of the renewal certificate. The board may ~~shall have the authority to~~ excuse licensees, as a group or as individuals, from all or part of the continuing educational requirements if, or any part thereof, in the event ~~an unusual circumstance, emergency, or hardship has prevented compliance with this section.~~

Section 16. Subsection (5) of section 466.032, Florida Statutes, is amended to read:

466.032 Registration.—

(5) A ~~The~~ dental laboratory owner or at least one employee of any dental laboratory renewing registration on or after July 1, 2010, shall complete 18 hours of continuing education biennially. Programs of continuing education must ~~shall~~ be programs of learning that contribute directly to the education of the dental technician and may include, but are not limited to, attendance at lectures, study clubs, college courses, or scientific sessions of conventions and research.

(a) The aim of continuing education for dental technicians is to improve dental health care delivery to the public as such is impacted through the design, manufacture, and use of artificial human oral prosthetics and related restorative

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642 appliances.

643 (b) Continuing education courses shall address one or more
644 of the following areas of professional development, including,
645 but not limited to:

646 1. Laboratory and technological subjects, including, but
647 not limited to, laboratory techniques and procedures, materials,
648 and equipment; and

649 2. Subjects pertinent to oral health, infection control,
650 and safety.

651 (c) Programs that meet ~~meeting~~ the general requirements of
652 continuing education may be developed and offered to dental
653 technicians by the Florida Dental Laboratory Association and the
654 Florida Dental Association. Other organizations, schools, or
655 agencies may also be approved to develop and offer continuing
656 education in accordance with specific criteria established by
657 the department.

658 ~~(d) Any dental laboratory renewing a registration on or~~
659 ~~after July 1, 2010, shall submit a sworn affidavit, on a form~~
660 ~~approved by the department, attesting that either the dental~~
661 ~~laboratory owner or one dental technician employed by the~~
662 ~~registered dental laboratory has completed the continuing~~
663 ~~education required in this subsection in accordance with the~~
664 ~~guidelines and provisions of this subsection and listing the~~
665 ~~date, location, sponsor, subject matter, and hours of completed~~
666 ~~continuing education courses. The dental laboratory shall retain~~
667 ~~in its records such receipts, vouchers, or certificates as may~~
668 ~~be necessary to document completion of the continuing education~~
669 ~~courses listed in accordance with this subsection. With cause,~~
670 ~~the department may request that the documentation be provided by~~

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671 ~~the applicant. The department may also request the documentation~~
672 ~~from applicants selected at random without cause.~~

673 ~~(d)(e)~~1. This subsection does not apply to a dental
674 laboratory that is physically located within a dental practice
675 operated by a dentist licensed under this chapter.

676 2. A dental laboratory in another state or country which
677 provides service to a dentist licensed under this chapter is not
678 required to register with the state and may continue to provide
679 services to such dentist with a proper prescription. However, a
680 dental laboratory in another state or country, ~~however,~~ may
681 voluntarily comply with this subsection.

682 Section 17. Section 468.1201, Florida Statutes, is
683 repealed.

684 Section 18. Paragraph (a) of subsection (3), subsections
685 (4) and (5), paragraphs (a) and (e) of subsection (6), and
686 subsection (7) of section 483.901, Florida Statutes, are
687 amended, and paragraph (k) is added to subsection (6) of that
688 section, to read:

689 483.901 Medical physicists; definitions; licensure.—

690 (3) DEFINITIONS.—As used in this section, the term:

691 ~~(a) "Council" means the Advisory Council of Medical~~
692 ~~Physicists in the Department of Health.~~

693 ~~(4) COUNCIL.—The Advisory Council of Medical Physicists is~~
694 ~~created in the Department of Health to advise the department in~~
695 ~~regulating the practice of medical physics in this state.~~

696 ~~(a) The council shall be composed of nine members appointed~~
697 ~~by the State Surgeon General as follows:~~

698 1. A licensed medical physicist who specializes in
699 diagnostic radiological physics.

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2. ~~A licensed medical physieist who specializes in therapeutic radiological physics.~~

3. ~~A licensed medical physieist who specializes in medical nuclear radiological physics.~~

4. ~~A physician who is board certified by the American Board of Radiology or its equivalent.~~

5. ~~A physician who is board certified by the American Osteopathic Board of Radiology or its equivalent.~~

6. ~~A chiropractic physician who practices radiology.~~

7. ~~Three consumer members who are not, and have never been, licensed as a medical physieist or licensed in any closely related profession.~~

(b) ~~The State Surgeon General shall appoint the medical physieist members of the council from a list of candidates who are licensed to practice medical physics.~~

(c) ~~The State Surgeon General shall appoint the physician members of the council from a list of candidates who are licensed to practice medicine in this state and are board certified in diagnostic radiology, therapeutic radiology, or radiation oncology.~~

(d) ~~The State Surgeon General shall appoint the public members of the council.~~

(e) ~~As the term of each member expires, the State Surgeon General shall appoint the successor for a term of 4 years. A member shall serve until the member's successor is appointed, unless physically unable to do so.~~

(f) ~~An individual is ineligible to serve more than two full consecutive 4 year terms.~~

(g) ~~If a vacancy on the council occurs, the State Surgeon~~

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General ~~shall appoint a member to serve for a 4-year term.~~

(h) ~~A council member must be a United States citizen and must have been a resident of this state for 2 consecutive years immediately before being appointed.~~

1. ~~A member of the council who is a medical physieist must have practiced for at least 6 years before being appointed or be board certified for the specialty in which the member practices.~~

2. ~~A member of the council who is a physician must be licensed to practice medicine in this state and must have practiced diagnostic radiology or radiation oncology in this state for at least 2 years before being appointed.~~

3. ~~The public members of the council must not have a financial interest in any endeavor related to the practice of medical physics.~~

(i) ~~A council member may be removed from the council if the member:~~

1. ~~Did not have the required qualifications at the time of appointment;~~

2. ~~Does not maintain the required qualifications while serving on the council; or~~

3. ~~Fails to attend the regularly scheduled council meetings in a calendar year as required by s. 456.011.~~

(j) ~~Members of the council may not receive compensation for their services; however, they are entitled to reimbursement, from funds deposited in the Medical Quality Assurance Trust Fund, for necessary travel expenses as specified in s. 112.061 for each day they engage in the business of the council.~~

(k) ~~At the first regularly scheduled meeting of each calendar year, the council shall elect a presiding officer and~~

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an assistant presiding officer from among its members. The council shall meet at least once each year and at other times in accordance with department requirements.

~~(1) The department shall provide administrative support to the council for all licensing activities.~~

~~(m) The council may conduct its meetings electronically.~~

~~(5) POWERS OF COUNCIL. The council shall:~~

~~(a) Recommend rules to administer this section.~~

~~(b) Recommend practice standards for the practice of medical physics which are consistent with the Guidelines for Ethical Practice for Medical Physicists prepared by the American Association of Physicists in Medicine and disciplinary guidelines adopted under s. 456.079.~~

~~(c) Develop and recommend continuing education requirements for licensed medical physicists.~~

(4)(6) LICENSE REQUIRED.—An individual may not engage in the practice of medical physics, including the specialties of diagnostic radiological physics, therapeutic radiological physics, medical nuclear radiological physics, or medical health physics, without a license issued by the department for the appropriate specialty.

(a) The department shall adopt rules to administer this section which specify license application and renewal fees, continuing education requirements, and standards for practicing medical physics. ~~The council shall recommend to the department continuing education requirements that shall be a condition of license renewal.~~ The department shall require a minimum of 24 hours per biennium of continuing education offered by an organization ~~recommended by the council and approved by the~~

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department. The department, ~~upon recommendation of the council,~~ may adopt rules to specify continuing education requirements for persons who hold a license in more than one specialty.

(e) Upon ~~On~~ receipt of an application and fee as specified in this section, the department may issue a license to practice medical physics in this state ~~on or after October 1, 1997,~~ to a person who is board certified in the medical physics specialty in which the applicant applies to practice by the American Board of Radiology for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; by the American Board of Medical Physics for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; or by the American Board of Health Physics or an equivalent certifying body approved by the department.

(k) Upon proof of a completed residency program and receipt of the fee set forth by rule, the department may issue a temporary license for no more than 1 year. The department may adopt by rule requirements for temporary licensure and renewal of temporary licenses.

(5)(7) FEES.—The fee for the initial license application shall be \$500 and is nonrefundable. The fee for license renewal may not be more than \$500. These fees may cover only the costs incurred by the department ~~and the council~~ to administer this section. By July 1 each year, the department shall determine ~~advise the council~~ if the fees are insufficient to administer this section.

Section 19. Subsection (2) of section 484.047, Florida Statutes, is amended to read:

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816 484.047 Renewal of license.—

817 (2) In addition to the other requirements for renewal
 818 provided in this section and by the board, the department shall
 819 renew a license upon receipt of the renewal application and, the
 820 renewal fee, and a written statement affirming compliance with
 821 all other requirements set forth in this section and by the
 822 board. A licensee must maintain, if applicable, a certificate
 823 from a manufacturer or independent testing agent certifying that
 824 the testing room meets the requirements of s. 484.0501(6) and,
 825 if applicable, a certificate from a manufacturer or independent
 826 testing agent stating that all audiometric testing equipment
 827 used by the licensee has been calibrated acoustically to
 828 American National Standards Institute standards on an annual
 829 basis acoustically to American National Standards Institute
 830 standard specifications. Possession of any applicable
 831 certificate is the certificates shall be a prerequisite to
 832 renewal.

833 Section 20. Subsections (1) and (4) of section 486.109,
 834 Florida Statutes, are amended to read:

835 486.109 Continuing education.—

836 (1) The board shall require licensees to ~~periodically~~
 837 demonstrate their professional competence as a condition of
 838 renewal of a license by completing 24 hours of continuing
 839 education biennially.

840 (4) Each licensee shall maintain ~~be responsible for~~
 841 ~~maintaining~~ sufficient records ~~in a format as determined by rule~~
 842 ~~which shall be subject to a random audit by the department to~~
 843 demonstrate ~~assure~~ compliance with this section.

844 Section 21. Paragraph (a) of subsection (15) of section

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845 499.028, Florida Statutes, is amended to read:

846 499.028 Drug samples or complimentary drugs; starter packs;
 847 permits to distribute.—

848 (15) A person may not possess a prescription drug sample
 849 unless:

850 (a) The drug sample was prescribed to her or him as
 851 evidenced by the label required in s. 465.0276(4) ~~or~~
 852 ~~465.0276(5).~~

853 Section 22. Paragraph (g) of subsection (3) of section
 854 921.0022, Florida Statutes, is amended to read:

855 921.0022 Criminal Punishment Code; offense severity ranking
 856 chart.—

857 (3) OFFENSE SEVERITY RANKING CHART

858 (g) LEVEL 7

859

Florida Statute	Felony Degree	Description
860 316.027(2) (c)	1st	Accident involving death, failure to stop; leaving scene.
861 316.193(3) (c)2.	3rd	DUI resulting in serious bodily injury.
862 316.1935(3) (b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton

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			disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
863	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
864	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
865	409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
866	409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
867	456.065(2)	3rd	Practicing a health care profession without a license.
868	456.065(2)	2nd	Practicing a health care

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			profession without a license which results in serious bodily injury.
869	458.327(1)	3rd	Practicing medicine without a license.
870	459.013(1)	3rd	Practicing osteopathic medicine without a license.
871	460.411(1)	3rd	Practicing chiropractic medicine without a license.
872	461.012(1)	3rd	Practicing podiatric medicine without a license.
873	462.17	3rd	Practicing naturopathy without a license.
874	463.015(1)	3rd	Practicing optometry without a license.
875	464.016(1)	3rd	Practicing nursing without a license.
876	465.015(2)	3rd	Practicing pharmacy

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			without a license.
877	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
878	467.201	3rd	Practicing midwifery without a license.
879	468.366	3rd	Delivering respiratory care services without a license.
880	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
881	<u>483.901(7)</u> 483.901(9)	3rd	Practicing medical physics without a license.
882	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
883	484.053	3rd	Dispensing hearing aids without a license.
884	494.0018(2)	1st	Conviction of any violation of chapter 494

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			in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
885	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
886	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
887	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
888	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.

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889	588-02036-16	2016918c1	
	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
890	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
891	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
892	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
893	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
894			

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	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
895	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
896	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
897	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
898	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
899	784.048(7)	3rd	Aggravated stalking; violation of court order.
900	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
901	784.074(1)(a)	1st	Aggravated battery on sexually violent predators

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			facility staff.
902	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
903	784.081(1)	1st	Aggravated battery on specified official or employee.
904	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
905	784.083(1)	1st	Aggravated battery on code inspector.
906	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
907	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
908	790.07(4)	1st	Specified weapons

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			violation subsequent to previous conviction of s. 790.07(1) or (2).
909	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
910	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
911	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
912	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
913	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.

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914	588-02036-16	2016918c1	
	790.23	1st, PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
915	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
916	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
917	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
918	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
919	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but

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			younger than 16 years of age; offender 18 years of age or older.
920	800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
921	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
922	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
923	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
924	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
925	810.02(3)(e)	2nd	Burglary of authorized

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			emergency vehicle.
926	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
927	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
928	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
929	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
930	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
931			

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	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
932	812.131 (2) (a)	2nd	Robbery by sudden snatching.
933	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
934	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
935	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
936	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
937	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
938			

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	817.2341	1st	Making false entries of
	(2) (b) & (3) (b)		material fact or false
			statements regarding
			property values relating
			to the solvency of an
			insuring entity which are
			a significant cause of the
			insolvency of that entity.
939			
	817.535(2) (a)	3rd	Filing false lien or other
			unauthorized document.
940			
	825.102(3) (b)	2nd	Neglecting an elderly
			person or disabled adult
			causing great bodily harm,
			disability, or
			disfigurement.
941			
	825.103(3) (b)	2nd	Exploiting an elderly
			person or disabled adult
			and property is valued at
			\$10,000 or more, but less
			than \$50,000.
942			
	827.03(2) (b)	2nd	Neglect of a child causing
			great bodily harm,
			disability, or
			disfigurement.
943			

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	827.04(3)	3rd	Impregnation of a child
			under 16 years of age by
			person 21 years of age or
			older.
944			
	837.05(2)	3rd	Giving false information
			about alleged capital
			felony to a law
			enforcement officer.
945			
	838.015	2nd	Bribery.
946			
	838.016	2nd	Unlawful compensation or
			reward for official
			behavior.
947			
	838.021(3) (a)	2nd	Unlawful harm to a public
			servant.
948			
	838.22	2nd	Bid tampering.
949			
	843.0855(2)	3rd	Impersonation of a public
			officer or employee.
950			
	843.0855(3)	3rd	Unlawful simulation of
			legal process.
951			
	843.0855(4)	3rd	Intimidation of a public
			officer or employee.

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952	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
953	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
954	872.06	2nd	Abuse of a dead human body.
955	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
956	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
957	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b),

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			(1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
958	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
959	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
960	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

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961	893.135	1st	Trafficking in cocaine,
	(1) (b) 1.a.		more than 28 grams, less
			than 200 grams.
962	893.135	1st	Trafficking in illegal
	(1) (c) 1.a.		drugs, more than 4 grams,
			less than 14 grams.
963	893.135	1st	Trafficking in
	(1) (c) 2.a.		hydrocodone, 14 grams or
			more, less than 28 grams.
964	893.135	1st	Trafficking in
	(1) (c) 2.b.		hydrocodone, 28 grams or
			more, less than 50 grams.
965	893.135	1st	Trafficking in oxycodone,
	(1) (c) 3.a.		7 grams or more, less than
			14 grams.
966	893.135	1st	Trafficking in oxycodone,
	(1) (c) 3.b.		14 grams or more, less
			than 25 grams.
967	893.135(1) (d) 1.	1st	Trafficking in
			phencyclidine, more than
			28 grams, less than 200
			grams.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

588-02036-16

2016918c1

968	893.135(1) (e) 1.	1st	Trafficking in
			methaqualone, more than
			200 grams, less than 5
			kilograms.
969	893.135(1) (f) 1.	1st	Trafficking in
			amphetamine, more than 14
			grams, less than 28 grams.
970	893.135	1st	Trafficking in
	(1) (g) 1.a.		flunitrazepam, 4 grams or
			more, less than 14 grams.
971	893.135	1st	Trafficking in gamma-
	(1) (h) 1.a.		hydroxybutyric acid (GHB),
			1 kilogram or more, less
			than 5 kilograms.
972	893.135	1st	Trafficking in 1,4-
	(1) (j) 1.a.		Butanediol, 1 kilogram or
			more, less than 5
			kilograms.
973	893.135	1st	Trafficking in
	(1) (k) 2.a.		Phenethylamines, 10 grams
			or more, less than 200
			grams.
974			

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	588-02036-16		2016918c1
	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
975			
	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
976			
	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
977			
	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
978			
	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
979			
	943.0435(9)(a)	3rd	Sexual offender; failure

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	588-02036-16		2016918c1
			to comply with reporting requirements.
980			
	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
981			
	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
982			
	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
983			
	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
984			
	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

588-02036-16

2016918c1

985

944.607(13)

3rd

Sexual offender; failure
to report and reregister;
failure to respond to
address verification;
providing false
registration information.

986

985.4815(10)

3rd

Sexual offender; failure
to submit to the taking of
a digitized photograph.

987

985.4815(12)

3rd

Failure to report or
providing false
information about a sexual
offender; harbor or
conceal a sexual offender.

988

985.4815(13)

3rd

Sexual offender; failure
to report and reregister;
failure to respond to
address verification;
providing false
registration information.

989

990

Section 23. This act shall take effect July 1, 2016.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: SB 12

INTRODUCER: Senators Garcia and Galvano

SUBJECT: Mental Health and Substance Abuse

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Favorable
2.	Brown	Pigott	AHS	Pre-meeting
3.			AP	

I. Summary:

SB 12 addresses Florida's system for the delivery of behavioral health services. The bill provides for mental health services for children, parents, and others seeking custody of children involved in dependency court proceedings. The bill creates a coordinated system of care to be provided either by a community or a region for those suffering from mental illness or substance use disorder through a "No Wrong Door" system of single access points.

The Agency for Health Care Administration (AHCA) and the Department of Children and Families (DCF) are directed to modify licensure requirements to create an option for a single, consolidated license to provide both mental health and substance use disorder services. Additionally, the AHCA and the DCF are directed to develop a plan to increase federal funding for behavioral health care.

To the extent possible, the bill aligns the legal processes, timelines, and processes for assessment, evaluation, and receipt of available services of the Baker Act (mental illness) and Marchman Act (substance abuse) to assist individuals in recovery and reduce readmission to the system.

The duties and responsibilities of the DCF are revised to set performance measures and standards for managing entities¹ and to enter into contracts with the managing entities that support efficient and effective administration of the behavioral health system and ensure accountability for performance. The duties and responsibilities of managing entities are revised accordingly.

The bill has an indeterminate fiscal impact.

¹ See s. 394.9082, F.S. A managing entity is a not-for-profit corporation organized in Florida which is under contract with the DCF on a regional basis to manage the day-to-day operational delivery of behavioral health services through an organized system of care and a network of providers who are contracted with the managing entity to provide a comprehensive array of emergency, acute care, residential, outpatient, recovery support, and consumer support services related to behavioral health.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Mental Health and Substance Abuse

Mental illness creates enormous social and economic costs.² Unemployment rates for persons with mental disorders are high relative to the overall population.³ People with severe mental illness have exceptionally high rates of unemployment, between 60 percent and 100 percent.⁴ Mental illness increases a person's risk of homelessness in America threefold.⁵ Studies show that approximately 33 percent of our nation's homeless live with a serious mental disorder, such as schizophrenia, for which they are not receiving treatment.⁶ Often the combination of homelessness and mental illness leads to incarceration, which further decreases a person's chance of receiving proper treatment and leads to future re-offenses.⁷

According to the National Alliance on Mental Illness (NAMI), approximately 50 percent of individuals with severe mental health disorders are affected by substance abuse.⁸ NAMI also estimates that 29 percent of all people diagnosed as mentally ill abuse alcohol or other drugs.⁹ When mental health disorders are left untreated, substance abuse is likely to increase. When substance abuse increases, mental health symptoms often increase as well or new symptoms may be triggered. This could also be due to discontinuation of taking prescribed medications or the contraindications for substance abuse and mental health medications. When taken with other medications, mental health medications can become less effective.¹⁰

Behavioral Health Managing Entities

In 2008, the Legislature required the Department of Children and Families (DCF) to implement a system of behavioral health managing entities that would serve as regional agencies to manage and pay for mental health and substance abuse services.¹¹ Prior to this time, the DCF, through its regional offices, contracted directly with behavioral health service providers. The Legislature found that a management structure that places the responsibility for publicly-financed behavioral health treatment and prevention services within a single private, nonprofit entity at the local level, would promote improved access to care, promote service continuity, and provide for more

² Mental Illness: The Invisible Menace, *Economic Impact* <http://www.mentalmenace.com/economicimpact.php>

³ Mental Illness: The Invisible Menace, *More impacts and facts* <http://www.mentalmenace.com/impactsfacts.php>

⁴ *Id.*

⁵ Family Guidance Center, *How does Mental Illness Impact Rates of Homelessness?* (February 4, 2014) available at <http://www.familyguidance.org/how-does-mental-illness-impact-rates-of-homelessness/>

⁶ *Id.*

⁷ *Id.*

⁸ Donna M. White, LPCI, CACP, Psych Central.com, *Living with Co-Occurring Mental & Substance Abuse Disorders*, (October 2, 2013) available at <http://psychcentral.com/blog/archives/2013/10/02/living-with-co-occurring-mental-substance-abuse-disorders/>

⁹ *Id.*

¹⁰ *Id.*

¹¹ See s. 394.9082, F.S., as created by Chapter 2008-243, Laws of Fla.

efficient and effective delivery of substance abuse and mental health services. There are currently seven managing entities across the state.¹²

Baker Act

In 1971, the Legislature adopted the Florida Mental Health Act, known as the Baker Act.¹³ The Baker Act authorizes treatment programs for mental, emotional, and behavioral disorders. The Baker Act requires programs to include comprehensive health, social, educational, and rehabilitative services to persons requiring intensive short-term and continued treatment to facilitate recovery. Additionally, the Baker Act provides protections and rights to individuals examined or treated for mental illness. Legal procedures are addressed for mental health examination and treatment, including voluntary admission, involuntary admission, involuntary inpatient treatment, and involuntary outpatient treatment.

Marchman Act

In 1993, the Legislature adopted the Hal S. Marchman Alcohol and Other Drug Services Act. The Marchman Act provides a comprehensive continuum of accessible and quality substance abuse prevention, intervention, clinical treatment, and recovery support services. Services must be provided in the least restrictive environment to promote long-term recovery. The Marchman Act includes various protections and rights of patients served.

Transportation to a Facility

The Marchman Act authorizes an applicant seeking to have a person admitted to a facility, the person's spouse or guardian, a law enforcement officer, or a health officer to transport the individual for an emergency assessment and stabilization.¹⁴

The Baker Act requires each county to designate a single law enforcement agency to transfer the person in need of services. If the person is in custody based on noncriminal or minor criminal behavior, the law enforcement officer will transport the person to the nearest receiving facility. If, however, the person is arrested for a felony the person must first be processed in the same manner as any other criminal suspect. The law enforcement officer must then transport the person to the nearest facility, unless the facility is unable to provide adequate security.¹⁵

The Marchman Act allows law enforcement officers, however, to temporarily detain substance-impaired persons in a jail setting. An adult not charged with a crime may be detained for his or her own protection in a municipal or county jail or other appropriate detention facility. Detention in jail is not considered to be an arrest, is temporary, and requires the detention facility to provide if necessary transfer of the detainee to an appropriate licensed service provider with an

¹² Department of Children and Families website, <http://www.myflfamilies.com/service-programs/substance-abuse/managing-entities>, (last visited Jan. 11, 2016).

¹³ Chapter 71-131, Laws of Fla.; The Baker Act is contained in ch. 394, F.S.

¹⁴ Section 397.6795, F.S.

¹⁵ Section 394.462(1)(f) and (g), F.S.

available bed.¹⁶ However, the Baker Act prohibits the detention in jail of a mentally ill person if he or she has not been charged with a crime.¹⁷

Involuntary Admission to a Facility

Criteria for Involuntary Admission

The Marchman Act provides that a person meets the criteria for involuntary admission if a good-faith reason exists to believe that the person is substance-impaired and, because of the impairment:

- Has lost the power of self-control with respect to substance abuse; and either
 - Has inflicted, threatened to or attempted to inflict self-harm; or
 - Is in need of services and due to the impairment, judgment is so impaired that the person is incapable of appreciating the need for services.¹⁸

Protective Custody

A person who meets the criteria for involuntary admission under the Marchman Act may be taken into protective custody by a law enforcement officer.¹⁹ The person may consent to have the law enforcement officer transport the person to his or her home, a hospital, or a licensed detoxification or addictions receiving facility.²⁰ If the person does not consent, the law enforcement officer may transport the person without using unreasonable force.²¹

Time Limits

A critical 72-hour period applies under both the Marchman Act and the Baker Act. Under the Marchman Act, a person may be held in protective custody for no more than 72 hours, unless a petition for involuntary assessment or treatment has been timely filed with the court within that timeframe to extend protective custody.²²

The Baker Act provides that a person cannot be held in a receiving facility for involuntary examination for more than 72 hours.²³ Within that 72-hour examination period, or, if the 72 hours ends on a weekend or holiday, no later than the next working day, one of the following must happen:

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will resume custody;
- The patient must be released into voluntary outpatient treatment;
- The patient must be asked to give consent to be placed as a voluntary patient if placement is recommended; or

¹⁶ Section 397.6772(1), F.S.

¹⁷ Section 394.459(1), F.S.

¹⁸ Section 397.675, F.S.

¹⁹ Section 397.677, F.S.

²⁰ Section 397.6771, F.S.

²¹ Section 397.6772(1), F.S.

²² Section 397.6773(1) and (2), F.S.

²³ Section 394.463(2)(f), F.S.

- A petition for involuntary placement must be filed in circuit court for outpatient or inpatient treatment.²⁴

Under the Marchman Act, if the court grants the petition for involuntary admission, the person may be admitted for a period of five days to a facility for involuntary assessment and stabilization.²⁵ If the facility needs more time, the facility may request a seven-day extension from the court.²⁶ Based on the involuntary assessment, the facility may retain the person pending a court decision on a petition for involuntary treatment.²⁷

Under the Baker Act, the court must hold a hearing on involuntary inpatient or outpatient placement within five working days after a petition for involuntary placement is filed.²⁸ The petitioner must show, by clear and convincing evidence, all available less-restrictive treatment alternatives are inappropriate and that the individual:

- Is mentally ill and because of the illness has refused voluntary placement for treatment or is unable to determine the need for placement; and
- Is manifestly incapable of surviving alone or with the help of willing and responsible family and friends, and without treatment is likely suffer neglect that poses a real and present threat of substantial harm to his or her well-being, or substantial likelihood exists that in the near future he or she will inflict serious bodily harm on himself or herself or another person.²⁹

III. Effect of Proposed Changes:

Section 1 amends s. 29.004, F.S., to allow courts to use state revenue to provide case management services such as service referral, monitoring, and tracking for mental health programs under s. 394, F.S.

Section 2 amends s. 39.001(6), F.S., to include mental health treatment in dependency court services and directs the state to contract with mental health service providers for such services.

Section 3 amends s. 39.507(10), F.S., to allow a dependency court to order a person requesting custody of a child to submit to a mental health or substance abuse disorder assessment or evaluation, require participation of such person in a mental health program or a treatment-based drug court program, and to oversee the progress and compliance with treatment by the person who has custody or is requesting custody of a child.

Section 4 amends s. 39.521(1)(b), F.S., to authorize a court, with jurisdiction of a child that has been adjudicated dependent, to require the person who has custody or is requesting custody of the child to submit to a mental illness or substance abuse disorder assessment or evaluation, to require the person to participate in and comply with the mental health program or drug court

²⁴ Section 394.463(2)(i)4., F.S.

²⁵ Section 397.6811, F.S.

²⁶ Section 397.6821, F.S.

²⁷ Section 397.6822, F.S.

²⁸ Sections 394.4655(6) and 394.467(6), F.S.

²⁹ Section 394.467(1), F.S.

program, and to oversee the progress and compliance by the person who has custody or is requesting custody of a child.

Section 5 amends s. 394.455, F.S., to add, update, or revise definitions as appropriate.

Section 6 amends s. 394.4573, F.S., to create a coordinated system of care in the context of the No Wrong Door model which is defined as a delivery system of health care services to persons with mental health or substance abuse disorders, or both, which optimizes access to care, regardless of the entry point to the system.

The bill also defines a coordinated system of care to mean the full array of behavioral and related services in a region or community offered by all service providers, whether under contract with the managing entity or another method of community partnership or mutual agreement.

Additionally, the Department of Children and Families (DCF) is required to submit, on or before October 1 of each year, an annual assessment of the behavioral health services in the state to the Governor and the Legislature. The assessment must include comparison of the status and performance of behavioral health systems, the capacity of contracted services providers to meet estimated needs, the degree to which services are offered in the least restrictive and most appropriate therapeutic environment, and the scope of system-wide accountability activities used to monitor patient outcomes and measure continuous improvement of the behavioral health system.

The bill authorizes the DCF, subject to a specific appropriation, to award system improvement grants to managing entities based on the submission of detailed plans to enhance services, coordination of services, or a performance measurement in accordance with the No Wrong Door model. The grants must be awarded through a performance-based contract that links payments to documented and measurable system improvements.

The essential elements of a coordinated system of care under the bill must include community interventions, a designated receiving system that consists of one or more facilities serving a defined geographic area, transportation, crisis services, case management, including intensive case management, and various other services.

Section 7 amends s. 394.4597(2)(d) and (e), F.S., to specify the persons who are prohibited from being named as a patient's representative.

Section 8 amends s. 394.4598(2) through (7), F.S., to specify the persons who are prohibited from appointment as a patient's guardian advocate when a court has determined that a person is incompetent to consent to treatment but the person has not been adjudicated incapacitated. The bill also sets out the training requirements for persons appointed as guardian advocates.

Section 9 amends s. 394.462, F.S., to direct that a transportation plan must be developed and implemented in each county or, if applicable, counties that intend to share a transportation plan. The plan must specify methods of transport to a facility within the designated receiving system and may delegate responsibility for other transportation to a participating facility when necessary and agreed to by the facility. The plan must ensure that persons meeting the criteria for

involuntary assessment and evaluation pursuant to s. 394.463 and 397.675 will be transported. For the transportation of a voluntary or involuntary patient to a treatment facility, the plan must specify how the hospitalized patient will be transported to, from, and between facilities.

Section 10 amends s. 394.463(2), F.S., to allow a circuit or county court to enter an ex parte order stating that a person appears to meet the criteria for involuntary examination. The ex parte order must be based on written or oral sworn testimony that includes specific facts supporting the findings. Facilities accepting patients based on ex parte orders must send a copy of the order to the DCF and the managing entity in its region the next working day. A facility admitting a person for involuntary examination who is not accompanied by an ex parte order shall notify the DCF and the managing entity the next working day.

The bill also adds language that a person may not be held for involuntary examination for more than 72 hours without specified actions being taken.

Section 11 amends s. 394.4655, F.S., to allow a court to order a person to involuntary outpatient services, upon a finding by clear and convincing evidence, that the person meets the criteria specified. The recommendation by the administrator of a facility of a person for involuntary outpatient services must be supported by two qualified professionals, both of whom have personally examined the person within the preceding 72 hours. A court may not order services in a proposed treatment plan which are not available. The service provider must document its inquiry with the DCF and the managing entity as to the availability of the requested services, and the managing entity must document its efforts to obtain the requested services.

Section 12 amends s. 394.467, F.S., to add to the criteria for involuntary inpatient placement for mental illness the present threat of substantial physical or mental harm to a person's well-being.

Section 13 amends s. 394.46715, F.S., to provide the DCF rulemaking authority.

Section 14 creates s. 394.761, F.S., to direct the Agency for Health Care Administration (AHCA) and the DCF to develop a plan to obtain federal approval for increasing availability of federal funding for behavioral health care. Increased funding is to be used to advance the goal of improved integration of behavioral health and primary care services. The plan is to be submitted to the President of the Senate and the Speaker of the House of Representatives by November 1, 2016.

Section 15 amends s. 394.875, F.S., to direct the DCF, by January 1, 2017, to modify licensure rules and procedures to create an option for a single, consolidated license for a provider who offers multiple types of mental health and substance abuse services regulated under chs. 394 and 397, F.S.

Section 16 amends s. 394.9082, F.S., to revise and update the duties and responsibilities of the managing entities and the DCF and to provide definitions, contracting requirements, and accountability measures.

The DCF's duties and responsibilities are revised to include the designation of facilities into the receiving system developed by one or more counties; contract with the managing entities;

specify data reporting and use of shared data systems; develop strategies to divert persons with mental illness or substance abuse disorders from the criminal and juvenile justice system; support the development and implementation of a coordinated system of care to require providers receiving state funds through a direct contract with the DCF to work with the managing entity to coordinate the provision of behavioral health services; set performance measures and standards for managing entities; develop a unique identifier for clients receiving services; and coordinate procedures for referral and admission of patients to, and discharge from, state treatment facilities.

This section sets out the DCF's duties regarding its contracts with the managing entities. The contracts must support efficient and effective administration of the behavioral health system and ensure accountability for performance. The managing entities' contracts are subject to performance review beginning July 1, 2018. The review must include analysis of the managing entities' performance measures, the results of the DCF's contract monitoring, and related performance and compliance issues. Based on a satisfactory performance review, the DCF may negotiate with the managing entity for a four-year contract pursuant to s. 287.057(3)(e), F.S. If a managing entity does not meet the requirements of the performance review, the DCF must create a corrective action plan. If the corrective action plan is not satisfactorily completed by the managing entity, the DCF will terminate the contract at the end of the contract term and initiate a competitive procurement process to select a new managing entity.

The revised and updated duties and responsibilities of the managing entities under the bill include conducting an assessment of community behavioral health care needs in each managing entity's geographic area. The assessment must be updated annually and include, at a minimum, information the DCF needs for its annual report to the Governor and Legislature. Managing entities must also develop local resources by pursuing third-party payments for services, applying for grants, and other methods to ensure services are available and accessible; provide assistance to counties to develop a designated receiving system and a transportation plan; enter into cooperative agreements with local homeless councils and organizations to address the homelessness of persons suffering from a behavioral health crisis; provide or contract for case management; and collaborate with local criminal and juvenile justice systems to divert persons with mental illness or substance abuse disorders, or both, from the criminal and juvenile justice systems.

Section 17 amends s. 397.311, F.S., to create a definition for involuntary services and revise the definition of qualified professional.

Section 18 amends s. 397.675, F.S., to revise the criteria for assessment, stabilization, and involuntary treatment for persons with a substance abuse or co-occurring mental health disorder to include that without care or treatment, the person is likely to suffer from neglect or to refuse to care for himself or herself and that neglect or refusal poses a real and present threat of substantial harm to his or her well-being.

Section 19 amends s. 397.679, F.S., to expand the types of professionals who may execute a certificate for application for emergency admission of a person to a hospital or licensed detoxification facility to include a physician, an advanced registered nurse practitioner, a clinical psychologist, a licensed clinical social worker, a licensed marriage and family therapist, a

licensed mental health counselor, a physician assistant working under the scope of practice of the supervising physician, or a master's level certified addictions professional if the certification is specific to substance abuse disorders.

Section 20 amends s. 397.6791, F.S., to expand the types of professionals who may initiate a certificate for emergency assessment or admission of a person who may meet the criteria for substance abuse disorder to include a physician, an advanced registered nurse practitioner, a clinical psychologist, a licensed clinical social worker, a licensed marriage and family therapist, a licensed mental health counselor, a physician assistant working under the scope of practice of the supervising physician, or a master's level certified addictions professional if the certification is specific to substance abuse disorders

Section 21 amends s. 397.6793, F.S., to revise the criteria for a person to be examined or assessed to include a reasonable belief that without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself and that such neglect or refusal poses a real and present threat of substantial harm to his or her well-being. The professional's certificate authorizing the involuntary admission of a person is valid for seven days after issuance.

Section 22 amends s. 397.6795, F.S., to allow a person's spouse or guardian, or a law enforcement officer, to deliver a person named in a professional's certificate for emergency admission to a hospital or licensed detoxification facility or addictions receiving facility for emergency assessment and stabilization.

Section 23 amends s. 397.681, F.S., to specify that a court may not charge a filing fee for the filing of a petition for involuntary assessment and stabilization.

Section 24 amends s. 397.6811(1), F.S., to allow a petition for assessment and stabilization to be filed by a person who has direct personal knowledge of a person's substance abuse disorder.

Section 25 amends s. 397.6814, F.S., to remove the requirement that a petition for involuntary assessment and stabilization contain a statement regarding the person's ability to afford an attorney. This section also directs that a fee may not be charged for the filing of a petition pursuant to this section.

Section 26 amends s. 397.6819, F.S., to allow a licensed service provider to admit a person for a period not to exceed 5 days unless a petition for involuntary outpatient services has been initiated pending further order of the court.

Section 27 amends s. 397.695, F.S., to provide for the filing of a petition for involuntary outpatient services and the professionals that must support such a recommendation. If the person has been stabilized and no longer meets the criteria for involuntary assessment and stabilization, he or she must be released while waiting for the hearing. The service provider must prepare certain reports and a treatment plan, including certification to the court that the recommended services are available. If the services are unavailable, the petition may not be filed with the court.

Section 28 amends s. 397.6951, F.S., to amend the content requirements of the petition for involuntary outpatient services to include the person's history of failure to comply with treatment

requirements, a factual allegation that the person is unlikely to voluntarily participate in the recommended services, and a factual allegation that the person is in need of the involuntary outpatient services.

Section 29 amends s. 397.6955, F.S., to update the duties of the court upon the filing of a petition for involuntary outpatient services by including the requirement to schedule a hearing within five days unless a continuance is granted.

Section 30 amends s. 397.6957, F.S., to update the requirements of the court to hear and review all relevant evidence at a hearing for involuntary outpatient services, including the requirement that the petitioner has the burden of proving by clear and convincing evidence that the respondent has a history of lack of compliance with treatment for substance abuse, is unlikely to voluntarily participate in the recommended treatment, and that, without services, is likely to suffer from neglect or refuse to care for himself or herself. One of the qualified professionals that executed the involuntary outpatient services certificate must be a witness at the hearing.

Section 31 amends s. 397.697, F.S., to allow courts to order involuntary outpatient services when the court finds the conditions have been proven by clear and convincing evidence; however, the court cannot order involuntary outpatient services if the recommended services are not available.

Section 32 amends s. 397.6971, F.S., to reflect the change in terminology from involuntary outpatient treatment to involuntary outpatient services.

Section 33 amends s. 397.6975, F.S., to reflect the change in terminology from involuntary outpatient treatment to involuntary outpatient services.

Section 34 amends s. 397.6977, F.S., to reflect the change in terminology from involuntary outpatient treatment to involuntary outpatient services.

Section 35 creates s. 397.6978, F.S., to allow for the appointment of a guardian advocate for a person determined incompetent to consent to treatment. The bill lists the persons prohibited from being appointed the patient's guardian advocate.

Section 36 amends s. 39.407, F.S., to correct cross-references.

Section 37 amends s. 212.055, F.S., to correct cross-references.

Section 38 amends s. 394.4599, F.S., to correct cross-references.

Section 39 amends s. 394.495(3), F.S., to correct cross-references.

Section 40 amends s. 394.496(5), F.S., to correct cross-references.

Section 41 amends s. 394.9085(6), F.S., to correct cross-references.

Section 42 amends s. 397.405(8), F.S., to correct cross-references.

Section 43 amends s. 397.407(1) and (5), F.S., to correct cross-references.

Section 44 amends s. 397.416, F.S., to correct cross-references.

Section 45 amends s. 409.972(1)(b), F.S., to correct cross-references.

Section 46 amends s. 440.102(1)(d),(g), F.S., to correct cross-references.

Section 47 amends s. 744.704(7), F.S., to correct cross-references.

Section 48 amends s. 790.065(2)(a), F.S., to correct cross-references.

Section 49 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Since the bill requires a transportation plan to be developed and implemented in each county or, if applicable, in counties that intend to share a transportation plan, it falls within the purview of Section 18(a), Article VII, Florida Constitution, which provides that cities and counties are not bound by certain general laws that require the expenditure of funds unless certain exceptions or exemptions are met. None of the exceptions apply. However, subsection (d) provides an exemption from this prohibition for laws determined to have an “insignificant fiscal impact.” The fiscal impact of this requirement is indeterminate because the number of rides needed by residents cannot be predicted. If the costs exceed the insignificant threshold, the bill will require a 2/3 vote of the membership of each house and a finding of an important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

SB 12 prohibits a filing fee being charged for Marchman Act petitions; however, this does not create a fiscal impact on the clerks of court or the state court system because no fees are currently assessed.³⁰

³⁰ E-mail received from Florida Court Clerks & Comptroller, Nov. 6, 2015, and on file in the Senate Committee on Children, Families & Elder Affairs.

B. Private Sector Impact:

Persons appointed by the court as guardian advocates for individuals in need of behavioral health services will have increased training requirements under the bill.

Behavioral health managing entities that have satisfactory contract performance will benefit from the provisions that allow the DCF to negotiate a new four-year contract using the exemption provided in s. 287.057(3)(e), F.S.

C. Government Sector Impact:**State**

To the extent that the bill encourages the use of involuntary outpatient services rather than inpatient placement, the state would experience a positive fiscal impact. The cost of care in state treatment facilities is more expensive than community based behavioral health care. The amount of this potential cost savings is indeterminate.

Under the bill, the DCF has revised duties to review local behavioral health care plans, write or revise rules, and award any grants for implementation of the No Wrong Door policy. Similar administrative duties are currently performed by the DCF so these revised duties are not expected to create a fiscal impact.

Local

Local governments must revise their transportation plans for acute behavioral health care under the Baker Act and Marchman Act. The bill requires that as part of the transportation plan for the No Wrong Door policy, transportation must be provided between the single point of entry for behavioral health care and other treatment providers or settings as appropriate. This may create an indeterminate fiscal impact as such services are not currently provided in all areas of the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 29.004, 39.001, 39.507, 39.521, 394.455, 394.4573, 394.4597, 394.4598, 394.462, 394.463, 394.4655, 394.467, 394.46715, 394.761, 394.875, 394.9082, 397.311, 397.675, 397.679, 397.6791, 397.6793, 397.6795, 397.681, 397.6811, 397.6814, 397.6819, 397.695, 397.6951, 397.6955, 397.6957, 397.697, 397.6971, 397.6975, 397.6977, 397.6978, 39.407, 212.055, 394.4599, 394.495, 394.496, 394.9085, 397.405, 397.407, 397.416, 409.972, 440.102, 744.704, and 790.065.

This bill creates the following sections of the Florida Statutes: 394.761 and 397.6978.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate

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House

Appropriations Subcommittee on Health and Human Services
(Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (e) is added to subsection (10) of
section 29.004, Florida Statutes, to read:

29.004 State courts system.—For purposes of implementing s.
14, Art. V of the State Constitution, the elements of the state
courts system to be provided from state revenues appropriated by
general law are as follows:



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(10) Case management. Case management includes:
(e) Service referral, coordination, monitoring, and tracking for mental health programs under chapter 394.

Case management may not include costs associated with the application of therapeutic jurisprudence principles by the courts. Case management also may not include case intake and records management conducted by the clerk of court.

Section 2. Subsection (6) of section 39.001, Florida Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

(a) The Legislature recognizes that early referral and comprehensive treatment can help combat mental illness and substance abuse disorders in families and that treatment is cost-effective.

(b) The Legislature establishes the following goals for the state related to mental illness and substance abuse treatment services in the dependency process:

1. To ensure the safety of children.

2. To prevent and remediate the consequences of mental illness and substance abuse disorders on families involved in protective supervision or foster care and reduce the occurrences of mental illness and substance abuse disorders, including alcohol abuse or other related disorders, for families who are at risk of being involved in protective supervision or foster care.

3. To expedite permanency for children and reunify healthy,



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intact families, when appropriate.

4. To support families in recovery.

(c) The Legislature finds that children in the care of the state's dependency system need appropriate health care services, that the impact of mental illnesses and substance abuse on health indicates the need for health care services to include treatment for mental health and substance abuse disorders for ~~services to~~ children and parents where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency system must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related mental illness and substance abuse problems.

(d) It is the intent of the Legislature to encourage the use of the mental health programs established under chapter 394 and the drug court program model established under ~~by~~ s. 397.334 and authorize courts to assess children and persons who have custody or are requesting custody of children where good cause is shown to identify and address mental illnesses and substance abuse disorders ~~problems~~ as the court deems appropriate at every stage of the dependency process. Participation in treatment, including a treatment-based mental health court program or a treatment-based drug court program, may be required by the court following adjudication. Participation in assessment and treatment before ~~prior to~~ adjudication is ~~shall be~~ voluntary, except as provided in s. 39.407(16).

(e) It is therefore the purpose of the Legislature to



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provide authority for the state to contract with mental health service providers and community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and used as resources permit.

(f) Participation in a treatment-based mental health court program or a ~~the~~ treatment-based drug court program does not divest any public or private agency of its responsibility for a child or adult, but is intended to enable these agencies to better meet their needs through shared responsibility and resources.

Section 3. Subsection (10) of section 39.507, Florida Statutes, is amended to read:

39.507 Adjudicatory hearings; orders of adjudication.—

(10) After an adjudication of dependency, or a finding of dependency where adjudication is withheld, the court may order a person who has custody or is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The assessment or evaluation must be administered by a qualified professional, as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health program established under chapter 394 or a treatment-based drug court program established under s. 397.334. In addition to supervision by the department, the court, including a treatment-based mental health court program or a ~~the~~ treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is



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requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subsection may be made only upon good cause shown. This subsection does not authorize placement of a child with a person seeking custody, other than the parent or legal custodian, who requires mental health or substance abuse disorder treatment.

Section 4. Paragraph (b) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(b) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal custodian and the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental illness or substance abuse disorder assessment or



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127 evaluation. The assessment or evaluation must be administered by
128 a qualified professional, as defined in s. 397.311. The court
129 may also require such person to participate in and comply with
130 treatment and services identified as necessary, including, when
131 appropriate and available, participation in and compliance with
132 a mental health program established under chapter 394 or a
133 treatment-based drug court program established under s. 397.334.
134 In addition to supervision by the department, the court,
135 including a treatment-based mental health court program or a ~~the~~
136 treatment-based drug court program, may oversee the progress and
137 compliance with treatment by a person who has custody or is
138 requesting custody of the child. The court may impose
139 appropriate available sanctions for noncompliance upon a person
140 who has custody or is requesting custody of the child or make a
141 finding of noncompliance for consideration in determining
142 whether an alternative placement of the child is in the child's
143 best interests. Any order entered under this subparagraph may be
144 made only upon good cause shown. This subparagraph does not
145 authorize placement of a child with a person seeking custody of
146 the child, other than the child's parent or legal custodian, who
147 requires mental health or substance abuse treatment.

148 2. Require, if the court deems necessary, the parties to
149 participate in dependency mediation.

150 3. Require placement of the child either under the
151 protective supervision of an authorized agent of the department
152 in the home of one or both of the child's parents or in the home
153 of a relative of the child or another adult approved by the
154 court, or in the custody of the department. Protective
155 supervision continues until the court terminates it or until the



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child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department must ~~shall~~ set forth the powers of the custodian of the child and ~~shall~~ include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, ~~no~~ further judicial reviews are not required if, so long as permanency has been established for the child.

Section 5. Section 394.455, Florida Statutes, is amended to read:

394.455 Definitions.—As used in this part, ~~unless the context clearly requires otherwise,~~ the term:

(1) "Access center" means a facility staffed by medical, behavioral, and substance abuse professionals which provides emergency screening and evaluation for mental health or substance abuse disorders and may provide transportation to an appropriate facility if an individual is in need of more intensive services.

(2) "Addictions receiving facility" means a secure, acute care facility that, at a minimum, provides emergency screening, evaluation, and short-term stabilization services; is operated 24 hours per day, 7 days per week; and is designated by the



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department to serve individuals found to have substance abuse impairment who qualify for services under this part.

(3)~~(1)~~ "Administrator" means the chief administrative officer of a receiving or treatment facility or his or her designee.

(4) "Adult" means an individual who is 18 years of age or older or who has had the disability of nonage removed under chapter 743.

(5) "Advanced registered nurse practitioner" means any person licensed in this state to practice professional nursing who is certified in advanced or specialized nursing practice under s. 464.012.

(6)~~(2)~~ "Clinical psychologist" means a psychologist as defined in s. 490.003(7) with 3 years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility under this part.

(7)~~(3)~~ "Clinical record" means all parts of the record required to be maintained and includes all medical records, progress notes, charts, and admission and discharge data, and all other information recorded by a facility staff which pertains to the patient's hospitalization or treatment.

(8)~~(4)~~ "Clinical social worker" means a person licensed as a clinical social worker under s. 491.005 or s. 491.006 ~~chapter 491~~.

(9)~~(5)~~ "Community facility" means a ~~any~~ community service provider that contracts ~~contracting~~ with the department to



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furnish substance abuse or mental health services under part IV of this chapter.

(10)~~(6)~~ "Community mental health center or clinic" means a publicly funded, not-for-profit center that ~~which~~ contracts with the department for the provision of inpatient, outpatient, day treatment, or emergency services.

(11)~~(7)~~ "Court," unless otherwise specified, means the circuit court.

(12)~~(8)~~ "Department" means the Department of Children and Families.

(13) "Designated receiving facility" means a facility approved by the department which may be a crisis stabilization unit, addictions receiving facility and provides, at a minimum, emergency screening, evaluation, and short-term stabilization for mental health or substance abuse disorders, and which may have an agreement with a corresponding facility for transportation and services.

(14) "Detoxification facility" means a facility licensed to provide detoxification services under chapter 397.

(15) "Electronic means" is a form of telecommunication which requires all parties to maintain visual as well as audio communication.

(16)~~(9)~~ "Express and informed consent" means consent voluntarily given in writing, by a competent person, after sufficient explanation and disclosure of the subject matter involved to enable the person to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

(17)~~(10)~~ "Facility" means any hospital, community facility,



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public or private facility, or receiving or treatment facility providing for the evaluation, diagnosis, care, treatment, training, or hospitalization of persons who appear to have a ~~mental illness~~ or who have been diagnosed as having a mental illness or substance abuse impairment. The term ~~"Facility"~~ does not include a ~~any~~ program or an entity licensed under ~~pursuant to~~ chapter 400 or chapter 429.

(18) "Governmental facility" means a facility owned, operated, or administered by the Department of Corrections or the United States Department of Veterans Affairs.

(19) ~~(11)~~ "Guardian" means the natural guardian of a minor, or a person appointed by a court to act on behalf of a ward's person if the ward is a minor or has been adjudicated incapacitated.

(20) ~~(12)~~ "Guardian advocate" means a person appointed by a court to make decisions regarding mental health or substance abuse treatment on behalf of a patient who has been found incompetent to consent to treatment pursuant to this part. ~~The guardian advocate may be granted specific additional powers by written order of the court, as provided in this part.~~

(21) ~~(13)~~ "Hospital" means a hospital ~~facility as defined in s. 395.002 and~~ licensed under chapter 395 and part II of chapter 408.

(22) ~~(14)~~ "Incapacitated" means that a person has been adjudicated incapacitated pursuant to part V of chapter 744 and a guardian of the person has been appointed.

(23) ~~(15)~~ "Incompetent to consent to treatment" means a state in which ~~that~~ a person's judgment is so affected by a ~~his or her~~ mental illness, a substance abuse impairment, that he or



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272 ~~she the person~~ lacks the capacity to make a well-reasoned,
273 willful, and knowing decision concerning his or her medical, ~~or~~
274 mental health, or substance abuse treatment.

275 (24) "Involuntary examination" means an examination
276 performed under s. 394.463 or s. 397.675 to determine whether a
277 person qualifies for involuntary outpatient services pursuant to
278 s. 394.4655 or involuntary inpatient placement.

279 (25) "Involuntary services" means court-ordered outpatient
280 services or inpatient placement for mental health treatment
281 pursuant to s. 394.4655 or s. 394.467.

282 ~~(26)(16)~~ "Law enforcement officer" has the same meaning as
283 provided ~~means a law enforcement officer as defined in s.~~
284 ~~943.10.~~

285 (27) "Marriage and family therapist" means a person
286 licensed to practice marriage and family therapy under s.
287 491.005 or s. 491.006.

288 (28) "Mental health counselor" means a person licensed to
289 practice mental health counseling under s. 491.005 or s.
290 491.006.

291 ~~(29)(17)~~ "Mental health overlay program" means a mobile
292 service that ~~which~~ provides an independent examination for
293 voluntary admission ~~admissions~~ and a range of supplemental
294 onsite services to persons with a mental illness in a
295 residential setting such as a nursing home, an assisted living
296 facility, or an adult family-care home, ~~or a~~ nonresidential
297 setting such as an adult day care center. Independent
298 examinations provided ~~pursuant to this part~~ through a mental
299 health overlay program must only be provided under contract with
300 the department ~~for this service~~ or be attached to a public



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receiving facility that is also a community mental health center.

~~(30)(18)~~ "Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. For the purposes of this part, the term does not include a developmental disability as defined in chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.

~~(31)~~ "Minor" means an individual who is 17 years of age or younger and who has not had the disability of nonage removed pursuant to s. 743.01 or s. 743.015.

~~(32)(19)~~ "Mobile crisis response service" means a nonresidential crisis service ~~attached to a public receiving facility and~~ available 24 hours a day, 7 days a week, ~~through which provides~~ immediate intensive assessments and interventions, including screening for admission into a mental health receiving facility, an addictions receiving facility, or a detoxification facility, ~~take place~~ for the purpose of identifying appropriate treatment services.

~~(33)(20)~~ "Patient" means any person who is held or accepted for mental health or substance abuse treatment.

~~(34)(21)~~ "Physician" means a medical practitioner licensed under chapter 458 or chapter 459 ~~who has experience in the diagnosis and treatment of mental and nervous disorders~~ or a physician employed by a facility operated by the United States Department of Veterans Affairs or the United States Department



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of Defense ~~which qualifies as a receiving or treatment facility under this part.~~

(35) "Physician assistant" means a person licensed under chapter 458 or chapter 459 who has experience in the diagnosis and treatment of mental disorders.

(36) ~~(22)~~ "Private facility" means any hospital or facility operated by a for-profit or not-for-profit corporation or association which ~~that~~ provides mental health or substance abuse services and is not a public facility.

(37) ~~(23)~~ "Psychiatric nurse" means an advanced registered nurse practitioner certified under s. 464.012 who has a master's or doctoral degree in psychiatric nursing, holds a national advanced practice certification as a psychiatric mental health advanced practice nurse, and has 2 years of post-master's clinical experience under the supervision of a physician.

(38) ~~(24)~~ "Psychiatrist" means a medical practitioner licensed under chapter 458 or chapter 459 ~~who has primarily diagnosed and treated mental and nervous disorders for at least a period of not less than 3 years, inclusive of psychiatric residency.~~

(39) ~~(25)~~ "Public facility" means a ~~any~~ facility that has contracted with the department to provide mental health or substance abuse services to all persons, regardless of ~~their~~ ability to pay, and is receiving state funds for such purpose.

(40) "Qualified professional" means a physician or a physician assistant licensed under chapter 458 or chapter 459; a professional licensed under chapter 490.003(7) or chapter 491; a psychiatrist licensed under chapter 458 or chapter 459; or a psychiatric nurse as defined in subsection (37).



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(41)~~(26)~~ "Receiving facility" means any public or private facility designated by the department to receive and hold or refer, as appropriate, involuntary patients under emergency conditions ~~or~~ for mental health or substance abuse ~~psychiatric~~ evaluation and to provide ~~short-term~~ treatment or transportation to the appropriate service provider. The term does not include a county jail.

(42)~~(27)~~ "Representative" means a person selected to receive notice of proceedings during the time a patient is held in or admitted to a receiving or treatment facility.

(43)~~(28)~~ (a) "Restraint" means: ~~a physical device, method, or drug used to control behavior.~~

(a) A physical restraint, including ~~is~~ any manual method or physical or mechanical device, material, or equipment attached or adjacent to an ~~the~~ individual's body so that he or she cannot easily remove the restraint and which restricts freedom of movement or normal access to one's body. Physical restraint includes the physical holding of a person during a procedure to forcibly administer psychotropic medication. Physical restraint does not include physical devices such as orthopedically prescribed appliances, surgical dressings and bandages, supportive body bands, or other physical holding when necessary for routine physical examinations and tests or for purposes of orthopedic, surgical, or other similar medical treatment, when used to provide support for the achievement of functional body position or proper balance, or when used to protect a person from falling out of bed.

(b) A drug or ~~used as a restraint is a~~ medication used to control a ~~the~~ person's behavior or to restrict his or her



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freedom of movement which ~~and~~ is not part of the standard treatment regimen of a person with a diagnosed mental illness ~~who is a client of the department. Physically holding a person during a procedure to forcibly administer psychotropic medication is a physical restraint.~~

~~(c) Restraint does not include physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, supportive body bands, or other physical holding when necessary for routine physical examinations and tests; or for purposes of orthopedic, surgical, or other similar medical treatment; when used to provide support for the achievement of functional body position or proper balance; or when used to protect a person from falling out of bed.~~

(44) "School psychologist" has the same meaning as in s. 490.003.

~~(45) (29)~~ "Seclusion" means the physical segregation ~~of a person in any fashion~~ or involuntary isolation of a person in a room or area from which the person is prevented from leaving. The prevention may be by physical barrier or by a staff member who is acting in a manner, or who is physically situated, so as to prevent the person from leaving the room or area. For purposes of this part ~~chapter~~, the term does not mean isolation due to a person's medical condition or symptoms.

~~(46) (30)~~ "Secretary" means the Secretary of Children and Families.

(47) "Service provider" means a receiving facility, any facility licensed under chapter 397, a treatment facility, an entity under contract with the department to provide mental health or substance abuse services, a community mental health



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center or clinic, a psychologist, a clinical social worker, a marriage and family therapist, a mental health counselor, a physician, a psychiatrist, an advanced registered nurse practitioner, a psychiatric nurse, or a qualified professional as defined in this section.

(48) "Substance abuse impairment" means a condition involving the use of alcoholic beverages or any psychoactive or mood-altering substance in such a manner that a person has lost the power of self-control and has inflicted or is likely to inflict physical harm on himself or herself or others.

~~(49)-(31)~~ "Transfer evaluation" means the process by which ~~as approved by the appropriate district office of the department, whereby~~ a person who is being considered for placement in a state treatment facility is ~~first~~ evaluated for appropriateness of admission to a state treatment ~~the facility by a community-based public receiving facility or by a community mental health center or clinic if the public receiving facility is not a community mental health center or clinic.~~

~~(50)-(32)~~ "Treatment facility" means a ~~any~~ state-owned, state-operated, or state-supported hospital, center, or clinic designated by the department for extended treatment and hospitalization, beyond that provided for by a receiving facility, of persons who have a mental illness, including facilities of the United States Government, and any private facility designated by the department when rendering such services to a person pursuant to the provisions of this part. Patients treated in facilities of the United States Government shall be solely those whose care is the responsibility of the United States Department of Veterans Affairs.



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(51) "Triage center" means a facility that is approved by the department and has medical, behavioral, and substance abuse professionals present or on call to provide emergency screening and evaluation of individuals transported to the center by a law enforcement officer.

~~(33) "Service provider" means any public or private receiving facility, an entity under contract with the Department of Children and Families to provide mental health services, a clinical psychologist, a clinical social worker, a marriage and family therapist, a mental health counselor, a physician, a psychiatric nurse as defined in subsection (23), or a community mental health center or clinic as defined in this part.~~

~~(34) "Involuntary examination" means an examination performed under s. 394.463 to determine if an individual qualifies for involuntary inpatient treatment under s. 394.467(1) or involuntary outpatient treatment under s. 394.4655(1).~~

~~(35) "Involuntary placement" means either involuntary outpatient treatment pursuant to s. 394.4655 or involuntary inpatient treatment pursuant to s. 394.467.~~

~~(36) "Marriage and family therapist" means a person licensed as a marriage and family therapist under chapter 491.~~

~~(37) "Mental health counselor" means a person licensed as a mental health counselor under chapter 491.~~

~~(38) "Electronic means" means a form of telecommunication that requires all parties to maintain visual as well as audio communication.~~

Section 6. Section 394.4573, Florida Statutes, is amended to read:



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394.4573 Coordinated system of care; annual assessment; essential elements ~~Continuity of care management system;~~ measures of performance; system improvement grants; reports.—On or before October 1 of each year, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an assessment of the behavioral health services in this state in the context of the No-Wrong-Door model and standards set forth in this section. The department's assessment shall be based on both quantitative and qualitative data and must identify any significant regional variations. The assessment must include information gathered from managing entities, service providers, law enforcement, judicial officials, local governments, behavioral health consumers and their family members, and the public.

(1) As used in ~~For the purposes of~~ this section:

(a) "Case management" means those direct services provided to a client in order to assess his or her ~~activities aimed at assessing client needs, plan or arrange planning services, coordinate service providers, monitor linking the service system to a client, coordinating the various system components, monitoring service delivery, and evaluate patient outcomes evaluating the effect of service delivery.~~

(b) "Case manager" means an individual who works with clients, and their families and significant others, to provide case management.

(c) "Client manager" means an employee of the managing entity or entity under contract with the managing entity ~~department~~ who is assigned to specific provider agencies and geographic areas to ensure that the full range of needed



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services is available to clients.

(d) "Coordinated system Continuity of care management system" means ~~a system that assures, within available resources, that clients have access to~~ the full array of behavioral and related services in a region or community offered by all service providers, whether participating under contract with the managing entity or another method of community partnership or mutual agreement ~~within the mental health services delivery system.~~

(e) "No-Wrong-Door model" means a model for the delivery of health care services to persons who have mental health or substance abuse disorders, or both, which optimizes access to care, regardless of the entry point to the behavioral health care system.

(2) The essential elements of a coordinated system of care include:

(a) Community interventions, such as prevention, primary care for behavioral health needs, therapeutic and supportive services, crisis response services, and diversion programs.

(b) A designated receiving system consisting of one or more facilities serving a defined geographic area and responsible for assessment and evaluation, both voluntary and involuntary, and treatment or triage for patients who present with mental illness, substance abuse disorder, or co-occurring disorders.

The system must be approved by each county or by several counties, planned through an inclusive process, approved by the managing entity, and documented through written memoranda of agreement or other binding arrangements. The designated receiving system may be organized in any of the following ways



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so long as it functions as a No-Wrong-Door model that responds to individual needs and integrates services among various providers:

1. A central receiving system, which consists of a designated central receiving facility that serves as a single entry point for persons with mental health or substance abuse disorders, or both. The designated receiving facility must be capable of assessment, evaluation, and triage or treatment for various conditions and circumstances.

2. A coordinated receiving system, which consists of multiple entry points that are linked by shared data systems, formal referral agreements, and cooperative arrangements for care coordination and case management. Each entry point must be a designated receiving facility and must provide or arrange for necessary services following an initial assessment and evaluation.

3. A tiered receiving system, which consists of multiple entry points, some of which offer only specialized or limited services. Each service provider must be classified according to its capabilities as either a designated receiving facility, or another type of service provider such as a triage center, or an access center. All participating service providers must be linked by methods to share data that are compliant with both state and federal patient privacy laws, formal referral agreements, and cooperative arrangements for care coordination and case management. An accurate inventory of the participating service providers which specifies the capabilities and limitations of each provider must be maintained and made available at all times to all first responders in the service



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area.

(c) Transportation in accordance with a plan developed under s. 394.462.

(d) Crisis services, including mobile response teams, crisis stabilization units, addiction receiving facilities, and detoxification facilities.

(e) Case management, including intensive case management for individuals determined to be high-need or high-utilization individuals under s. 394.9082(2)(e).

(f) Outpatient services.

(g) Residential services.

(h) Hospital inpatient care.

(i) Aftercare and other post-discharge services.

(j) Medication Assisted Treatment and medication management.

(k) Recovery support, including housing assistance and support for competitive employment, educational attainment, independent living skills development, family support and education, and wellness management and self-care.

(3) The department's annual assessment must compare the status and performance of the extant behavioral health system with the following standards and any other standards or measures that the department determines to be applicable.

(a) The capacity of the contracted service providers to meet estimated need when such estimates are based on credible evidence and sound methodologies.

(b) The extent to which the behavioral health system uses evidence-informed practices and broadly disseminates the results of quality improvement activities to all service providers.



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591 (c) The degree to which services are offered in the least
592 restrictive and most appropriate therapeutic environment.

593 (d) The scope of systemwide accountability activities used
594 to monitor patient outcomes and measure continuous improvement
595 in the behavioral health system.

596 (4) Subject to a specific appropriation by the Legislature,
597 the department may award system improvement grants to managing
598 entities based on the submission of a detailed plan to enhance
599 services, coordination, or performance measurement in accordance
600 with the model and standards specified in this section. Such a
601 grant must be awarded through a performance-based contract that
602 links payments to the documented and measurable achievement of
603 system improvements ~~The department is directed to implement a~~
604 ~~continuity of care management system for the provision of mental~~
605 ~~health care, through the provision of client and case~~
606 ~~management, including clients referred from state treatment~~
607 ~~facilities to community mental health facilities. Such system~~
608 ~~shall include a network of client managers and case managers~~
609 ~~throughout the state designed to:~~

610 ~~(a) Reduce the possibility of a client's admission or~~
611 ~~readmission to a state treatment facility.~~

612 ~~(b) Provide for the creation or designation of an agency in~~
613 ~~each county to provide single intake services for each person~~
614 ~~seeking mental health services. Such agency shall provide~~
615 ~~information and referral services necessary to ensure that~~
616 ~~clients receive the most appropriate and least restrictive form~~
617 ~~of care, based on the individual needs of the person seeking~~
618 ~~treatment. Such agency shall have a single telephone number,~~
619 ~~operating 24 hours per day, 7 days per week, where practicable,~~



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~~at a central location, where each client will have a central record.~~

~~(c) Advocate on behalf of the client to ensure that all appropriate services are afforded to the client in a timely and dignified manner.~~

~~(d) Require that any public receiving facility initiating a patient transfer to a licensed hospital for acute care mental health services not accessible through the public receiving facility shall notify the hospital of such transfer and send all records relating to the emergency psychiatric or medical condition.~~

~~(3) The department is directed to develop and include in contracts with service providers measures of performance with regard to goals and objectives as specified in the state plan. Such measures shall use, to the extent practical, existing data collection methods and reports and shall not require, as a result of this subsection, additional reports on the part of service providers. The department shall plan monitoring visits of community mental health facilities with other state, federal, and local governmental and private agencies charged with monitoring such facilities.~~

Section 7. Paragraphs (d) and (e) of subsection (2) of section 394.4597, Florida Statutes, are amended to read:

394.4597 Persons to be notified; patient's representative.—

(2) INVOLUNTARY PATIENTS.—

(d) When the receiving or treatment facility selects a representative, first preference shall be given to a health care surrogate, if one has been previously selected by the patient. If the patient has not previously selected a health care



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surrogate, the selection, except for good cause documented in the patient's clinical record, shall be made from the following list in the order of listing:

1. The patient's spouse.
2. An adult child of the patient.
3. A parent of the patient.
4. The adult next of kin of the patient.
5. An adult friend of the patient.

~~6. The appropriate Florida local advocacy council as provided in s. 402.166.~~

(e) The following persons are prohibited from selection as a patient's representative:

1. A professional providing clinical services to the patient under this part.

2. The licensed professional who initiated the involuntary examination of the patient, if the examination was initiated by professional certificate.

3. An employee, an administrator, or a board member of the facility providing the examination of the patient.

4. An employee, an administrator, or a board member of a treatment facility providing treatment for the patient.

5. A person providing any substantial professional services to the patient, including clinical services.

6. A creditor of the patient.

7. A person subject to an injunction for protection against domestic violence under s. 741.30, whether the order of injunction is temporary or final, and for which the patient was the petitioner.

8. A person subject to an injunction for protection against



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repeat violence, sexual violence, or dating violence under s.
784.046, whether the order of injunction is temporary or final,
and for which the patient was the petitioner ~~A licensed
professional providing services to the patient under this part,
an employee of a facility providing direct services to the
patient under this part, a department employee, a person
providing other substantial services to the patient in a
professional or business capacity, or a creditor of the patient
shall not be appointed as the patient's representative.~~

Section 8. Present subsections (2) through (7) of section
394.4598, Florida Statutes, are redesignated as subsections (3)
through (8), respectively, a new subsection (2) is added to that
section, and present subsections (3) and (4) of that section are
amended, to read:

394.4598 Guardian advocate.—

(2) The following persons are prohibited from appointment
as a patient's guardian advocate:

(a) A professional providing clinical services to the
patient under this part.

(b) The licensed professional who initiated the involuntary
examination of the patient, if the examination was initiated by
professional certificate.

(c) An employee, an administrator, or a board member of the
facility providing the examination of the patient.

(d) An employee, an administrator, or a board member of a
treatment facility providing treatment of the patient.

(e) A person providing any substantial professional
services to the patient, including clinical services.

(f) A creditor of the patient.



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(g) A person subject to an injunction for protection against domestic violence under s. 741.30, whether the order of injunction is temporary or final, and for which the patient was the petitioner.

(h) A person subject to an injunction for protection against repeat violence, sexual violence, or dating violence under s. 784.046, whether the order of injunction is temporary or final, and for which the patient was the petitioner.

~~(4)(3)~~ In lieu of the training required of guardians appointed pursuant to chapter 744, ~~Prior to a guardian advocate must, at a minimum, participate in a 4-hour training course approved by the court before exercising his or her authority,~~
~~the guardian advocate shall attend a training course approved by the court. At a minimum, this training course, of not less than 4 hours,~~ must include, ~~at minimum,~~ information about the patient rights, psychotropic medications, the diagnosis of mental illness, the ethics of medical decisionmaking, and duties of guardian advocates. ~~This training course shall take the place of the training required for guardians appointed pursuant to chapter 744.~~

~~(5)(4)~~ The required training course and the information to be supplied to prospective guardian advocates before ~~prior to~~ their appointment ~~and the training course for guardian advocates must be developed and completed through a course developed by the department, and approved by the chief judge of the circuit court, and taught by a court-approved organization, which-~~
~~Court-approved organizations~~ may include, but is ~~are~~ not limited to, a community college ~~community or junior colleges, a~~ guardianship organization ~~guardianship organizations, a and the~~



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local bar association, or The Florida Bar. The training course may be web-based, provided in video format, or other electronic means but must be capable of ensuring the identity and participation of the prospective guardian advocate. The court may, ~~in its discretion,~~ waive some or all of the training requirements for guardian advocates or impose additional requirements. The court shall make its decision on a case-by-case basis and, in making its decision, shall consider the experience and education of the guardian advocate, the duties assigned to the guardian advocate, and the needs of the patient.

Section 9. Section 394.462, Florida Statutes, is amended to read:

394.462 Transportation.—A transportation plan must be developed and implemented by each county in accordance with this section. A county may enter into a memorandum of understanding with the governing boards of nearby counties to establish a shared transportation plan. When multiple counties enter into a memorandum of understanding for this purpose, the managing entity must be notified and provided a copy of the agreement. The transportation plan must describe methods of transport to a facility within the designated receiving system and may identify responsibility for other transportation to a participating facility when necessary and agreed to by the facility. The plan must ensure that individuals who meet the criteria for involuntary assessment and evaluation pursuant to ss. 394.463 and 397.675 will be transported. The plan may rely on emergency medical transport services or private transport companies as appropriate.

(1) TRANSPORTATION TO A RECEIVING FACILITY.—



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(a) Each county shall designate a single law enforcement agency within the county, or portions thereof, to take a person into custody upon the entry of an ex parte order or the execution of a certificate for involuntary examination by an authorized professional and to transport that person to an appropriate facility within the designated receiving system ~~the nearest receiving facility~~ for examination.

(b)1. The designated law enforcement agency may decline to transport the person to a receiving facility only if:

a.1. ~~The jurisdiction designated by the county has~~ contracted on an annual basis with an emergency medical transport service or private transport company for transportation of persons to receiving facilities pursuant to this section at the sole cost of the county; and

b.2. ~~The law enforcement agency and the emergency medical transport service or private transport company agree that the continued presence of law enforcement personnel is not necessary for the safety of the person or others.~~

2.3. ~~The entity providing transportation jurisdiction designated by the county~~ may seek reimbursement for transportation expenses. The party responsible for payment for such transportation is the person receiving the transportation. The county shall seek reimbursement from the following sources in the following order:

a. From a private or public third-party payor ~~an insurance company, health care corporation, or other source~~, if the person receiving the transportation has applicable coverage ~~is covered by an insurance policy or subscribes to a health care corporation or other source for payment of such expenses.~~



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b. From the person receiving the transportation.

c. From a financial settlement for medical care, treatment, hospitalization, or transportation payable or accruing to the injured party.

~~(c)(b)~~ A Any company that transports a patient pursuant to this subsection is considered an independent contractor and is solely liable for the safe and dignified transport ~~transportation~~ of the patient. Such company must be insured and provide no less than \$100,000 in liability insurance with respect to the transport ~~transportation~~ of patients.

~~(d)(e)~~ Any company that contracts with a governing board of a county to transport patients shall comply with the applicable rules of the department to ensure the safety and dignity of ~~the~~ patients.

~~(e)(d)~~ When a law enforcement officer takes custody of a person pursuant to this part, the officer may request assistance from emergency medical personnel if such assistance is needed for the safety of the officer or the person in custody.

~~(f)(e)~~ When a member of a mental health overlay program or a mobile crisis response service is a professional authorized to initiate an involuntary examination pursuant to s. 394.463 or s. 397.675 and that professional evaluates a person and determines that transportation to a receiving facility is needed, the service, at its discretion, may transport the person to the facility or may call on the law enforcement agency or other transportation arrangement best suited to the needs of the patient.

~~(g)(f)~~ When any law enforcement officer has custody of a person based on either noncriminal or minor criminal behavior



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that meets the statutory guidelines for involuntary examination under this part, the law enforcement officer shall transport the person to an appropriate ~~the nearest receiving~~ facility within the designated receiving system for examination.

(h) ~~(g)~~ When any law enforcement officer has arrested a person for a felony and it appears that the person meets the statutory guidelines for involuntary examination or placement under this part, such person must ~~shall~~ first be processed in the same manner as any other criminal suspect. The law enforcement agency shall thereafter immediately notify the appropriate ~~nearest public receiving~~ facility within the designated receiving system, which shall be responsible for promptly arranging for the examination and treatment of the person. A receiving facility is not required to admit a person charged with a crime for whom the facility determines and documents that it is unable to provide adequate security, but shall provide ~~mental health~~ examination and treatment to the person where he or she is held.

(i) ~~(h)~~ If the appropriate law enforcement officer believes that a person has an emergency medical condition as defined in s. 395.002, the person may be first transported to a hospital for emergency medical treatment, regardless of whether the hospital is a designated receiving facility.

(j) ~~(i)~~ The costs of transportation, evaluation, hospitalization, and treatment incurred under this subsection by persons who have been arrested for violations of any state law or county or municipal ordinance may be recovered as provided in s. 901.35.

(k) ~~(j)~~ The ~~nearest receiving~~ facility within the designated



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receiving system must accept, pursuant to this part, persons brought by law enforcement officers, an emergency medical transport service, or a private transport company for involuntary examination.

(l) ~~(k)~~ Each law enforcement agency designated pursuant to paragraph (a) shall establish a policy that ~~develop a memorandum of understanding with each receiving facility within the law enforcement agency's jurisdiction which~~ reflects a single set of protocols approved by the managing entity for the safe and secure transportation ~~of the person~~ and transfer of custody of the person. ~~These protocols must also address crisis intervention measures.~~

(m) ~~(l)~~ When a jurisdiction has entered into a contract with an emergency medical transport service or a private transport company for transportation of persons to ~~receiving~~ facilities within the designated receiving system, such service or company shall be given preference for transportation of persons from nursing homes, assisted living facilities, adult day care centers, or adult family-care homes, unless the behavior of the person being transported is such that transportation by a law enforcement officer is necessary.

(n) ~~(m)~~ ~~Nothing in~~ This section may not ~~shall~~ be construed to limit emergency examination and treatment of incapacitated persons provided in accordance with ~~the provisions of s.~~ 401.445.

(2) TRANSPORTATION TO A TREATMENT FACILITY.—

(a) If neither the patient nor any person legally obligated or responsible for the patient is able to pay for the expense of transporting a voluntary or involuntary patient to a treatment



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881 facility, the transportation plan established by the governing
882 board of the county or counties must specify how in which the
883 hospitalized patient will be transported to, from, and between
884 facilities in a ~~is hospitalized shall arrange for such required~~
885 ~~transportation and shall ensure the safe and dignified manner~~
886 ~~transportation of the patient. The governing board of each~~
887 ~~county is authorized to contract with private transport~~
888 ~~companies for the transportation of such patients to and from a~~
889 ~~treatment facility.~~

890 (b) A ~~Any~~ company that transports a patient pursuant to
891 this subsection is considered an independent contractor and is
892 solely liable for the safe and dignified transportation of the
893 patient. Such company must be insured and provide no less than
894 \$100,000 in liability insurance with respect to the transport
895 ~~transportation~~ of patients.

896 (c) A ~~Any~~ company that contracts with one or more counties
897 ~~the governing board of a county~~ to transport patients in
898 accordance with this section shall comply with the applicable
899 rules of the department to ensure the safety and dignity of ~~the~~
900 patients.

901 (d) County or municipal law enforcement and correctional
902 personnel and equipment may ~~shall~~ not be used to transport
903 patients adjudicated incapacitated or found by the court to meet
904 the criteria for involuntary placement pursuant to s. 394.467,
905 except in small rural counties where there are no cost-efficient
906 alternatives.

907 (3) TRANSFER OF CUSTODY.—Custody of a person who is
908 transported pursuant to this part, along with related
909 documentation, shall be relinquished to a responsible individual



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at the appropriate receiving or treatment facility.

~~(4) EXCEPTIONS. An exception to the requirements of this section may be granted by the secretary of the department for the purposes of improving service coordination or better meeting the special needs of individuals. A proposal for an exception must be submitted by the district administrator after being approved by the governing boards of any affected counties, prior to submission to the secretary.~~

~~(a) A proposal for an exception must identify the specific provision from which an exception is requested; describe how the proposal will be implemented by participating law enforcement agencies and transportation authorities; and provide a plan for the coordination of services such as case management.~~

~~(b) The exception may be granted only for:~~

~~1. An arrangement centralizing and improving the provision of services within a district, which may include an exception to the requirement for transportation to the nearest receiving facility;~~

~~2. An arrangement by which a facility may provide, in addition to required psychiatric services, an environment and services which are uniquely tailored to the needs of an identified group of persons with special needs, such as persons with hearing impairments or visual impairments, or elderly persons with physical frailties; or~~

~~3. A specialized transportation system that provides an efficient and humane method of transporting patients to receiving facilities, among receiving facilities, and to treatment facilities.~~

~~(c) Any exception approved pursuant to this subsection~~



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~~shall be reviewed and approved every 5 years by the secretary.~~

Section 10. Subsection (2) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(2) INVOLUNTARY EXAMINATION.—

(a) An involuntary examination may be initiated by any one of the following means:

1. A circuit or county court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination and specifying,~~giving~~ the findings on which that conclusion is based. The ex parte order for involuntary examination must be based on written or oral sworn testimony that includes specific facts that support the findings,~~written or oral~~. If other, less restrictive, means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer, or other designated agent of the court, shall take the person into custody and deliver him or her to an appropriate ~~the nearest receiving~~ facility within the designated receiving system for involuntary examination. The order of the court shall be made a part of the patient's clinical record. A No fee may not ~~shall~~ be charged for the filing of an order under this subsection. Any ~~receiving~~ facility accepting the patient based on this order must send a copy of the order to the managing entity in the region ~~Agency for Health Care Administration~~ on the next working day. The order may be submitted electronically through existing data systems, if available. The order shall be valid only until the person is delivered to the appropriate facility ~~executed~~ or, ~~if not executed,~~ for the period specified in the order itself,



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whichever comes first. If no time limit is specified in the order, the order shall be valid for 7 days after the date that the order was signed.

2. A law enforcement officer shall take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to the appropriate nearest receiving facility within the designated receiving system for examination. The officer shall execute a written report detailing the circumstances under which the person was taken into custody, which must ~~and the report shall~~ be made a part of the patient's clinical record. Any ~~receiving~~ facility accepting the patient based on this report must send a copy of the report to the department and the managing entity ~~Agency for Health Care Administration~~ on the next working day.

3. A physician, clinical psychologist, psychiatric nurse practitioner, mental health counselor, marriage and family therapist, or clinical social worker may execute a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based. If other, less restrictive means, such as voluntary appearance for outpatient evaluation, are not available, ~~such as voluntary appearance for outpatient evaluation,~~ a law enforcement officer shall take into custody the person named in the certificate ~~into custody~~ and deliver him or her to the appropriate nearest receiving facility within the designated receiving system for involuntary examination. The law enforcement officer shall execute a written report detailing the circumstances under which the person was



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997 taken into custody. The report and certificate shall be made a
998 part of the patient's clinical record. Any ~~receiving~~ facility
999 accepting the patient based on this certificate must send a copy
1000 of the certificate to the managing entity ~~Agency for Health Care~~
1001 ~~Administration~~ on the next working day. The document may be
1002 submitted electronically through existing data systems, if
1003 applicable.

1004 (b) A person may ~~shall~~ not be removed from any program or
1005 residential placement licensed under chapter 400 or chapter 429
1006 and transported to a receiving facility for involuntary
1007 examination unless an ex parte order, a professional
1008 certificate, or a law enforcement officer's report is first
1009 prepared. If the condition of the person is such that
1010 preparation of a law enforcement officer's report is not
1011 practicable before removal, the report shall be completed as
1012 soon as possible after removal, but in any case before the
1013 person is transported to a receiving facility. A ~~receiving~~
1014 facility admitting a person for involuntary examination who is
1015 not accompanied by the required ex parte order, professional
1016 certificate, or law enforcement officer's report shall notify
1017 the managing entity ~~Agency for Health Care Administration~~ of
1018 such admission by certified mail or by e-mail, if available, by
1019 ~~no later than~~ the next working day. The provisions of this
1020 paragraph do not apply when transportation is provided by the
1021 patient's family or guardian.

1022 (c) A law enforcement officer acting in accordance with an
1023 ex parte order issued pursuant to this subsection may serve and
1024 execute such order on any day of the week, at any time of the
1025 day or night.



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(d) A law enforcement officer acting in accordance with an ex parte order issued pursuant to this subsection may use such reasonable physical force as is necessary to gain entry to the premises, and any dwellings, buildings, or other structures located on the premises, and to take custody of the person who is the subject of the ex parte order.

(e) The managing entity and the department ~~Agency for Health Care Administration~~ shall receive and maintain the copies of ex parte petitions and orders, involuntary outpatient services placement orders issued pursuant to s. 394.4655, involuntary inpatient placement orders issued pursuant to s. 394.467, professional certificates, and law enforcement officers' reports. These documents shall be considered part of the clinical record, governed by the provisions of s. 394.4615. These documents shall be provided by the department to the Agency for Health Care Administration and used by the agency to ~~The agency shall~~ prepare annual reports analyzing the data obtained from these documents, without information identifying patients, and shall provide copies of reports to the department, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the Senate and the House of Representatives.

(f) A patient shall be examined by a physician or, a clinical psychologist, or by a psychiatric nurse practitioner, performing within the framework of an established protocol with a psychiatrist at a ~~receiving~~ facility without unnecessary delay to determine if the criteria for involuntary services are met. Emergency treatment may be provided ~~and may,~~ upon the order of a physician, if the physician determines ~~be given emergency~~



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~~treatment if it is determined~~ that such treatment is necessary for the safety of the patient or others. The patient may not be released by the receiving facility or its contractor without the documented approval of a psychiatrist or a clinical psychologist or, ~~if the receiving facility is owned or operated by a hospital or health system, the release may also be approved by a~~ psychiatric nurse practitioner performing within the framework of an established protocol with a psychiatrist, or an attending emergency department physician with experience in the diagnosis and treatment of mental illness ~~and nervous disorders and~~ after completion of an involuntary examination pursuant to this subsection. A psychiatric nurse practitioner may not approve the release of a patient if the involuntary examination was initiated by a psychiatrist unless the release is approved by the initiating psychiatrist. ~~However, a patient may not be held in a receiving facility for involuntary examination longer than 72 hours.~~

(g) A person may not be held for involuntary examination for more than 72 hours from the time of his or her arrival at the facility. Based on the person's needs, one of the following actions must be taken within the involuntary examination period:

1. The person must be released with the approval of a physician, psychiatrist, psychiatric nurse practitioner, or clinical psychologist. However, if the examination is conducted in a hospital, an attending emergency department physician with experience in the diagnosis and treatment of mental illness may approve the release.

2. The person must be asked to give express and informed consent for voluntary admission if a physician, psychiatrist,



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psychiatric nurse practitioner, or clinical psychologist has determined that the individual is competent to consent to treatment.

3. A petition for involuntary services must be completed and filed in the circuit court by the facility administrator. If electronic filing of the petition is not available in the county and the 72-hour period ends on a weekend or legal holiday, the petition must be filed by the next working day. If involuntary services are deemed necessary, the least restrictive treatment consistent with the optimum improvement of the person's condition must be made available.

(h) An individual discharged from a facility on a voluntary or an involuntary basis who is currently charged with a crime shall be released to the custody of a law enforcement officer, unless the individual has been released from law enforcement custody by posting of a bond, by a pretrial conditional release, or by other judicial release.

(i) ~~(g)~~ A person for whom an involuntary examination has been initiated who is being evaluated or treated at a hospital for an emergency medical condition specified in s. 395.002 must be examined by an appropriate ~~a-receiving~~ facility within 72 hours. The 72-hour period begins when the patient arrives at the hospital and ceases when the attending physician documents that the patient has an emergency medical condition. If the patient is examined at a hospital providing emergency medical services by a professional qualified to perform an involuntary examination and is found as a result of that examination not to meet the criteria for involuntary outpatient services ~~placement~~ pursuant to s. 394.4655(1) or involuntary inpatient placement



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pursuant to s. 394.467(1), the patient may be offered voluntary placement, if appropriate, or released directly from the hospital providing emergency medical services. The finding by the professional that the patient has been examined and does not meet the criteria for involuntary inpatient placement or involuntary outpatient services ~~placement~~ must be entered into the patient's clinical record. ~~Nothing in~~ This paragraph is not intended to prevent a hospital providing emergency medical services from appropriately transferring a patient to another hospital before ~~prior to~~ stabilization if, ~~provided~~ the requirements of s. 395.1041(3)(c) have been met.

~~(j)-(h)~~ (j) One of the following must occur within 12 hours after the patient's attending physician documents that the patient's medical condition has stabilized or that an emergency medical condition does not exist:

1. The patient must be examined by an appropriate ~~a designated receiving~~ facility and released; or

2. The patient must be transferred to a designated ~~receiving~~ facility in which appropriate medical treatment is available. However, the ~~receiving~~ facility must be notified of the transfer within 2 hours after the patient's condition has been stabilized or after determination that an emergency medical condition does not exist.

~~(i) Within the 72-hour examination period or, if the 72 hours ends on a weekend or holiday, no later than the next working day thereafter, one of the following actions must be taken, based on the individual needs of the patient:~~

~~1. The patient shall be released, unless he or she is charged with a crime, in which case the patient shall be~~



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~~returned to the custody of a law enforcement officer;~~

~~2. The patient shall be released, subject to the provisions of subparagraph 1., for voluntary outpatient treatment;~~

~~3. The patient, unless he or she is charged with a crime, shall be asked to give express and informed consent to placement as a voluntary patient, and, if such consent is given, the patient shall be admitted as a voluntary patient; or~~

~~4. A petition for involuntary placement shall be filed in the circuit court when outpatient or inpatient treatment is deemed necessary. When inpatient treatment is deemed necessary, the least restrictive treatment consistent with the optimum improvement of the patient's condition shall be made available. When a petition is to be filed for involuntary outpatient placement, it shall be filed by one of the petitioners specified in s. 394.4655(3)(a). A petition for involuntary inpatient placement shall be filed by the facility administrator.~~

Section 11. Section 394.4655, Florida Statutes, is amended to read:

394.4655 Involuntary outpatient services placement.—

(1) CRITERIA FOR INVOLUNTARY OUTPATIENT SERVICES PLACEMENT.—A person may be ordered to involuntary outpatient services placement upon a finding of the court, by clear and convincing evidence, that the person meets all of the following criteria by clear and convincing evidence:

(a) The person is 18 years of age or older.†

(b) The person has a mental illness.†

(c) The person is unlikely to survive safely in the community without supervision, based on a clinical determination.†



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(d) The person has a history of lack of compliance with treatment for mental illness.†

(e) The person has:

1. At least twice within the immediately preceding 36 months been involuntarily admitted to a receiving or treatment facility as defined in s. 394.455, or has received mental health services in a forensic or correctional facility. The 36-month period does not include any period during which the person was admitted or incarcerated; or

2. Engaged in one or more acts of serious violent behavior toward self or others, or attempts at serious bodily harm to himself or herself or others, within the preceding 36 months.†

(f) The person is, as a result of his or her mental illness, unlikely to voluntarily participate in the recommended treatment plan and ~~either he or she~~ has refused voluntary services placement for treatment after sufficient and conscientious explanation and disclosure of why the services are necessary ~~purpose of placement for treatment~~ or ~~he or she~~ is unable to determine for himself or herself whether services are placement is necessary.†

(g) In view of the person's treatment history and current behavior, the person is in need of involuntary outpatient services placement in order to prevent a relapse or deterioration that would be likely to result in serious bodily harm to himself or herself or others, or a substantial harm to his or her well-being as set forth in s. 394.463(1).†

(h) It is likely that the person will benefit from involuntary outpatient services. placement; and

(i) All available, less restrictive alternatives that would



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offer an opportunity for improvement of his or her condition
have been judged to be inappropriate or unavailable.

(2) INVOLUNTARY OUTPATIENT SERVICES ~~PLACEMENT~~.—

(a)1. A patient who is being recommended for involuntary
outpatient services ~~placement~~ by the administrator of the
~~receiving~~ facility where the patient has been examined may be
retained by the facility after adherence to the notice
procedures provided in s. 394.4599. The recommendation must be
supported by the opinion of two qualified professionals ~~a~~
~~psychiatrist and the second opinion of a clinical psychologist~~
~~or another psychiatrist~~, both of whom have personally examined
the patient within the preceding 72 hours, that the criteria for
involuntary outpatient services ~~placement~~ are met. However, in a
county having a population of fewer than 50,000, if the
administrator certifies that a qualified professional
~~psychiatrist or clinical psychologist~~ is not available to
provide the second opinion, the second opinion may be provided
by a ~~licensed~~ physician who has postgraduate training and
experience in diagnosis and treatment of mental ~~and nervous~~
disorders or by a psychiatric nurse practitioner. Any second
opinion authorized in this subparagraph may be conducted through
a face-to-face examination, in person or by electronic means.
Such recommendation must be entered on an involuntary outpatient
services ~~placement~~ certificate that authorizes the ~~receiving~~
facility to retain the patient pending completion of a hearing.
The certificate must ~~shall~~ be made a part of the patient's
clinical record.

2. If the patient has been stabilized and no longer meets
the criteria for involuntary examination pursuant to s.



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394.463(1), the patient must be released from the ~~receiving~~ facility while awaiting the hearing for involuntary outpatient services placement. Before filing a petition for involuntary outpatient services treatment, the administrator of the a ~~receiving~~ facility or a designated department representative must identify the service provider that will have primary responsibility for service provision under an order for involuntary outpatient services placement, unless the person is otherwise participating in outpatient psychiatric treatment and is not in need of public financing for that treatment, in which case the individual, if eligible, may be ordered to involuntary treatment pursuant to the existing psychiatric treatment relationship.

3. The service provider shall prepare a written proposed treatment plan in consultation with the patient or the patient's guardian advocate, if appointed, for the court's consideration for inclusion in the involuntary outpatient services placement order. The service provider shall also provide a copy of the treatment plan that addresses the nature and extent of the mental illness and any co-occurring substance use disorders that necessitate involuntary outpatient services. The treatment plan must specify the likely level of care, including the use of medication, and anticipated discharge criteria for terminating involuntary outpatient services. ~~The service provider shall also provide a copy of the proposed treatment plan to the patient and the administrator of the receiving facility. The treatment plan must specify the nature and extent of the patient's mental illness, address the reduction of symptoms that necessitate involuntary outpatient placement, and include measurable goals~~



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~~and objectives for the services and treatment that are provided to treat the person's mental illness and assist the person in living and functioning in the community or to prevent a relapse or deterioration.~~ Service providers may select and supervise other individuals to implement specific aspects of the treatment plan. The services in the ~~treatment~~ plan must be deemed clinically appropriate by a physician, clinical psychologist, psychiatric nurse practitioner, mental health counselor, marriage and family therapist, or clinical social worker who consults with, or is employed or contracted by, the service provider. The service provider must certify to the court in the proposed treatment plan whether sufficient services for improvement and stabilization are currently available and whether the service provider agrees to provide those services. If the service provider certifies that the services in the proposed treatment plan are not available, the petitioner may not file the petition. The service provider must notify the managing entity as to the availability of the requested services. The managing entity must document such efforts to obtain the requested services.

(b) If a patient in involuntary inpatient placement meets the criteria for involuntary outpatient services placement, the administrator of the ~~treatment~~ facility may, before the expiration of the period during which the ~~treatment~~ facility is authorized to retain the patient, recommend involuntary outpatient services placement. The recommendation must be supported by the opinion of two qualified professionals a ~~psychiatrist and the second opinion of a clinical psychologist or another psychiatrist~~, both of whom have personally examined



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the patient within the preceding 72 hours, that the criteria for involuntary outpatient services placement are met. However, in a county having a population of fewer than 50,000, if the administrator certifies that a qualified professional psychiatrist or clinical psychologist is not available to provide the second opinion, the second opinion may be provided by a ~~licensed~~ physician who has postgraduate training and experience in diagnosis and treatment of mental ~~and nervous~~ disorders or by a psychiatric nurse practitioner. Any second opinion authorized in this paragraph ~~subparagraph~~ may be conducted through a face-to-face examination, in person or by electronic means. Such recommendation must be entered on an involuntary outpatient services placement certificate, and the certificate must be made a part of the patient's clinical record.

(c)1. The administrator of the ~~treatment~~ facility shall provide a copy of the involuntary outpatient services placement certificate and a copy of the state mental health discharge form to the managing entity ~~a department representative~~ in the county where the patient will be residing. For persons who are leaving a state mental health treatment facility, the petition for involuntary outpatient services placement must be filed in the county where the patient will be residing.

2. The service provider that will have primary responsibility for service provision shall be identified by the designated department representative before ~~prior to~~ the order for involuntary outpatient services placement and must, before ~~prior to~~ filing a petition for involuntary outpatient services placement, certify to the court whether the services recommended



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in the patient's discharge plan are available ~~in the local~~
~~community~~ and whether the service provider agrees to provide
those services. The service provider must develop with the
patient, or the patient's guardian advocate, if appointed, a
treatment or service plan that addresses the needs identified in
the discharge plan. The plan must be deemed to be clinically
appropriate by a physician, clinical psychologist, psychiatric
nurse practitioner, mental health counselor, marriage and family
therapist, or clinical social worker, as defined in this
chapter, who consults with, or is employed or contracted by, the
service provider.

3. If the service provider certifies that the services in
the proposed treatment or service plan are not available, the
petitioner may not file the petition. The service provider must
notify the managing entity as to the availability of the
requested services. The managing entity must document such
efforts to obtain the requested services.

(3) PETITION FOR INVOLUNTARY OUTPATIENT SERVICES
PLACEMENT.—

(a) A petition for involuntary outpatient services
~~placement~~ may be filed by:

1. The administrator of a receiving facility; or
2. The administrator of a treatment facility.

(b) Each required criterion for involuntary outpatient
services placement must be alleged and substantiated in the
petition for involuntary outpatient services placement. A copy
of the certificate recommending involuntary outpatient services
~~placement~~ completed by two ~~a~~ qualified professionals
~~professional specified in subsection (2)~~ must be attached to the



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petition. A copy of the proposed treatment plan must be attached to the petition. Before the petition is filed, the service provider shall certify that the services in the proposed treatment plan are available. If the necessary services are not available ~~in the patient's local community to respond to the person's individual needs~~, the petition may not be filed. The service provider must notify the managing entity as to the availability of the requested services. The managing entity must document such efforts to obtain the requested services.

(c) The petition for involuntary outpatient services ~~placement~~ must be filed in the county where the patient is located, unless the patient is being placed from a state treatment facility, in which case the petition must be filed in the county where the patient will reside. When the petition has been filed, the clerk of the court shall provide copies of the petition and the proposed treatment plan to the department, the managing entity, the patient, the patient's guardian or representative, the state attorney, and the public defender or the patient's private counsel. A fee may not be charged for filing a petition under this subsection.

(4) APPOINTMENT OF COUNSEL.—Within 1 court working day after the filing of a petition for involuntary outpatient services ~~placement~~, the court shall appoint the public defender to represent the person who is the subject of the petition, unless the person is otherwise represented by counsel. The clerk of the court shall immediately notify the public defender of the appointment. The public defender shall represent the person until the petition is dismissed, the court order expires, or the patient is discharged from involuntary outpatient services



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placement. An attorney who represents the patient must be
provided ~~shall have~~ access to the patient, witnesses, and
records relevant to the presentation of the patient's case and
shall represent the interests of the patient, regardless of the
source of payment to the attorney.

(5) CONTINUANCE OF HEARING.—The patient is entitled, with
the concurrence of the patient's counsel, to at least one
continuance of the hearing. The continuance shall be for a
period of up to 4 weeks.

(6) HEARING ON INVOLUNTARY OUTPATIENT SERVICES ~~PLACEMENT~~.—

(a)1. The court shall hold the hearing on involuntary
outpatient services ~~placement~~ within 5 working days after the
filing of the petition, unless a continuance is granted. The
hearing must ~~shall~~ be held in the county where the petition is
filed, must ~~shall~~ be as convenient to the patient as is
consistent with orderly procedure, and must ~~shall~~ be conducted
in physical settings not likely to be injurious to the patient's
condition. If the court finds that the patient's attendance at
the hearing is not consistent with the best interests of the
patient and if the patient's counsel does not object, the court
may waive the presence of the patient from all or any portion of
the hearing. The state attorney for the circuit in which the
patient is located shall represent the state, rather than the
petitioner, as the real party in interest in the proceeding.

2. The court may appoint a general or special master to
preside at the hearing. One of the professionals who executed
the involuntary outpatient services ~~placement~~ certificate shall
be a witness. The patient and the patient's guardian or
representative shall be informed by the court of the right to an



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independent expert examination. If the patient cannot afford such an examination, the court shall ensure that one is provided, as otherwise provided by law ~~provide for one~~. The independent expert's report is ~~shall be~~ confidential and not discoverable, unless the expert is to be called as a witness for the patient at the hearing. The court shall allow testimony from individuals, including family members, deemed by the court to be relevant under state law, regarding the person's prior history and how that prior history relates to the person's current condition. The testimony in the hearing must be given under oath, and the proceedings must be recorded. The patient may refuse to testify at the hearing.

(b)1. If the court concludes that the patient meets the criteria for involuntary outpatient services ~~placement~~ pursuant to subsection (1), the court shall issue an order for involuntary outpatient services ~~placement~~. The court order shall be for a period of up to 90 days ~~6 months~~. The order must specify the nature and extent of the patient's mental illness. The order of the court and the treatment plan must ~~shall~~ be made part of the patient's clinical record. The service provider shall discharge a patient from involuntary outpatient services ~~placement~~ when the order expires or any time the patient no longer meets the criteria for involuntary services ~~placement~~. Upon discharge, the service provider shall send a certificate of discharge to the court.

2. The court may not order the department or the service provider to provide services if the program or service is not available in the patient's local community, if there is no space available in the program or service for the patient, or if



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funding is not available for the program or service. The service provider must notify the managing entity as to the availability of the requested services. The managing entity must document such efforts to obtain the requested services. A copy of the order must be sent to the managing entity ~~Agency for Health Care Administration~~ by the service provider within 1 working day after it is received from the court. The order may be submitted electronically through existing data systems. After the ~~placement~~ order for involuntary services is issued, the service provider and the patient may modify ~~provisions of~~ the treatment plan. For any material modification of the treatment plan to which the patient or, if one is appointed, the patient's guardian advocate agrees, ~~if appointed, does agree,~~ the service provider shall send notice of the modification to the court. Any material modifications of the treatment plan which are contested by the patient or the patient's guardian advocate, if applicable ~~appointed,~~ must be approved or disapproved by the court consistent with subsection (2).

3. If, in the clinical judgment of a physician, the patient has failed or ~~has~~ refused to comply with the treatment ordered by the court, and, in the clinical judgment of the physician, efforts were made to solicit compliance and the patient may meet the criteria for involuntary examination, a person may be brought to a receiving facility pursuant to s. 394.463. If, after examination, the patient does not meet the criteria for involuntary inpatient placement pursuant to s. 394.467, the patient must be discharged from the ~~receiving~~ facility. The involuntary outpatient services ~~placement~~ order shall remain in effect unless the service provider determines that the patient



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no longer meets the criteria for involuntary outpatient services
~~placement~~ or until the order expires. The service provider must
determine whether modifications should be made to the existing
treatment plan and must attempt to continue to engage the
patient in treatment. For any material modification of the
treatment plan to which the patient or the patient's guardian
advocate, if applicable ~~appointed~~, agrees ~~does agree~~, the
service provider shall send notice of the modification to the
court. Any material modifications of the treatment plan which
are contested by the patient or the patient's guardian advocate,
if applicable ~~appointed~~, must be approved or disapproved by the
court consistent with subsection (2).

(c) If, at any time before the conclusion of the initial
hearing on involuntary outpatient services ~~placement~~, it appears
to the court that the person does not meet the criteria for
involuntary outpatient services ~~placement~~ under this section
but, instead, meets the criteria for involuntary inpatient
placement, the court may order the person admitted for
involuntary inpatient examination under s. 394.463. If the
person instead meets the criteria for involuntary assessment,
protective custody, or involuntary admission pursuant to s.
397.675, the court may order the person to be admitted for
involuntary assessment for a period of 5 days pursuant to s.
397.6811. Thereafter, all proceedings are ~~shall be~~ governed by
chapter 397.

(d) At the hearing on involuntary outpatient services
~~placement~~, the court shall consider testimony and evidence
regarding the patient's competence to consent to treatment. If
the court finds that the patient is incompetent to consent to



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treatment, it shall appoint a guardian advocate as provided in s. 394.4598. The guardian advocate shall be appointed or discharged in accordance with s. 394.4598.

(e) The administrator of the receiving facility or the designated department representative shall provide a copy of the court order and adequate documentation of a patient's mental illness to the service provider for involuntary outpatient services placement. Such documentation must include any advance directives made by the patient, a psychiatric evaluation of the patient, and any evaluations of the patient performed by a ~~clinical~~ psychologist or a clinical social worker.

(7) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT SERVICES PLACEMENT.—

(a)1. If the person continues to meet the criteria for involuntary outpatient services placement, the service provider shall, at least 10 days before the expiration of the period during which the treatment is ordered for the person, file in the circuit court a petition for continued involuntary outpatient services placement. The court shall immediately schedule a hearing on the petition to be held within 15 days after the petition is filed.

2. The existing involuntary outpatient services placement order remains in effect until disposition on the petition for continued involuntary outpatient services placement.

3. A certificate shall be attached to the petition which includes a statement from the person's physician or clinical psychologist justifying the request, a brief description of the patient's treatment during the time he or she was receiving involuntarily services placed, and an individualized plan of



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continued treatment.

4. The service provider shall develop the individualized plan of continued treatment in consultation with the patient or the patient's guardian advocate, if applicable ~~appointed~~. When the petition has been filed, the clerk of the court shall provide copies of the certificate and the individualized plan of continued treatment to the department, the patient, the patient's guardian advocate, the state attorney, and the patient's private counsel or the public defender.

(b) Within 1 court working day after the filing of a petition for continued involuntary outpatient services ~~placement~~, the court shall appoint the public defender to represent the person who is the subject of the petition, unless the person is otherwise represented by counsel. The clerk of the court shall immediately notify the public defender of such appointment. The public defender shall represent the person until the petition is dismissed or the court order expires or the patient is discharged from involuntary outpatient services ~~placement~~. Any attorney representing the patient shall have access to the patient, witnesses, and records relevant to the presentation of the patient's case and shall represent the interests of the patient, regardless of the source of payment to the attorney.

(c) Hearings on petitions for continued involuntary outpatient services ~~must placement shall~~ be before the circuit court. The court may appoint a general or special master to preside at the hearing. The procedures for obtaining an order pursuant to this paragraph must meet the requirements of ~~shall be in accordance with~~ subsection (6), except that the time



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period included in paragraph (1)(e) does not apply when ~~is not applicable in~~ determining the appropriateness of additional periods of involuntary outpatient services placement.

(d) Notice of the hearing must ~~shall~~ be provided as set forth in s. 394.4599. The patient and the patient's attorney may agree to a period of continued outpatient services placement without a court hearing.

(e) The same procedure must ~~shall~~ be repeated before the expiration of each additional period the patient is placed in treatment.

(f) If the patient has previously been found incompetent to consent to treatment, the court shall consider testimony and evidence regarding the patient's competence. Section 394.4598 governs the discharge of the guardian advocate if the patient's competency to consent to treatment has been restored.

Section 12. Section 394.467, Florida Statutes, is amended to read:

394.467 Involuntary inpatient placement.—

(1) CRITERIA.—A person may be ordered for ~~placed in~~ involuntary inpatient placement for treatment upon a finding of the court by clear and convincing evidence that:

(a) He or she has a mental illness ~~is mentally ill~~ and because of his or her mental illness:

1.a. He or she has refused voluntary inpatient placement for treatment after sufficient and conscientious explanation and disclosure of the purpose of inpatient placement for treatment; or

b. He or she is unable to determine for himself or herself whether inpatient placement is necessary; and



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2.a. He or she is ~~manifestly~~ incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment, is likely to suffer from neglect or refuse to care for himself or herself, and such neglect or refusal poses a real and present threat of substantial physical or mental harm to his or her well-being; or

b. There is substantial likelihood that in the near future he or she will inflict serious bodily harm on self or others ~~himself or herself or another person~~, as evidenced by recent behavior causing, attempting, or threatening such harm; and

(b) All available, less restrictive treatment alternatives ~~that which~~ would offer an opportunity for improvement of his or her condition have been judged to be inappropriate.

(2) ADMISSION TO A TREATMENT FACILITY.—A patient may be retained by a ~~receiving~~ facility or involuntarily placed in a treatment facility upon the recommendation of the administrator of the ~~receiving~~ facility where the patient has been examined and after adherence to the notice and hearing procedures provided in s. 394.4599. The recommendation must be supported by the opinion of a psychiatrist and the second opinion of a psychiatric nurse practitioner, clinical psychologist, or another psychiatrist, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary inpatient placement are met. However, in a county that has a population of fewer than 50,000, if the administrator certifies that a psychiatrist, psychiatric nurse practitioner, or clinical psychologist is not available to provide the second opinion, the second opinion may be provided by a ~~licensed~~



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physician who has postgraduate training and experience in diagnosis and treatment of mental illness ~~and nervous disorders~~ or by a psychiatric nurse practitioner. Any second opinion authorized in this subsection may be conducted through a face-to-face examination, in person or by electronic means. Such recommendation shall be entered on a petition for ~~an~~ involuntary inpatient placement certificate that authorizes the ~~receiving~~ facility to retain the patient pending transfer to a treatment facility or completion of a hearing.

(3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—

(a) The administrator of the facility shall file a petition for involuntary inpatient placement in the court in the county where the patient is located. Upon filing, the clerk of the court shall provide copies to the department, the patient, the patient's guardian or representative, and the state attorney and public defender of the judicial circuit in which the patient is located. A No fee may not ~~shall~~ be charged for the filing of a petition under this subsection.

(b) A facility filing a petition under this subsection for involuntary inpatient placement shall send a copy of the petition to the managing entity in its area.

(4) APPOINTMENT OF COUNSEL.—Within 1 court working day after the filing of a petition for involuntary inpatient placement, the court shall appoint the public defender to represent the person who is the subject of the petition, unless the person is otherwise represented by counsel. The clerk of the court shall immediately notify the public defender of such appointment. Any attorney representing the patient shall have access to the patient, witnesses, and records relevant to the



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presentation of the patient's case and shall represent the interests of the patient, regardless of the source of payment to the attorney.

(5) CONTINUANCE OF HEARING.—The patient is entitled, with the concurrence of the patient's counsel, to at least one continuance of the hearing. ~~The continuance shall be for a period of~~ up to 4 weeks.

(6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

(a)1. The court shall hold the hearing on involuntary inpatient placement within 5 court working days, unless a continuance is granted.

2. Except for good cause documented in the court file, the hearing must ~~shall~~ be held in the county or the facility, as appropriate, where the patient is located, must ~~and shall~~ be as convenient to the patient as is ~~may be~~ consistent with orderly procedure, and shall be conducted in physical settings not likely to be injurious to the patient's condition. If the court finds that the patient's attendance at the hearing is not consistent with the best interests of the patient, and the patient's counsel does not object, the court may waive the presence of the patient from all or any portion of the hearing. The state attorney for the circuit in which the patient is located shall represent the state, rather than the petitioning facility administrator, as the real party in interest in the proceeding.

3.2. The court may appoint a general or special magistrate to preside at the hearing. One of the two professionals who executed the petition for involuntary inpatient placement certificate shall be a witness. The patient and the patient's



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guardian or representative shall be informed by the court of the right to an independent expert examination. If the patient cannot afford such an examination, the court shall ensure that one is provided, as otherwise provided for by law ~~provide for one~~. The independent expert's report is ~~shall be~~ confidential and not discoverable, unless the expert is to be called as a witness for the patient at the hearing. The testimony in the hearing must be given under oath, and the proceedings must be recorded. The patient may refuse to testify at the hearing.

(b) If the court concludes that the patient meets the criteria for involuntary inpatient placement, it may ~~shall~~ order that the patient be transferred to a treatment facility or, if the patient is at a treatment facility, that the patient be retained there or be treated at any other appropriate ~~receiving or treatment~~ facility, or that the patient receive services from such a receiving or treatment facility or service provider, on an involuntary basis, for a period of up to 90 days ~~6 months~~. However, any order for involuntary mental health services in a treatment facility may be for up to 6 months. The order shall specify the nature and extent of the patient's mental illness The court may not order an individual with traumatic brain injury or dementia who lacks a co-occurring mental illness to be involuntarily placed in a treatment facility. The facility shall discharge a patient any time the patient no longer meets the criteria for involuntary inpatient placement, unless the patient has transferred to voluntary status.

(c) If at any time before ~~prior to~~ the conclusion of the hearing on involuntary inpatient placement it appears to the court that the person does not meet the criteria for involuntary



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inpatient placement under this section, but instead meets the criteria for involuntary outpatient services placement, the court may order the person evaluated for involuntary outpatient services placement pursuant to s. 394.4655. The petition and hearing procedures set forth in s. 394.4655 shall apply. If the person instead meets the criteria for involuntary assessment, protective custody, or involuntary admission pursuant to s. 397.675, then the court may order the person to be admitted for involuntary assessment for a period of 5 days pursuant to s. 397.6811. Thereafter, all proceedings are ~~shall be~~ governed by chapter 397.

(d) At the hearing on involuntary inpatient placement, the court shall consider testimony and evidence regarding the patient's competence to consent to treatment. If the court finds that the patient is incompetent to consent to treatment, it shall appoint a guardian advocate as provided in s. 394.4598.

(e) The administrator of the petitioning ~~receiving~~ facility shall provide a copy of the court order and adequate documentation of a patient's mental illness to the administrator of a treatment facility if the ~~whenever a~~ patient is ordered for involuntary inpatient placement, whether by civil or criminal court. The documentation must ~~shall~~ include any advance directives made by the patient, a psychiatric evaluation of the patient, and any evaluations of the patient performed by a psychiatric nurse practitioner, clinical psychologist, a marriage and family therapist, a mental health counselor, or a clinical social worker. The administrator of a treatment facility may refuse admission to any patient directed to its facilities on an involuntary basis, whether by civil or criminal



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court order, who is not accompanied ~~at the same time~~ by adequate orders and documentation.

(7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT PLACEMENT.—

(a) Hearings on petitions for continued involuntary inpatient placement of an individual placed at any treatment facility ~~are shall be~~ administrative hearings and must ~~shall~~ be conducted in accordance with ~~the provisions of~~ s. 120.57(1), except that any order entered by the administrative law judge is ~~shall be~~ final and subject to judicial review in accordance with s. 120.68. Orders concerning patients committed after successfully pleading not guilty by reason of insanity are ~~shall be~~ governed by ~~the provisions of~~ s. 916.15.

(b) If the patient continues to meet the criteria for involuntary inpatient placement and is being treated at a treatment facility, the administrator shall, before ~~prior to~~ the expiration of the period ~~during which~~ the treatment facility is authorized to retain the patient, file a petition requesting authorization for continued involuntary inpatient placement. The request must ~~shall~~ be accompanied by a statement from the patient's physician, psychiatrist, psychiatric nurse practitioner, or clinical psychologist justifying the request, a brief description of the patient's treatment during the time he or she was involuntarily placed, and an individualized plan of continued treatment. Notice of the hearing must ~~shall~~ be provided as provided ~~set forth~~ in s. 394.4599. If a patient's attendance at the hearing is voluntarily waived, the administrative law judge must determine that the waiver is knowing and voluntary before waiving the presence of the patient



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from all or a portion of the hearing. Alternatively, if at the hearing the administrative law judge finds that attendance at the hearing is not consistent with the best interests of the patient, the administrative law judge may waive the presence of the patient from all or any portion of the hearing, unless the patient, through counsel, objects to the waiver of presence. The testimony in the hearing must be under oath, and the proceedings must be recorded.

(c) Unless the patient is otherwise represented or is ineligible, he or she shall be represented at the hearing on the petition for continued involuntary inpatient placement by the public defender of the circuit in which the facility is located.

(d) If at a hearing it is shown that the patient continues to meet the criteria for involuntary inpatient placement, the administrative law judge shall sign the order for continued involuntary inpatient placement for a period of up to 90 days ~~not to exceed 6 months~~. However, any order for involuntary mental health services in a treatment facility may be for up to 6 months. The same procedure shall be repeated prior to the expiration of each additional period the patient is retained.

(e) If continued involuntary inpatient placement is necessary for a patient admitted while serving a criminal sentence, but his or her ~~whose~~ sentence is about to expire, or for a minor patient involuntarily placed, ~~while a minor~~ but who is about to reach the age of 18, the administrator shall petition the administrative law judge for an order authorizing continued involuntary inpatient placement.

(f) If the patient has been previously found incompetent to consent to treatment, the administrative law judge shall



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consider testimony and evidence regarding the patient's competence. If the administrative law judge finds evidence that the patient is now competent to consent to treatment, the administrative law judge may issue a recommended order to the court that found the patient incompetent to consent to treatment that the patient's competence be restored and that any guardian advocate previously appointed be discharged.

(g) If the patient has been ordered to undergo involuntary inpatient placement and has previously been found incompetent to consent to treatment, the court shall consider testimony and evidence regarding the patient's incompetence. If the patient's competency to consent to treatment is restored, the discharge of the guardian advocate shall be governed by the provisions of s. 394.4598.

The procedure required in this subsection must be followed before the expiration of each additional period the patient is involuntarily receiving services.

(8) RETURN TO FACILITY OF PATIENTS.—If a patient involuntarily held ~~When a patient at a treatment facility under this part~~ leaves the facility without the administrator's authorization, the administrator may authorize a search for the patient and his or her ~~the return of the patient~~ to the facility. The administrator may request the assistance of a law enforcement agency in this regard ~~the search for and return of the patient.~~

Section 13. Section 394.46715, Florida Statutes, is amended to read:

394.46715 Rulemaking authority.—The department may adopt



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rules to administer this part ~~Department of Children and Families shall have rulemaking authority to implement the provisions of ss. 394.455, 394.4598, 394.4615, 394.463, 394.4655, and 394.467 as amended or created by this act. These rules shall be for the purpose of protecting the health, safety, and well-being of persons examined, treated, or placed under this act.~~

Section 14. Section 394.761, Florida Statutes, is created to read:

394.761 Revenue maximization.— The department, in coordination with the managing entities, shall compile detailed documentation of the cost and reimbursements for Medicaid covered services provided to Medicaid eligible individuals by providers of behavioral health services that are also funded for programs authorized by Chapters 394 and 397. The department's documentation, along with a report of general revenue funds supporting behavioral health services that are not counted as maintenance of effort or match for any other federal program, will be submitted to the Agency for Health Care Administration by December 31, 2016. Copies of the report must also be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives. If this report presents clear evidence that Medicaid reimbursements are less than the costs of providing the services, the Agency for Health Care Administration and the Department of Children and Families will prepare and submit any budget amendments necessary to use unmatched general revenue funds in the 2016-2017 fiscal year to draw additional federal funding to increase Medicaid funding to behavioral health service providers receiving the unmatched



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general revenue. Payments shall be made to providers in such manner as is allowed by federal law and regulations.

Section 15. Subsection (11) is added to section 394.875, Florida Statutes, to read:

394.875 Crisis stabilization units, residential treatment facilities, and residential treatment centers for children and adolescents; authorized services; license required.—

(11) By January 1, 2017, the department and the agency shall modify licensure rules and procedures to create an option for a single, consolidated license for a provider who offers multiple types of mental health and substance abuse services regulated under this chapter and chapter 397. Providers eligible for a consolidated license shall operate these services through a single corporate entity and a unified management structure. Any provider serving adults and children must meet department standards for separate facilities and other requirements necessary to ensure children's safety and promote therapeutic efficacy.

Section 16. Section 394.9082, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 394.9082, F.S., for present text.)

394.9082 Behavioral health managing entities' purpose; definitions; duties; contracting; accountability.—

(1) PURPOSE.—The purpose of the behavioral health managing entities is to plan, coordinate and contract for the delivery of community mental health and substance abuse services, to improve access to care, to promote service continuity, to purchase services, and to support efficient and effective delivery of



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services.

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

(a) "Behavioral health services" means mental health services and substance abuse prevention and treatment services as described in this chapter and chapter 397.

(b) "Case management" means those direct services provided to a client in order to assess needs, plan or arrange services, coordinate service providers, monitor service delivery, and evaluate outcomes.

(c) "Coordinated system of care" means the full array of behavioral health and related services in a region or a community offered by all service providers, whether participating under contract with the managing entity or through another method of community partnership or mutual agreement.

(d) "Geographic area" means one or more contiguous counties, circuits, or regions as described in s. 409.966 or s. 381.0406.

(e) "High-need or high-utilization individual" means a recipient who meets one or more of the following criteria and may be eligible for intensive case management services:

1. Has resided in a state mental health facility for at least 6 months in the last 36 months;

2. Has had two or more admissions to a state mental health facility in the last 36 months; or

3. Has had three or more admissions to a crisis stabilization unit, an addictions receiving facility, a short-term residential facility, or an inpatient psychiatric unit within the last 12 months.

(f) "Managing entity" means a corporation designated or



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filed as a nonprofit organization under s. 501(c)(3) of the Internal Revenue Code which is selected by, and is under contract with, the department to manage the daily operational delivery of behavioral health services through a coordinated system of care.

(g) "Provider network" means the group of direct service providers, facilities, and organizations under contract with a managing entity to provide a comprehensive array of emergency, acute care, residential, outpatient, recovery support, and consumer support services, including prevention services.

(h) "Receiving facility" means any public or private facility designated by the department to receive and hold or to refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider. County jails may not be used or designated as a receiving facility, a triage center, or an access center.

(3) DEPARTMENT DUTIES.—The department shall:

(a) Designate, with input from the managing entity, facilities that meet the definitions in s. 394.455(1), (2), (12), and (41) and the receiving system developed by one or more counties pursuant to s. 394.4573(2)(b).

(b) Contract with organizations to serve as the managing entity in accordance with the requirements of this section.

(c) Specify the geographic area served.

(d) Specify data reporting and use of shared data systems.

(e) Develop strategies to divert persons with mental illness or substance abuse disorders from the criminal and juvenile justice systems.



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(f) Support the development and implementation of a coordinated system of care by requiring each provider that receives state funds for behavioral health services through a direct contract with the department to work with the managing entity in the provider's service area to coordinate the provision of behavioral health services, as part of the contract with the department.

(g) Set performance measures and performance standards for managing entities based on nationally recognized standards, such as those developed by the National Quality Forum, the National Committee for Quality Assurance, or similar credible sources.

Performance standards must include all of the following:

1. Annual improvement in the extent to which the need for behavioral health services is met by the coordinated system of care in the geographic area served.

2. Annual improvement in the percentage of patients who receive services through the coordinated system of care and who achieve improved functional status as indicated by health condition, employment status, and housing stability.

3. Annual reduction in the rates of readmissions to acute care facilities, jails, prisons, and forensic facilities for persons receiving care coordination.

4. Annual improvement in consumer and family satisfaction.

(h) Provide technical assistance to the managing entities.

(i) Promote the integration of behavioral health care and primary care.

(j) Facilitate the coordination between the managing entity and other payors of behavioral health care.

(k) Develop and provide a unique identifier for clients



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receiving services under the managing entity to coordinate care.

(l) Coordinate procedures for the referral and admission of patients to, and the discharge of patients from, state treatment facilities and their return to the community.

(m) Ensure that managing entities comply with state and federal laws, rules, and regulations.

(n) Develop rules for the operations of, and the requirements that must be met by, the managing entity, if necessary.

(4) CONTRACT WITH MANAGING ENTITIES.—

(a) The department's contracts with managing entities must support efficient and effective administration of the behavioral health system and ensure accountability for performance.

(b) Beginning July 1, 2018, managing entities under contract with the department are subject to a contract performance review. The review must include:

1. Analysis of the duties and performance measures described in this section;

2. The results of contract monitoring compiled during the term of the contract; and

3. Related compliance and performance issues.

(c) For the managing entities whose performance is determined satisfactory after completion of the review pursuant to paragraph (b), and before the end of the term of the contract, the department may negotiate and enter into a contract with the managing entity for a period of 4 years pursuant to s. 287.057(3)(e).

(d) The performance review must be completed by the beginning of the third year of the 4-year contract. In the event



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the managing entity does not meet the requirements of the performance review, a corrective action plan must be created by the department. The managing entity must complete the corrective action plan before the beginning of the fourth year of the contract. If the corrective action plan is not satisfactorily completed, the department shall provide notice to the managing entity that the contract will be terminated at the end of the contract term and the department shall initiate a competitive procurement process to select a new managing entity pursuant to s. 287.057.

(5) MANAGING ENTITIES DUTIES.—A managing entity shall:

(a) Maintain a board of directors that is representative of the community and that, at a minimum, includes consumers and family members, community stakeholders and organizations, and providers of mental health and substance abuse services, including public and private receiving facilities.

(b) Conduct a community behavioral health care needs assessment in the geographic area served by the managing entity. The needs assessment must be updated annually and provided to the department. The assessment must include, at a minimum, the information the department needs for its annual report to the Governor and Legislature pursuant to s. 394.4573.

(c) Develop local resources by pursuing third-party payments for services, applying for grants, securing local matching funds and in-kind services, and any other methods needed to ensure services are available and accessible.

(d) Provide assistance to counties to develop a designated receiving system pursuant to s. 394.4573(2)(b) and a transportation plan pursuant to s. 394.462.



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(e) Promote the development and effective implementation of a coordinated system of care pursuant to s. 394.4573.

(f) Develop a comprehensive network of qualified providers to deliver behavioral health services. The managing entity is not required to competitively procure network providers, but must have a process in place to publicize opportunities to join the network and to evaluate providers in the network to determine if they can remain in the network. These processes must be published on the website of the managing entity. The managing entity must ensure continuity of care for clients if a provider ceases to provide a service or leaves the network.

(g) Enter into cooperative agreements with local homeless councils and organizations to allow the sharing of available resource information, shared client information, client referral services, and any other data or information that may be useful in addressing the homelessness of persons suffering from a behavioral health crisis.

(h) Monitor network providers' performance and their compliance with contract requirements and federal and state laws, rules, and regulations.

(i) Provide or contract for case management services.

(j) Manage and allocate funds for services to meet the requirements of law or rule.

(k) Promote integration of behavioral health with primary care.

(l) Implement shared data systems necessary for the delivery of coordinated care and integrated services, the assessment of managing entity performance and provider performance, and the reporting of outcomes and costs of



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services.

(m) Operate in a transparent manner, providing public access to information, notice of meetings, and opportunities for public participation in managing entity decisionmaking.

(n) Establish and maintain effective relationships with community stakeholders, including local governments and other organizations that serve individuals with behavioral health needs.

(o) Collaborate with local criminal and juvenile justice systems to divert persons with mental illness or substance abuse disorders, or both, from the criminal and juvenile justice systems.

(p) Collaborate with the local court system to develop procedures to maximize the use of involuntary outpatient services; reduce involuntary inpatient treatment; and increase diversion from the criminal and juvenile justice systems.

(6) FUNDING FOR MANAGING ENTITIES.—

(a) A contract established between the department and a managing entity under this section must be funded by general revenue, other applicable state funds, or applicable federal funding sources. A managing entity may carry forward documented unexpended state funds from one fiscal year to the next, but the cumulative amount carried forward may not exceed 8 percent of the total value of the contract. Any unexpended state funds in excess of that percentage must be returned to the department. The funds carried forward may not be used in a way that would increase future recurring obligations or for any program or service that was not authorized as of July 1, 2016, under the existing contract with the department. Expenditures of funds



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carried forward must be separately reported to the department.
Any unexpended funds that remain at the end of the contract
period must be returned to the department. Funds carried forward
may be retained through contract renewals and new contract
procurements as long as the same managing entity is retained by
the department.

(b) The method of payment for a fixed-price contract with a
managing entity must provide for a 2-month advance payment at
the beginning of each fiscal year and equal monthly payments
thereafter.

(7) CRISIS STABILIZATION SERVICES UTILIZATION DATABASE.—The
department shall develop, implement, and maintain standards
under which a managing entity shall collect utilization data
from all public receiving facilities situated within its
geographic service area. As used in this subsection, the term
“public receiving facility” means an entity that meets the
licensure requirements of, and is designated by, the department
to operate as a public receiving facility under s. 394.875 and
that is operating as a licensed crisis stabilization unit.

(a) The department shall develop standards and protocols
for managing entities and public receiving facilities to be used
for data collection, storage, transmittal, and analysis. The
standards and protocols must allow for compatibility of data and
data transmittal between public receiving facilities, managing
entities, and the department for the implementation and
requirements of this subsection.

(b) A managing entity shall require a public receiving
facility within its provider network to submit data, in real
time or at least daily, to the managing entity for:



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1. All admissions and discharges of clients receiving public receiving facility services who qualify as indigent, as defined in s. 394.4787; and

2. The current active census of total licensed beds, the number of beds purchased by the department, the number of clients qualifying as indigent who occupy those beds, and the total number of unoccupied licensed beds regardless of funding.

(c) A managing entity shall require a public receiving facility within its provider network to submit data, on a monthly basis, to the managing entity which aggregates the daily data submitted under paragraph (b). The managing entity shall reconcile the data in the monthly submission to the data received by the managing entity under paragraph (b) to check for consistency. If the monthly aggregate data submitted by a public receiving facility under this paragraph are inconsistent with the daily data submitted under paragraph (b), the managing entity shall consult with the public receiving facility to make corrections necessary to ensure accurate data.

(d) A managing entity shall require a public receiving facility within its provider network to submit data, on an annual basis, to the managing entity which aggregates the data submitted and reconciled under paragraph (c). The managing entity shall reconcile the data in the annual submission to the data received and reconciled by the managing entity under paragraph (c) to check for consistency. If the annual aggregate data submitted by a public receiving facility under this paragraph are inconsistent with the data received and reconciled under paragraph (c), the managing entity shall consult with the public receiving facility to make corrections necessary to



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ensure accurate data.

(e) After ensuring the accuracy of data pursuant to paragraphs (c) and (d), the managing entity shall submit the data to the department on a monthly and an annual basis. The department shall create a statewide database for the data described under paragraph (b) and submitted under this paragraph for the purpose of analyzing the payments for and the use of crisis stabilization services funded by the Baker Act on a statewide basis and on an individual public receiving facility basis.

Section 17. Present subsections (20) through (45) of section 397.311, Florida Statutes, are redesignated as subsections (21) through (46), respectively, a new subsection (20) is added to that section, and present subsections (30) and (38) of that section are amended, to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(20) "Involuntary services" means court-ordered outpatient services or treatment for substance abuse disorders or services provided in an inpatient placement in a receiving facility or treatment facility.

(31)~~(30)~~ "Qualified professional" means a physician or a physician assistant licensed under chapter 458 or chapter 459; a professional licensed under chapter 490 or chapter 491; an advanced registered nurse practitioner ~~having a specialty in~~ ~~psychiatry~~ licensed under part I of chapter 464; or a person who is certified through a department-recognized certification process for substance abuse treatment services and who holds, at a minimum, a bachelor's degree. A person who is certified in



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substance abuse treatment services by a state-recognized certification process in another state at the time of employment with a licensed substance abuse provider in this state may perform the functions of a qualified professional as defined in this chapter but must meet certification requirements contained in this subsection no later than 1 year after his or her date of employment.

~~(39)~~ ~~(38)~~ "Service component" or "component" means a discrete operational entity within a service provider which is subject to licensing as defined by rule. Service components include prevention, intervention, and clinical treatment described in subsection (23) ~~(22)~~.

Section 18. Section 397.675, Florida Statutes, is amended to read:

397.675 Criteria for involuntary admissions, including protective custody, emergency admission, and other involuntary assessment, involuntary treatment, and alternative involuntary assessment for minors, for purposes of assessment and stabilization, and for involuntary treatment.—A person meets the criteria for involuntary admission if there is good faith reason to believe that the person has a substance abuse or co-occurring mental health disorder ~~is substance abuse impaired~~ and, because of such disorder ~~impairment~~:

(1) Has lost the power of self-control with respect to substance abuse ~~use~~; and ~~either~~

(2) (a) ~~(b)~~ Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that he or she ~~the person~~ is incapable of appreciating his or her need for such services and of making a



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rational decision in that regard, ~~although thereto; however,~~
mere refusal to receive such services does not constitute
evidence of lack of judgment with respect to his or her need for
such services.

~~(2) (a) Has inflicted, or threatened or attempted to
inflict, or unless admitted is likely to inflict, physical harm
on himself or herself or another; or~~

(b) Without care or treatment, is likely to suffer from
neglect or to refuse to care for himself or herself, that such
neglect or refusal poses a real and present threat of
substantial harm to his or her well-being and that it is not
apparent that such harm may be avoided through the help of
willing family members or friends or the provision of other
services, or there is substantial likelihood that the person has
inflicted, or threatened to or attempted to inflict, or, unless
admitted, is likely to inflict, physical harm on himself,
herself, or another.

Section 19. Section 397.679, Florida Statutes, is amended
to read:

397.679 Emergency admission; circumstances justifying.—A
person who meets the criteria for involuntary admission in s.
397.675 may be admitted to a hospital or to a licensed
detoxification facility or addictions receiving facility for
emergency assessment and stabilization, or to a less intensive
component of a licensed service provider for assessment only,
upon receipt by the facility of a the physician's certificate by
a physician, an advanced registered nurse practitioner, a
clinical psychologist, a licensed clinical social worker, a
licensed marriage and family therapist, a licensed mental health



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counselor, a physician assistant working under the scope of practice of the supervising physician, or a master's-level-certified addictions professional, if the certificate is specific to substance abuse disorders, and the completion of an application for emergency admission.

Section 20. Section 397.6791, Florida Statutes, is amended to read:

397.6791 Emergency admission; persons who may initiate.—The following professionals ~~persons~~ may request a certificate for an emergency assessment or admission:

(1) In the case of an adult, physicians, advanced registered nurse practitioners, clinical psychologists, licensed clinical social workers, licensed marriage and family therapists, licensed mental health counselors, physician assistants working under the scope of practice of the supervising physician, and a master's-level-certified addictions professional, if the certificate is specific to substance abuse disorders ~~the certifying physician~~, the person's spouse or legal guardian, any relative of the person, or any other responsible adult who has personal knowledge of the person's substance abuse impairment.

(2) In the case of a minor, the minor's parent, legal guardian, or legal custodian.

Section 21. Section 397.6793, Florida Statutes, is amended to read:

397.6793 Professional's ~~Physician's~~ certificate for emergency admission.—

(1) The professional's ~~physician's~~ certificate must include the name of the person to be admitted, the relationship between



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the person and the professional executing the certificate
~~physician~~, the relationship between the applicant and the
professional ~~physician~~, any relationship between the
professional ~~physician~~ and the licensed service provider, and a
statement that the person has been examined and assessed within
the preceding 5 days of the application date, and ~~must include~~
factual allegations with respect to the need for emergency
admission, including:

(a) The reason for the ~~physician's~~ belief that the person
is substance abuse impaired; and

(b) The reason for the ~~physician's~~ belief that because of
such impairment the person has lost the power of self-control
with respect to substance abuse; and ~~either~~

(c)1. The reason for the belief ~~physician believes~~ that,
without care or treatment, the person is likely to suffer from
neglect or refuse to care for himself or herself; that such
neglect or refusal poses a real and present threat of
substantial harm to his or her well-being; and that it is not
apparent that such harm may be avoided through the help of
willing family members or friends or the provision of other
services or there is substantial likelihood that the person has
inflicted or is likely to inflict physical harm on himself or
herself or others unless admitted; or

2. The reason for the belief ~~physician believes~~ that the
person's refusal to voluntarily receive care is based on
judgment so impaired by reason of substance abuse that the
person is incapable of appreciating his or her need for care and
of making a rational decision regarding his or her need for
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(2) The professional's ~~physician's~~ certificate must recommend the least restrictive type of service that is appropriate for the person. The certificate must be signed by the professional ~~physician~~. If other less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer shall take the person named in the certificate into custody and deliver him or her to the appropriate facility for involuntary examination.

(3) A signed copy of the professional's ~~physician's~~ certificate shall accompany the person, and shall be made a part of the person's clinical record, together with a signed copy of the application. The application and the professional's ~~physician's~~ certificate authorize the involuntary admission of the person pursuant to, and subject to the provisions of, ss. 397.679-397.6797.

(4) The professional's certificate is valid for 7 days after issuance.

(5) The professional's ~~physician's~~ certificate must indicate whether the person requires transportation assistance for delivery for emergency admission and specify, pursuant to s. 397.6795, the type of transportation assistance necessary.

Section 22. Section 397.6795, Florida Statutes, is amended to read:

397.6795 Transportation-assisted delivery of persons for emergency assessment.—An applicant for a person's emergency admission, ~~or~~ the person's spouse or guardian, or a law enforcement officer, ~~or a health officer~~ may deliver a person named in the professional's ~~physician's~~ certificate for emergency admission to a hospital or a licensed detoxification



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facility or addictions receiving facility for emergency
assessment and stabilization.

Section 23. Subsection (1) of section 397.681, Florida
Statutes, is amended to read:

397.681 Involuntary petitions; general provisions; court
jurisdiction and right to counsel.—

(1) JURISDICTION.—The courts have jurisdiction of
involuntary assessment and stabilization petitions and
involuntary treatment petitions for substance abuse impaired
persons, and such petitions must be filed with the clerk of the
court in the county where the person is located. The clerk of
the court may not charge a fee for the filing of a petition
under this section. The chief judge may appoint a general or
special magistrate to preside over all or part of the
proceedings. The alleged impaired person is named as the
respondent.

Section 24. Subsection (1) of section 397.6811, Florida
Statutes, is amended to read:

397.6811 Involuntary assessment and stabilization.—A person
determined by the court to appear to meet the criteria for
involuntary admission under s. 397.675 may be admitted for a
period of 5 days to a hospital or to a licensed detoxification
facility or addictions receiving facility, for involuntary
assessment and stabilization or to a less restrictive component
of a licensed service provider for assessment only upon entry of
a court order or upon receipt by the licensed service provider
of a petition. Involuntary assessment and stabilization may be
initiated by the submission of a petition to the court.

(1) If the person upon whose behalf the petition is being



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filed is an adult, a petition for involuntary assessment and stabilization may be filed by the respondent's spouse ~~or~~ , legal guardian, any relative, a private practitioner, the director of a licensed service provider or the director's designee, or any individual ~~three adults~~ who has direct ~~have~~ personal knowledge of the respondent's substance abuse impairment.

Section 25. Section 397.6814, Florida Statutes, is amended to read:

397.6814 Involuntary assessment and stabilization; contents of petition.—A petition for involuntary assessment and stabilization must contain the name of the respondent, + the name of the applicant or applicants, + the relationship between the respondent and the applicant, + and + the name of the respondent's attorney, if known, ~~and a statement of the respondent's ability to afford an attorney;~~ and must state facts to support the need for involuntary assessment and stabilization, including:

(1) The reason for the petitioner's belief that the respondent is substance abuse impaired; ~~and~~

(2) The reason for the petitioner's belief that because of such impairment the respondent has lost the power of self-control with respect to substance abuse; and ~~either~~

(3)(a) The reason the petitioner believes that the respondent has inflicted or is likely to inflict physical harm on himself or herself or others unless admitted; or

(b) The reason the petitioner believes that the respondent's refusal to voluntarily receive care is based on judgment so impaired by reason of substance abuse that the respondent is incapable of appreciating his or her need for care and of making a rational decision regarding that need for care.



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If the respondent has refused to submit to an assessment, such refusal must be alleged in the petition.

A fee may not be charged for the filing of a petition pursuant to this section.

Section 26. Section 397.6819, Florida Statutes, is amended to read:

397.6819 Involuntary assessment and stabilization; responsibility of licensed service provider.—A licensed service provider may admit an individual for involuntary assessment and stabilization for a period not to exceed 5 days unless a petition for involuntary outpatient services has been initiated which authorizes the licensed service provider to retain physical custody of the person pending further order of the court pursuant to s. 397.6821. The individual must be assessed within 24 hours ~~without unnecessary delay~~ by a qualified professional. The person may not be held pursuant to this section beyond the 24-hour assessment period unless the assessment has been reviewed and authorized by a licensed physician as necessary for continued stabilization. If an assessment is performed by a qualified professional who is not a physician, the assessment must be reviewed by a physician before the end of the assessment period.

Section 27. Section 397.695, Florida Statutes, is amended to read:

397.695 Involuntary outpatient services ~~treatment~~; persons who may petition.—

(1)(a) If the respondent is an adult, a petition for involuntary outpatient services ~~treatment~~ may be filed by the



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respondent's spouse or legal guardian, any relative, a service provider, or any individual ~~three adults~~ who has direct ~~have~~ personal knowledge of the respondent's substance abuse impairment and his or her prior course of assessment and treatment.

(b) The administrator of a receiving facility, a crisis stabilization unit, or an addictions receiving facility where the patient has been examined may retain the patient at the facility after adherence to the notice procedures provided in s. 397.6955. The recommendation for involuntary outpatient services must be supported by the opinion of a qualified professional as defined in s. 397.311(31) or a master's-level-certified addictions professional and by the second opinion of a psychologist, a physician, or an advanced registered nurse practitioner licensed under chapter 464, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary outpatient services are met. However, in a county having a population of fewer than 50,000, if the administrator of the facility certifies that a qualified professional is not available to provide the second opinion, the second opinion may be provided by a physician who has postgraduate training and experience in the diagnosis and treatment of substance abuse disorders. Any second opinion authorized in this section may be conducted through face-to-face examination, in person, or by electronic means. Such recommendation must be entered on an involuntary outpatient certificate that authorizes the facility to retain the patient pending completion of a hearing. The certificate must be made a part of the patient's clinical record.



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(c) If the patient has been stabilized and no longer meets the criteria for involuntary assessment and stabilization pursuant to s. 397.6811, the patient must be released from the facility while awaiting the hearing for involuntary outpatient services. Before filing a petition for involuntary outpatient services, the administrator of the facility must identify the service provider that will have responsibility for service provision under the order for involuntary outpatient services, unless the person is otherwise participating in outpatient substance abuse disorder services and is not in need of public financing of the services, in which case the person, if eligible, may be ordered to involuntary outpatient services pursuant to the existing provision-of-services relationship he or she has for substance abuse disorder services.

(d) The service provider shall prepare a written proposed treatment plan in consultation with the patient or the patient's guardian advocate, if applicable, for the order for outpatient services and provide a copy of the proposed treatment plan to the patient and the administrator of the facility. The service provider shall also provide a treatment plan that addresses the nature and extent of the substance abuse disorder and any co-occurring mental illness and the risks that necessitates involuntary outpatient services. The treatment plan must indicate the likely level of care, including medication and the anticipated discharge criteria for terminating involuntary outpatient services. Service providers may coordinate, select, and supervise other individuals to implement specific aspects of the treatment plan. The services in the treatment plan must be deemed clinically appropriate by a qualified professional who



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consults with, or is employed by, the service provider. The service provider must certify that the recommended services in the treatment plan are available for the stabilization and improvement of the patient. If the service provider certifies that the recommended services in the proposed treatment plan are not available, the petition may not be filed. The service provider must document its inquiry with the department and the managing entity as to the availability of the requested services. The managing entity must document such efforts to obtain the requested services.

(e) If a patient in involuntary inpatient placement meets the criteria for involuntary outpatient services, the administrator of the treatment facility may, before the expiration of the period during which the treatment facility is authorized to retain the patient, recommend involuntary outpatient services. The recommendation must be supported by the opinion of a qualified professional as defined in s. 397.311(31) or a master's-level-certified addictions professional and by the second opinion of a psychologist, a physician, an advanced registered nurse practitioner licensed under chapter 464, or a mental health professional licensed under chapter 491, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary outpatient services are met. However, in a county having a population of fewer than 50,000, if the administrator of the facility certifies that a qualified professional is not available to provide the second opinion, the second opinion may be provided by a physician who has postgraduate training and experience in the diagnosis and treatment of substance abuse disorders. Any second opinion



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authorized in this section may be conducted through face-to-face examination, in person, or by electronic means. Such recommendation must be entered on an involuntary outpatient certificate that authorizes the facility to retain the patient pending completion of a hearing. The certificate must be made a part of the patient's clinical record.

(f) The service provider who is responsible for providing services under the order for involuntary outpatient services must be identified before the entry of the order for outpatient services. The service provider shall certify to the court that the recommended services in the treatment plan are available for the stabilization and improvement of the patient. If the service provider certifies that the recommended services in the proposed treatment plan are not available, the petition may not be filed. The service provider must document notify the managing entity as to the availability of the requested services. The managing entity must document such efforts to obtain the requested services.

(2) If the respondent is a minor, a petition for involuntary treatment may be filed by a parent, legal guardian, or service provider.

Section 28. Section 397.6951, Florida Statutes, is amended to read:

397.6951 Contents of petition for involuntary outpatient services treatment.—A petition for involuntary outpatient services treatment must contain the name of the respondent to be admitted; the name of the petitioner or petitioners; the relationship between the respondent and the petitioner; the name of the respondent's attorney, if known, and a statement of the



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~~petitioner's knowledge of the respondent's ability to afford an attorney;~~ the findings and recommendations of the assessment performed by the qualified professional; and the factual allegations presented by the petitioner establishing the need for involuntary outpatient services. The factual allegations must demonstrate treatment, including:

(1) The reason for the petitioner's belief that the respondent is substance abuse impaired; ~~and~~

(2) The respondent's history of failure to comply with requirements for treatment for substance abuse and that the respondent has been involuntarily admitted to a receiving or treatment facility at least twice within the immediately preceding 36 months; ~~The reason for the petitioner's belief that because of such impairment the respondent has lost the power of self-control with respect to substance abuse; and either~~

(3) That the respondent is, as a result of his or her substance abuse disorder, unlikely to voluntarily participate in the recommended services after sufficient and conscientious explanation and disclosure of the purpose of the services or he or she is unable to determine for himself or herself whether outpatient services are necessary;

(4) That, in view of the person's treatment history and current behavior, the person is in need of involuntary outpatient services; that without services, the person is likely to suffer from neglect or to refuse to care for himself or herself; that such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and that there is a substantial likelihood that without services the person will cause serious bodily harm to himself, herself, or



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others in the near future, as evidenced by recent behavior; and

(5) That it is likely that the person will benefit from
involuntary outpatient services.

~~(3)(a) The reason the petitioner believes that the
respondent has inflicted or is likely to inflict physical harm
on himself or herself or others unless admitted; or~~

~~(b) The reason the petitioner believes that the
respondent's refusal to voluntarily receive care is based on
judgment so impaired by reason of substance abuse that the
respondent is incapable of appreciating his or her need for care
and of making a rational decision regarding that need for care.~~

Section 29. Section 397.6955, Florida Statutes, is amended
to read:

397.6955 Duties of court upon filing of petition for
involuntary outpatient services ~~treatment~~.

(1) Upon the filing of a petition for the involuntary
outpatient services for treatment of a substance abuse impaired
person with the clerk of the court, the court shall immediately
determine whether the respondent is represented by an attorney
or whether the appointment of counsel for the respondent is
appropriate. If the court appoints counsel for the person, the
clerk of the court shall immediately notify the regional
conflict counsel, created pursuant to s. 27.511, of the
appointment. The regional conflict counsel shall represent the
person until the petition is dismissed, the court order expires,
or the person is discharged from involuntary outpatient
services. An attorney that represents the person named in the
petition shall have access to the person, witnesses, and records
relevant to the presentation of the person's case and shall



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represent the interests of the person, regardless of the source of payment to the attorney.

(2) The court shall schedule a hearing to be held on the petition within 5 ~~10~~ days unless a continuance is granted. The court may appoint a general or special master to preside at the hearing.

(3) A copy of the petition and notice of the hearing must be provided to the respondent; the respondent's parent, guardian, or legal custodian, in the case of a minor; the respondent's attorney, if known; the petitioner; the respondent's spouse or guardian, if applicable; and such other persons as the court may direct. If the respondent is a minor, a copy of the petition and notice of the hearing must be ~~and have such petition and order~~ personally delivered to the respondent ~~if he or she is a minor~~. The court shall also issue a summons to the person whose admission is sought.

Section 30. Section 397.6957, Florida Statutes, is amended to read:

397.6957 Hearing on petition for involuntary outpatient services ~~treatment~~.—

(1) At a hearing on a petition for involuntary outpatient services ~~treatment~~, the court shall hear and review all relevant evidence, including the review of results of the assessment completed by the qualified professional in connection with the respondent's protective custody, emergency admission, involuntary assessment, or alternative involuntary admission. The respondent must be present unless the court finds that his or her presence is likely to be injurious to himself or herself or others, in which event the court must appoint a guardian



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advocate to act in behalf of the respondent throughout the proceedings.

(2) The petitioner has the burden of proving by clear and convincing evidence that:

(a) The respondent is substance abuse impaired and has a history of lack of compliance with treatment for substance abuse; ~~and~~

(b) Because of such impairment the respondent is unlikely to voluntarily participate in the recommended treatment or is unable to determine for himself or herself whether outpatient services are necessary ~~the respondent has lost the power of self-control with respect to substance abuse;~~ and either

1. Without services, the respondent is likely to suffer from neglect or to refuse to care for himself or herself; that such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and that there is a substantial likelihood that without services the respondent will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior ~~The respondent has inflicted or is likely to inflict physical harm on himself or herself or others unless admitted;~~ or

2. The respondent's refusal to voluntarily receive care is based on judgment so impaired by reason of substance abuse that the respondent is incapable of appreciating his or her need for care and of making a rational decision regarding that need for care.

(3) One of the qualified professionals who executed the involuntary outpatient services certificate must be a witness.
The court shall allow testimony from individuals, including



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family members, deemed by the court to be relevant under state law, regarding the respondent's prior history and how that prior history relates to the person's current condition. The testimony in the hearing must be under oath, and the proceedings must be recorded. The patient may refuse to testify at the hearing.

~~(4)(3)~~ At the conclusion of the hearing the court shall ~~either~~ dismiss the petition or order the respondent to receive ~~undergo~~ involuntary outpatient services from his or her ~~substance abuse treatment, with the respondent's~~ chosen licensed service provider if ~~to deliver the involuntary substance abuse treatment where~~ possible and appropriate.

Section 31. Section 397.697, Florida Statutes, is amended to read:

397.697 Court determination; effect of court order for involuntary outpatient services ~~substance abuse treatment~~.—

(1) When the court finds that the conditions for involuntary outpatient services ~~substance abuse treatment~~ have been proved by clear and convincing evidence, it may order the respondent to receive ~~undergo~~ involuntary outpatient services from ~~treatment by~~ a licensed service provider for a period not to exceed 60 days. If the court finds it necessary, it may direct the sheriff to take the respondent into custody and deliver him or her to the licensed service provider specified in the court order, or to the nearest appropriate licensed service provider, for involuntary outpatient services ~~treatment~~. When the conditions justifying involuntary outpatient services ~~treatment~~ no longer exist, the individual must be released as provided in s. 397.6971. When the conditions justifying involuntary outpatient services ~~treatment~~ are expected to exist



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after 60 days of services ~~treatment~~, a renewal of the involuntary outpatient services ~~treatment~~ order may be requested pursuant to s. 397.6975 before ~~prior to~~ the end of the 60-day period.

(2) In all cases resulting in an order for involuntary outpatient services ~~substance abuse treatment~~, the court shall retain jurisdiction over the case and the parties for the entry of such further orders as the circumstances may require. The court's requirements for notification of proposed release must be included in the original ~~treatment~~ order.

(3) An involuntary outpatient services ~~treatment~~ order authorizes the licensed service provider to require the individual to receive services that ~~undergo such treatment as~~ will benefit him or her, including services ~~treatment~~ at any licensable service component of a licensed service provider.

(4) The court may not order involuntary outpatient services if the service provider certifies to the court that the recommended services are not available. The service provider must document notify the managing entity as to the availability of the requested services. The managing entity must document such efforts to obtain the requested services.

(5) If the court orders involuntary outpatient services, a copy of the order must be sent to the managing entity within 1 working day after it is received from the court. Documents may be submitted electronically through existing data systems, if applicable. After the order for outpatient services is issued, the service provider and the patient may modify provisions of the treatment plan. For any material modification of the treatment plan to which the patient or the patient's guardian



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advocate, if appointed, agrees, the service provider shall send notice of the modification to the court. Any material modification of the treatment plan which is contested by the patient or the guardian advocate, if applicable, must be approved or disapproved by the court.

Section 32. Section 397.6971, Florida Statutes, is amended to read:

397.6971 Early release from involuntary outpatient services ~~substance abuse treatment.~~

(1) At any time before ~~prior to~~ the end of the 60-day involuntary outpatient services ~~treatment~~ period, or ~~prior to~~ the end of any extension granted pursuant to s. 397.6975, an individual receiving ~~admitted for~~ involuntary outpatient services ~~treatment~~ may be determined eligible for discharge to the most appropriate referral or disposition for the individual when any of the following apply:

(a) The individual no longer meets the criteria for involuntary admission and has given his or her informed consent to be transferred to voluntary treatment status. ~~+~~

(b) If the individual was admitted on the grounds of likelihood of infliction of physical harm upon himself or herself or others, such likelihood no longer exists. ~~+~~ ~~or~~

(c) If the individual was admitted on the grounds of need for assessment and stabilization or treatment, accompanied by inability to make a determination respecting such need, ~~either~~:

1. Such inability no longer exists; or
2. It is evident that further treatment will not bring about further significant improvements in the individual's condition. ~~+~~



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(d) The individual is no longer in need of services. ~~for~~

(e) The director of the service provider determines that the individual is beyond the safe management capabilities of the provider.

(2) Whenever a qualified professional determines that an individual admitted for involuntary outpatient services qualifies treatment ~~is ready~~ for early release under ~~for any of the reasons listed in~~ subsection (1), the service provider shall immediately discharge the individual, and must notify all persons specified by the court in the original treatment order.

Section 33. Section 397.6975, Florida Statutes, is amended to read:

397.6975 Extension of involuntary outpatient services ~~substance abuse treatment~~ period.—

(1) Whenever a service provider believes that an individual who is nearing the scheduled date of his or her release from involuntary outpatient services ~~treatment~~ continues to meet the criteria for involuntary outpatient services ~~treatment~~ in s. 397.693, a petition for renewal of the involuntary outpatient services ~~treatment~~ order may be filed with the court at least 10 days before the expiration of the court-ordered outpatient services ~~treatment~~ period. The court shall immediately schedule a hearing to be held not more than 15 days after filing of the petition. The court shall provide the copy of the petition for renewal and the notice of the hearing to all parties to the proceeding. The hearing is conducted pursuant to s. 397.6957.

(2) If the court finds that the petition for renewal of the involuntary outpatient services ~~treatment~~ order should be granted, it may order the respondent to receive ~~undergo~~



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involuntary outpatient services ~~treatment~~ for a period not to exceed an additional 90 days. When the conditions justifying involuntary outpatient services ~~treatment~~ no longer exist, the individual must be released as provided in s. 397.6971. When the conditions justifying involuntary outpatient services ~~treatment~~ continue to exist after an additional 90 days of service ~~additional treatment~~, a new petition requesting renewal of the involuntary outpatient services ~~treatment~~ order may be filed pursuant to this section.

(3) Within 1 court working day after the filing of a petition for continued involuntary outpatient services, the court shall appoint the regional conflict counsel to represent the respondent, unless the respondent is otherwise represented by counsel. The clerk of the court shall immediately notify the regional conflict counsel of such appointment. The regional conflict counsel shall represent the respondent until the petition is dismissed or the court order expires or the respondent is discharged from involuntary outpatient services. Any attorney representing the respondent shall have access to the respondent, witnesses, and records relevant to the presentation of the respondent's case and shall represent the interests of the respondent, regardless of the source of payment to the attorney.

(4) Hearings on petitions for continued involuntary outpatient services shall be before the circuit court. The court may appoint a general or special master to preside at the hearing. The procedures for obtaining an order pursuant to this section shall be in accordance with s. 397.697.

(5) Notice of hearing shall be provided to the respondent



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or his or her counsel. The respondent and the respondent's
counsel may agree to a period of continued outpatient services
without a court hearing.

(6) The same procedure shall be repeated before the
expiration of each additional period of outpatient services.

(7) If the respondent has previously been found incompetent
to consent to treatment, the court shall consider testimony and
evidence regarding the respondent's competence.

Section 34. Section 397.6977, Florida Statutes, is amended
to read:

397.6977 Disposition of individual upon completion of
involuntary outpatient services ~~substance abuse treatment~~.—At
the conclusion of the 60-day period of court-ordered involuntary
outpatient services ~~treatment~~, the respondent ~~individual~~ is
automatically discharged unless a motion for renewal of the
involuntary outpatient services ~~treatment~~ order has been filed
with the court pursuant to s. 397.6975.

Section 35. Section 397.6978, Florida Statutes, is created
to read:

397.6978 Guardian advocate; patient incompetent to consent;
substance abuse disorder.—

(1) The administrator of a receiving facility or addictions
receiving facility may petition the court for the appointment of
a guardian advocate based upon the opinion of a qualified
professional that the patient is incompetent to consent to
treatment. If the court finds that a patient is incompetent to
consent to treatment and has not been adjudicated incapacitated
and that a guardian with the authority to consent to mental
health treatment has not been appointed, it may appoint a



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guardian advocate. The patient has the right to have an attorney represent him or her at the hearing. If the person is indigent, the court shall appoint the office of the regional conflict counsel to represent him or her at the hearing. The patient has the right to testify, cross-examine witnesses, and present witnesses. The proceeding shall be recorded electronically or stenographically, and testimony must be provided under oath. One of the qualified professionals authorized to give an opinion in support of a petition for involuntary placement, as described in s. 397.675 or s. 397.6981, must testify. A guardian advocate must meet the qualifications of a guardian contained in part IV of chapter 744. The person who is appointed as a guardian advocate must agree to the appointment.

(2) The following persons are prohibited from appointment as a patient's guardian advocate:

(a) A professional providing clinical services to the individual under this part.

(b) The qualified professional who initiated the involuntary examination of the individual, if the examination was initiated by a qualified professional's certificate.

(c) An employee, an administrator, or a board member of the facility providing the examination of the individual.

(d) An employee, an administrator, or a board member of the treatment facility providing treatment of the individual.

(e) A person providing any substantial professional services to the individual, including clinical services.

(f) A creditor of the individual.

(g) A person subject to an injunction for protection against domestic violence under s. 741.30, whether the order of



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injunction is temporary or final, and for which the individual was the petitioner.

(h) A person subject to an injunction for protection against repeat violence, sexual violence, or dating violence under s. 784.046, whether the order of injunction is temporary or final, and for which the individual was the petitioner.

(3) A facility requesting appointment of a guardian advocate must, before the appointment, provide the prospective guardian advocate with information about the duties and responsibilities of guardian advocates, including information about the ethics of medical decisionmaking. Before asking a guardian advocate to give consent to treatment for a patient, the facility must provide to the guardian advocate sufficient information so that the guardian advocate can decide whether to give express and informed consent to the treatment. Such information must include information that demonstrates that the treatment is essential to the care of the patient and does not present an unreasonable risk of serious, hazardous, or irreversible side effects. If possible, before giving consent to treatment, the guardian advocate must personally meet and talk with the patient and the patient's physician. If that is not possible, the discussion may be conducted by telephone. The decision of the guardian advocate may be reviewed by the court, upon petition of the patient's attorney, the patient's family, or the facility administrator.

(4) In lieu of the training required for guardians appointed pursuant to chapter 744, a guardian advocate shall attend at least a 4-hour training course approved by the court before exercising his or her authority. At a minimum, the



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training course must include information about patient rights, the diagnosis of substance abuse disorders, the ethics of medical decisionmaking, and the duties of guardian advocates.

(5) The required training course and the information to be supplied to prospective guardian advocates before their appointment must be developed by the department, approved by the chief judge of the circuit court, and taught by a court-approved organization, which may include, but need not be limited to, a community college, a guardianship organization, a local bar association, or The Florida Bar. The training course may be web-based, provided in video format, or other electronic means but must be capable of ensuring the identity and participation of the prospective guardian advocate. The court may waive some or all of the training requirements for guardian advocates or impose additional requirements. The court shall make its decision on a case-by-case basis and, in making its decision, shall consider the experience and education of the guardian advocate, the duties assigned to the guardian advocate, and the needs of the patient.

(6) In selecting a guardian advocate, the court shall give preference to the patient's health care surrogate, if one has already been designated by the patient. If the patient has not previously designated a health care surrogate, the selection shall be made, except for good cause documented in the court record, from among the following persons, listed in order of priority:

(a) The patient's spouse.

(b) An adult child of the patient.

(c) A parent of the patient.



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(d) The adult next of kin of the patient.

(e) An adult friend of the patient.

(f) An adult trained and willing to serve as the guardian advocate for the patient.

(7) If a guardian with the authority to consent to medical treatment has not already been appointed, or if the patient has not already designated a health care surrogate, the court may authorize the guardian advocate to consent to medical treatment as well as substance abuse disorder treatment. Unless otherwise limited by the court, a guardian advocate with authority to consent to medical treatment has the same authority to make health care decisions and is subject to the same restrictions as a proxy appointed under part IV of chapter 765. Unless the guardian advocate has sought and received express court approval in a proceeding separate from the proceeding to determine the competence of the patient to consent to medical treatment, the guardian advocate may not consent to:

(a) Abortion.

(b) Sterilization.

(c) Electroshock therapy.

(d) Psychosurgery.

(e) Experimental treatments that have not been approved by a federally approved institutional review board in accordance with 45 C.F.R. part 46 or 21 C.F.R. part 56.

The court must base its authorization on evidence that the treatment or procedure is essential to the care of the patient and that the treatment does not present an unreasonable risk of serious, hazardous, or irreversible side effects. In complying



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with this subsection, the court shall follow the procedures set forth in subsection (1).

(8) The guardian advocate shall be discharged when the patient is discharged from an order for involuntary outpatient services or involuntary inpatient placement or when the patient is transferred from involuntary to voluntary status. The court or a hearing officer shall consider the competence of the patient as provided in subsection (1) and may consider an involuntarily placed patient's competence to consent to treatment at any hearing. Upon sufficient evidence, the court may restore, or the hearing officer may recommend that the court restore, the patient's competence. A copy of the order restoring competence or the certificate of discharge containing the restoration of competence shall be provided to the patient and the guardian advocate.

Section 36. Paragraph (a) 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)(a)1. Except as otherwise provided in subparagraph (b)1. or paragraph (e), before the department provides psychotropic medications to a child in its custody, the prescribing physician shall attempt to obtain express and informed consent, as defined in s. 394.455(15) ~~s. 394.455(9)~~ and as described in s. 394.459(3)(a), from the child's parent or legal guardian. The department must take steps necessary to facilitate the inclusion of the parent in the child's consultation with the physician. However, if the parental rights of the parent have been



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terminated, the parent's location or identity is unknown or cannot reasonably be ascertained, or the parent declines to give express and informed consent, the department may, after consultation with the prescribing physician, seek court authorization to provide the psychotropic medications to the child. Unless parental rights have been terminated and if it is possible to do so, the department shall continue to involve the parent in the decisionmaking process regarding the provision of psychotropic medications. If, at any time, a parent whose parental rights have not been terminated provides express and informed consent to the provision of a psychotropic medication, the requirements of this section that the department seek court authorization do not apply to that medication until such time as the parent no longer consents.

2. Any time the department seeks a medical evaluation to determine the need to initiate or continue a psychotropic medication for a child, the department must provide to the evaluating physician all pertinent medical information known to the department concerning that child.

Section 37. Paragraph (e) of subsection (5) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the



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procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

(e) A governing board, agency, or authority shall be chartered by the county commission upon this act becoming law. The governing board, agency, or authority shall adopt and implement a health care plan for indigent health care services. The governing board, agency, or authority shall consist of no more than seven and no fewer than five members appointed by the county commission. The members of the governing board, agency, or authority shall be at least 18 years of age and residents of the county. No member may be employed by or affiliated with a health care provider or the public health trust, agency, or authority responsible for the county public general hospital. The following community organizations shall each appoint a representative to a nominating committee: the South Florida Hospital and Healthcare Association, the Miami-Dade County



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Public Health Trust, the Dade County Medical Association, the Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade County. This committee shall nominate between 10 and 14 county citizens for the governing board, agency, or authority. The slate shall be presented to the county commission and the county commission shall confirm the top five to seven nominees, depending on the size of the governing board. Until such time as the governing board, agency, or authority is created, the funds provided for in subparagraph (d)2. shall be placed in a restricted account set aside from other county funds and not disbursed by the county for any other purpose.

1. The plan shall divide the county into a minimum of four and maximum of six service areas, with no more than one participant hospital per service area. The county public general hospital shall be designated as the provider for one of the service areas. Services shall be provided through participants' primary acute care facilities.

2. The plan and subsequent amendments to it shall fund a defined range of health care services for both indigent persons and the medically poor, including primary care, preventive care, hospital emergency room care, and hospital care necessary to stabilize the patient. For the purposes of this section, "stabilization" means stabilization as defined in s. 397.311(42) ~~s. 397.311(41)~~. Where consistent with these objectives, the plan may include services rendered by physicians, clinics, community hospitals, and alternative delivery sites, as well as at least one regional referral hospital per service area. The plan shall provide that agreements negotiated between the governing board, agency, or authority and providers shall recognize hospitals



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3027 that render a disproportionate share of indigent care, provide
3028 other incentives to promote the delivery of charity care to draw
3029 down federal funds where appropriate, and require cost
3030 containment, including, but not limited to, case management.
3031 From the funds specified in subparagraphs (d)1. and 2. for
3032 indigent health care services, service providers shall receive
3033 reimbursement at a Medicaid rate to be determined by the
3034 governing board, agency, or authority created pursuant to this
3035 paragraph for the initial emergency room visit, and a per-member
3036 per-month fee or capitation for those members enrolled in their
3037 service area, as compensation for the services rendered
3038 following the initial emergency visit. Except for provisions of
3039 emergency services, upon determination of eligibility,
3040 enrollment shall be deemed to have occurred at the time services
3041 were rendered. The provisions for specific reimbursement of
3042 emergency services shall be repealed on July 1, 2001, unless
3043 otherwise reenacted by the Legislature. The capitation amount or
3044 rate shall be determined before ~~prior to~~ program implementation
3045 by an independent actuarial consultant. In no event shall such
3046 reimbursement rates exceed the Medicaid rate. The plan must also
3047 provide that any hospitals owned and operated by government
3048 entities on or after the effective date of this act must, as a
3049 condition of receiving funds under this subsection, afford
3050 public access equal to that provided under s. 286.011 as to any
3051 meeting of the governing board, agency, or authority the subject
3052 of which is budgeting resources for the retention of charity
3053 care, as that term is defined in the rules of the Agency for
3054 Health Care Administration. The plan shall also include
3055 innovative health care programs that provide cost-effective



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alternatives to traditional methods of service and delivery funding.

3. The plan's benefits shall be made available to all county residents currently eligible to receive health care services as indigents or medically poor as defined in paragraph (4) (d) .

4. Eligible residents who participate in the health care plan shall receive coverage for a period of 12 months or the period extending from the time of enrollment to the end of the current fiscal year, per enrollment period, whichever is less.

5. At the end of each fiscal year, the governing board, agency, or authority shall prepare an audit that reviews the budget of the plan, delivery of services, and quality of services, and makes recommendations to increase the plan's efficiency. The audit shall take into account participant hospital satisfaction with the plan and assess the amount of poststabilization patient transfers requested, and accepted or denied, by the county public general hospital.

Section 38. Paragraph (c) of subsection (2) of section 394.4599, Florida Statutes, is amended to read:

394.4599 Notice.—

(2) INVOLUNTARY ADMISSION.—

(c)1. A receiving facility shall give notice of the whereabouts of a minor who is being involuntarily held for examination pursuant to s. 394.463 to the minor's parent, guardian, caregiver, or guardian advocate, in person or by telephone or other form of electronic communication, immediately after the minor's arrival at the facility. The facility may delay notification for no more than 24 hours after the minor's



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arrival if the facility has submitted a report to the central abuse hotline, pursuant to s. 39.201, based upon knowledge or suspicion of abuse, abandonment, or neglect and if the facility deems a delay in notification to be in the minor's best interest.

2. The receiving facility shall attempt to notify the minor's parent, guardian, caregiver, or guardian advocate until the receiving facility receives confirmation from the parent, guardian, caregiver, or guardian advocate, verbally, by telephone or other form of electronic communication, or by recorded message, that notification has been received. Attempts to notify the parent, guardian, caregiver, or guardian advocate must be repeated at least once every hour during the first 12 hours after the minor's arrival and once every 24 hours thereafter and must continue until such confirmation is received, unless the minor is released at the end of the 72-hour examination period, or until a petition for involuntary services placement is filed with the court pursuant to s. 394.463(2)(g) ~~s. 394.463(2)(i)~~. The receiving facility may seek assistance from a law enforcement agency to notify the minor's parent, guardian, caregiver, or guardian advocate if the facility has not received within the first 24 hours after the minor's arrival a confirmation by the parent, guardian, caregiver, or guardian advocate that notification has been received. The receiving facility must document notification attempts in the minor's clinical record.

Section 39. Subsection (3) of section 394.495, Florida Statutes, is amended to read:

394.495 Child and adolescent mental health system of care;



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programs and services.—

(3) Assessments must be performed by:

(a) A professional as defined in s. 394.455(7), (33), (36), (37), or (38) ~~s. 394.455(2), (4), (21), (23), or (24);~~

(b) A professional licensed under chapter 491; or

(c) A person who is under the direct supervision of a professional as defined in s. 394.455(7), (33), (36), (37), or (38) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a professional licensed under chapter 491.

Section 40. Subsection (5) of section 394.496, Florida Statutes, is amended to read:

394.496 Service planning.—

(5) A professional as defined in s. 394.455(7), (33), (36), (37), or (38) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a professional licensed under chapter 491 must be included among those persons developing the services plan.

Section 41. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "detoxification services," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss. 397.311(23)(a)4., 397.311(23)(a)1., and 394.455(41) ~~ss. 397.311(22)(a)4., 397.311(22)(a)1., and 394.455(26),~~ respectively.

Section 42. Subsection (8) of section 397.405, Florida Statutes, is amended to read:

397.405 Exemptions from licensure.—The following are exempt from the licensing provisions of this chapter:



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(8) A legally cognizable church or nonprofit religious organization or denomination providing substance abuse services, including prevention services, which are solely religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization or denomination providing any of the licensed service components itemized under s. 397.311(23) ~~s. 397.311(22)~~ is not exempt from substance abuse licensure but retains its exemption with respect to all services which are solely religious, spiritual, or ecclesiastical in nature.

The exemptions from licensure in this section do not apply to any service provider that receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated pursuant to s. 397.406. Furthermore, this chapter may not be construed to limit the practice of a physician or physician assistant licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, a psychotherapist licensed under chapter 491, or an advanced registered nurse practitioner licensed under part I of chapter 464, who provides substance abuse treatment, so long as the physician, physician assistant, psychologist, psychotherapist, or advanced registered nurse practitioner does not represent to the public that he or she is a licensed service provider and does not provide services to individuals pursuant to part V of this chapter. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 43. Subsections (1) and (5) of section 397.407,



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Florida Statutes, are amended to read:

397.407 Licensure process; fees.—

(1) The department shall establish the licensure process to include fees and categories of licenses and must prescribe a fee range that is based, at least in part, on the number and complexity of programs listed in s. 397.311(23) ~~s. 397.311(22)~~ which are operated by a licensee. The fees from the licensure of service components are sufficient to cover at least 50 percent of the costs of regulating the service components. The department shall specify a fee range for public and privately funded licensed service providers. Fees for privately funded licensed service providers must exceed the fees for publicly funded licensed service providers.

(5) The department may issue probationary, regular, and interim licenses. The department shall issue one license for each service component that is operated by a service provider and defined pursuant to s. 397.311(23) ~~s. 397.311(22)~~. The license is valid only for the specific service components listed for each specific location identified on the license. The licensed service provider shall apply for a new license at least 60 days before the addition of any service components or 30 days before the relocation of any of its service sites. Provision of service components or delivery of services at a location not identified on the license may be considered an unlicensed operation that authorizes the department to seek an injunction against operation as provided in s. 397.401, in addition to other sanctions authorized by s. 397.415. Probationary and regular licenses may be issued only after all required information has been submitted. A license may not be



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transferred. As used in this subsection, the term "transfer" includes, but is not limited to, the transfer of a majority of the ownership interest in the licensed entity or transfer of responsibilities under the license to another entity by contractual arrangement.

Section 44. Section 397.416, Florida Statutes, is amended to read:

397.416 Substance abuse treatment services; qualified professional.—Notwithstanding any other provision of law, a person who was certified through a certification process recognized by the former Department of Health and Rehabilitative Services before January 1, 1995, may perform the duties of a qualified professional with respect to substance abuse treatment services as defined in this chapter, and need not meet the certification requirements contained in s. 397.311(31) ~~s. 397.311(30)~~.

Section 45. Paragraph (b) of subsection (1) of section 409.972, Florida Statutes, is amended to read:

409.972 Mandatory and voluntary enrollment.—

(1) The following Medicaid-eligible persons are exempt from mandatory managed care enrollment required by s. 409.965, and may voluntarily choose to participate in the managed medical assistance program:

(b) Medicaid recipients residing in residential commitment facilities operated through the Department of Juvenile Justice or ~~a mental health treatment facility~~ facilities as defined in ~~by~~ s. 394.455(50) ~~s. 394.455(32)~~.

Section 46. Paragraphs (d) and (g) of subsection (1) of section 440.102, Florida Statutes, are amended to read:



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440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(d) "Drug rehabilitation program" means a service provider, established pursuant to s. 397.311(40) ~~s. 397.311(39)~~, that provides confidential, timely, and expert identification, assessment, and resolution of employee drug abuse.

(g) "Employee assistance program" means an established program capable of providing expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and followup services for employees who participate in the program or require monitoring after returning to work. If, in addition to the above activities, an employee assistance program provides diagnostic and treatment services, these services shall in all cases be provided by service providers pursuant to s. 397.311(40) ~~s. 397.311(39)~~.

Section 47. Subsection (7) of section 744.704, Florida Statutes, is amended to read:

744.704 Powers and duties.—

(7) A public guardian may ~~shall~~ not commit a ward to a ~~mental health~~ treatment facility, as defined in s. 394.455(50) ~~s. 394.455(32)~~, without an involuntary placement proceeding as provided by law.

Section 48. Paragraph (a) of subsection (2) of section



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790.065, Florida Statutes, is amended to read:

790.065 Sale and delivery of firearms.—

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee's call or by return call, forthwith:

(a) Review any records available to determine if the potential buyer or transferee:

1. Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23;

2. Has been convicted of a misdemeanor crime of domestic violence, and therefore is prohibited from purchasing a firearm;

3. Has had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred; or

4. Has been adjudicated mentally defective or has been committed to a mental institution by a court or as provided in sub-sub-subparagraph b.(II), and as a result is prohibited by state or federal law from purchasing a firearm.

a. As used in this subparagraph, "adjudicated mentally defective" means a determination by a court that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is a danger to himself or herself or to others or lacks the mental capacity to contract or manage his or her own affairs. The phrase includes a judicial finding of incapacity under s. 744.331(6)(a), an acquittal by reason of insanity of a person charged with a criminal offense, and a judicial finding that a criminal defendant is not



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competent to stand trial.

b. As used in this subparagraph, "committed to a mental institution" means:

(I) Involuntary commitment, commitment for mental defectiveness or mental illness, and commitment for substance abuse. The phrase includes involuntary inpatient placement as defined in s. 394.467, involuntary outpatient services ~~placement~~ as defined in s. 394.4655, involuntary assessment and stabilization under s. 397.6818, and involuntary substance abuse treatment under s. 397.6957, but does not include a person in a mental institution for observation or discharged from a mental institution based upon the initial review by the physician or a voluntary admission to a mental institution; or

(II) Notwithstanding sub-sub-subparagraph (I), voluntary admission to a mental institution for outpatient or inpatient treatment of a person who had an involuntary examination under s. 394.463, where each of the following conditions have been met:

(A) An examining physician found that the person is an imminent danger to himself or herself or others.

(B) The examining physician certified that if the person did not agree to voluntary treatment, a petition for involuntary outpatient or inpatient services ~~treatment~~ would have been filed under s. 394.463(2)(g) ~~s. 394.463(2)(i)4.~~, or the examining physician certified that a petition was filed and the person subsequently agreed to voluntary treatment before ~~prior to~~ a court hearing on the petition.

(C) Before agreeing to voluntary treatment, the person received written notice of that finding and certification, and



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written notice that as a result of such finding, he or she may be prohibited from purchasing a firearm, and may not be eligible to apply for or retain a concealed weapon or firearms license under s. 790.06 and the person acknowledged such notice in writing, in substantially the following form:

"I understand that the doctor who examined me believes I am a danger to myself or to others. I understand that if I do not agree to voluntary treatment, a petition will be filed in court to require me to receive involuntary treatment. I understand that if that petition is filed, I have the right to contest it. In the event a petition has been filed, I understand that I can subsequently agree to voluntary treatment prior to a court hearing. I understand that by agreeing to voluntary treatment in either of these situations, I may be prohibited from buying firearms and from applying for or retaining a concealed weapons or firearms license until I apply for and receive relief from that restriction under Florida law."

(D) A judge or a magistrate has, pursuant to sub-sub-paragraph c.(II), reviewed the record of the finding, certification, notice, and written acknowledgment classifying the person as an imminent danger to himself or herself or others, and ordered that such record be submitted to the department.

c. In order to check for these conditions, the department shall compile and maintain an automated database of persons who



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are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

(I) Except as provided in sub-sub-subparagraph (II), clerks of court shall submit these records to the department within 1 month after the rendition of the adjudication or commitment. Reports shall be submitted in an automated format. The reports must, at a minimum, include the name, along with any known alias or former name, the sex, and the date of birth of the subject.

(II) For persons committed to a mental institution pursuant to sub-sub-subparagraph b.(II), within 24 hours after the person's agreement to voluntary admission, a record of the finding, certification, notice, and written acknowledgment must be filed by the administrator of the receiving or treatment facility, as defined in s. 394.455, with the clerk of the court for the county in which the involuntary examination under s. 394.463 occurred. No fee shall be charged for the filing under this sub-sub-subparagraph. The clerk must present the records to a judge or magistrate within 24 hours after receipt of the records. A judge or magistrate is required and has the lawful authority to review the records ex parte and, if the judge or magistrate determines that the record supports the classifying of the person as an imminent danger to himself or herself or others, to order that the record be submitted to the department. If a judge or magistrate orders the submittal of the record to the department, the record must be submitted to the department within 24 hours.

d. A person who has been adjudicated mentally defective or committed to a mental institution, as those terms are defined in



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this paragraph, may petition the circuit court that made the adjudication or commitment, or the court that ordered that the record be submitted to the department pursuant to sub-sub-subparagraph c.(II), for relief from the firearm disabilities imposed by such adjudication or commitment. A copy of the petition shall be served on the state attorney for the county in which the person was adjudicated or committed. The state attorney may object to and present evidence relevant to the relief sought by the petition. The hearing on the petition may be open or closed as the petitioner may choose. The petitioner may present evidence and subpoena witnesses to appear at the hearing on the petition. The petitioner may confront and cross-examine witnesses called by the state attorney. A record of the hearing shall be made by a certified court reporter or by court-approved electronic means. The court shall make written findings of fact and conclusions of law on the issues before it and issue a final order. The court shall grant the relief requested in the petition if the court finds, based on the evidence presented with respect to the petitioner's reputation, the petitioner's mental health record and, if applicable, criminal history record, the circumstances surrounding the firearm disability, and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest. If the final order denies relief, the petitioner may not petition again for relief from firearm disabilities until 1 year after the date of the final order. The petitioner may seek judicial review of a final order denying relief in the district court of appeal having jurisdiction over



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the court that issued the order. The review shall be conducted de novo. Relief from a firearm disability granted under this sub-subparagraph has no effect on the loss of civil rights, including firearm rights, for any reason other than the particular adjudication of mental defectiveness or commitment to a mental institution from which relief is granted.

e. Upon receipt of proper notice of relief from firearm disabilities granted under sub-subparagraph d., the department shall delete any mental health record of the person granted relief from the automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

f. The department is authorized to disclose data collected pursuant to this subparagraph to agencies of the Federal Government and other states for use exclusively in determining the lawfulness of a firearm sale or transfer. The department is also authorized to disclose this data to the Department of Agriculture and Consumer Services for purposes of determining eligibility for issuance of a concealed weapons or concealed firearms license and for determining whether a basis exists for revoking or suspending a previously issued license pursuant to s. 790.06(10). When a potential buyer or transferee appeals a nonapproval based on these records, the clerks of court and mental institutions shall, upon request by the department, provide information to help determine whether the potential buyer or transferee is the same person as the subject of the record. Photographs and any other data that could confirm or negate identity must be made available to the department for



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such purposes, notwithstanding any other provision of state law to the contrary. Any such information that is made confidential or exempt from disclosure by law shall retain such confidential or exempt status when transferred to the department.

Section 49. This act shall take effect July 1, 2016.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to mental health and substance abuse; amending s. 29.004, F.S.; including services provided to treatment-based mental health programs within case management funded from state revenues as an element of the state courts system; amending s. 39.001, F.S.; providing legislative intent regarding mental illness for purposes of the child welfare system; amending s. 39.507, F.S.; providing for consideration of mental health issues and involvement in treatment-based mental health programs in adjudicatory hearings and orders; amending s. 39.521, F.S.; providing for consideration of mental health issues and involvement in treatment-based mental health programs in disposition hearings; amending s. 394.455, F.S.; defining terms; revising definitions; amending s. 394.4573, F.S.; requiring the Department of Children and Families to submit a certain assessment to the Governor and the Legislature by a specified date;



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3462 redefining terms; providing essential elements of a
3463 coordinated system of care; providing requirements for
3464 the department's annual assessment; authorizing the
3465 department to award certain grants; deleting duties
3466 and measures of the department regarding continuity of
3467 care management systems; amending s. 394.4597, F.S.;
3468 revising the prioritization of health care surrogates
3469 to be selected for involuntary patients; specifying
3470 certain persons who are prohibited from being selected
3471 as an individual's representative; amending s.
3472 394.4598, F.S.; specifying certain persons who are
3473 prohibited from being appointed as a person's guardian
3474 advocate; amending s. 394.462, F.S.; requiring that
3475 counties develop and implement transportation plans;
3476 providing requirements for the plans; revising
3477 requirements for transportation to a receiving
3478 facility and treatment facility; deleting exceptions
3479 to such requirements; amending s. 394.463, F.S.;
3480 authorizing county or circuit courts to enter ex parte
3481 orders for involuntary examinations; requiring a
3482 facility to provide copies of ex parte orders,
3483 reports, and certifications to managing entities and
3484 the department, rather than the Agency for Health Care
3485 Administration; requiring the managing entity and
3486 department to receive certain orders, certificates,
3487 and reports; requiring the department to provide such
3488 documents to the Agency for Health Care
3489 Administration; requiring certain individuals to be
3490 released to law enforcement custody; providing



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3491 exceptions; amending s. 394.4655, F.S.; providing for
3492 involuntary outpatient services; requiring a service
3493 provider to document certain inquiries; requiring the
3494 managing entity to document certain efforts; making
3495 technical changes; amending s. 394.467, F.S.; revising
3496 criteria for involuntary inpatient placement;
3497 requiring a facility filing a petition for involuntary
3498 inpatient placement to send a copy to the department
3499 and managing entity; revising criteria for a hearing
3500 on involuntary inpatient placement; revising criteria
3501 for a procedure for continued involuntary inpatient
3502 services; specifying requirements for a certain waiver
3503 of the patient's attendance at a hearing; requiring
3504 the court to consider certain testimony and evidence
3505 regarding a patient's incompetence; amending s.
3506 394.46715, F.S.; revising rulemaking authority of the
3507 department; creating s. 394.761, F.S.; authorizing the
3508 agency and the department to develop a plan for
3509 revenue maximization; requiring the plan to be
3510 submitted to the Legislature by a certain date;
3511 amending s. 394.875, F.S.; requiring the department to
3512 modify licensure rules and procedures to create an
3513 option for a single, consolidated license for certain
3514 providers by a specified date; amending s. 394.9082,
3515 F.S.; providing a purpose for behavioral health
3516 managing entities; revising definitions; providing
3517 duties of the department; requiring the department to
3518 revise its contracts with managing entities; providing
3519 duties for managing entities; deleting provisions



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3520 relating to legislative findings and intent, service
3521 delivery strategies, essential elements, reporting
3522 requirements, and rulemaking authority; amending s.
3523 397.311, F.S.; defining the term "involuntary
3524 services"; revising the definition of the term
3525 "qualified professional"; conforming a cross-
3526 reference; amending s. 397.675, F.S.; revising the
3527 criteria for involuntary admissions due to substance
3528 abuse or co-occurring mental health disorders;
3529 amending s. 397.679, F.S.; specifying the licensed
3530 professionals who may complete a certificate for the
3531 involuntary admission of an individual; amending s.
3532 397.6791, F.S.; providing a list of professionals
3533 authorized to initiate a certificate for an emergency
3534 assessment or admission of a person with a substance
3535 abuse disorder; amending s. 397.6793, F.S.; revising
3536 the criteria for initiation of a certificate for an
3537 emergency admission for a person who is substance
3538 abuse impaired; amending s. 397.6795, F.S.; revising
3539 the list of persons who may deliver a person for an
3540 emergency assessment; amending s. 397.681, F.S.;
3541 prohibiting the court from charging a fee for
3542 involuntary petitions; amending s. 397.6811, F.S.;
3543 revising the list of persons who may file a petition
3544 for an involuntary assessment and stabilization;
3545 amending s. 397.6814, F.S.; prohibiting a fee from
3546 being charged for the filing of a petition for
3547 involuntary assessment and stabilization; amending s.
3548 397.6819, F.S.; revising the responsibilities of



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3549 service providers who admit an individual for an
3550 involuntary assessment and stabilization; amending s.
3551 397.695, F.S.; authorizing certain persons to file a
3552 petition for involuntary outpatient services of an
3553 individual; providing procedures and requirements for
3554 such petitions; amending s. 397.6951, F.S.; requiring
3555 that certain additional information be included in a
3556 petition for involuntary outpatient services; amending
3557 s. 397.6955, F.S.; requiring a court to fulfill
3558 certain additional duties upon the filing of petition
3559 for involuntary outpatient services; amending s.
3560 397.6957, F.S.; providing additional requirements for
3561 a hearing on a petition for involuntary outpatient
3562 services; amending s. 397.697, F.S.; authorizing a
3563 court to make a determination of involuntary
3564 outpatient services; prohibiting a court from ordering
3565 involuntary outpatient services under certain
3566 circumstances; requiring the service provider to
3567 document certain inquiries; requiring the managing
3568 entity to document certain efforts; requiring a copy
3569 of the court's order to be sent to the department and
3570 managing entity; providing procedures for
3571 modifications to such orders; amending s. 397.6971,
3572 F.S.; establishing the requirements for an early
3573 release from involuntary outpatient services; amending
3574 s. 397.6975, F.S.; requiring the court to appoint
3575 certain counsel; providing requirements for hearings
3576 on petitions for continued involuntary outpatient
3577 services; requiring notice of such hearings; amending



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3578 s. 397.6977, F.S.; conforming provisions to changes
3579 made by the act; creating s. 397.6978, F.S.; providing
3580 for the appointment of guardian advocates if an
3581 individual is found incompetent to consent to
3582 treatment; providing a list of persons prohibited from
3583 being appointed as an individual's guardian advocate;
3584 providing requirements for a facility requesting the
3585 appointment of a guardian advocate; requiring a
3586 training course for guardian advocates; providing
3587 requirements for the training course; providing
3588 requirements for the prioritization of individuals to
3589 be selected as guardian advocates; authorizing certain
3590 guardian advocates to consent to medical treatment;
3591 providing exceptions; providing procedures for the
3592 discharge of a guardian advocate; amending ss. 39.407,
3593 212.055, 394.4599, 394.495, 394.496, 394.9085,
3594 397.405, 397.407, 397.416, 409.972, 440.102, 744.704,
3595 and 790.065, F.S.; conforming cross-references;;
3596 providing an effective date.

By Senator Garcia

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1 A bill to be entitled
 2 An act relating to mental health and substance abuse;
 3 amending s. 29.004, F.S.; including services provided
 4 to treatment-based mental health programs within case
 5 management funded from state revenues as an element of
 6 the state courts system; amending s. 39.001, F.S.;
 7 providing legislative intent regarding mental illness
 8 for purposes of the child welfare system; amending s.
 9 39.507, F.S.; providing for consideration of mental
 10 health issues and involvement in treatment-based
 11 mental health programs in adjudicatory hearings and
 12 orders; amending s. 39.521, F.S.; providing for
 13 consideration of mental health issues and involvement
 14 in treatment-based mental health programs in
 15 disposition hearings; amending s. 394.455, F.S.;
 16 defining terms; revising definitions; amending s.
 17 394.4573, F.S.; requiring the Department of Children
 18 and Families to submit a certain assessment to the
 19 Governor and the Legislature by a specified date;
 20 redefining terms; providing essential elements of a
 21 coordinated system of care; providing requirements for
 22 the department's annual assessment; authorizing the
 23 department to award certain grants; deleting duties
 24 and measures of the department regarding continuity of
 25 care management systems; amending s. 394.4597, F.S.;
 26 revising the prioritization of health care surrogates
 27 to be selected for involuntary patients; specifying
 28 certain persons who are prohibited from being selected
 29 as an individual's representative; amending s.
 30 394.4598, F.S.; specifying certain persons who are
 31 prohibited from being appointed as a person's guardian
 32 advocate; amending s. 394.462, F.S.; requiring that

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33 counties develop and implement transportation plans;
 34 providing requirements for the plans; revising
 35 requirements for transportation to a receiving
 36 facility and treatment facility; deleting exceptions
 37 to such requirements; amending s. 394.463, F.S.;
 38 authorizing county or circuit courts to enter ex parte
 39 orders for involuntary examinations; requiring a
 40 facility to provide copies of ex parte orders,
 41 reports, and certifications to managing entities and
 42 the department, rather than the Agency for Health Care
 43 Administration; requiring the managing entity and
 44 department to receive certain orders, certificates,
 45 and reports; requiring the department to provide such
 46 documents to the Agency for Health Care
 47 Administration; requiring certain individuals to be
 48 released to law enforcement custody; providing
 49 exceptions; amending s. 394.4655, F.S.; providing for
 50 involuntary outpatient services; requiring a service
 51 provider to document certain inquiries; requiring the
 52 managing entity to document certain efforts; making
 53 technical changes; amending s. 394.467, F.S.; revising
 54 criteria for involuntary inpatient placement;
 55 requiring a facility filing a petition for involuntary
 56 inpatient placement to send a copy to the department
 57 and managing entity; revising criteria for a hearing
 58 on involuntary inpatient placement; revising criteria
 59 for a procedure for continued involuntary inpatient
 60 services; specifying requirements for a certain waiver
 61 of the patient's attendance at a hearing; requiring

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62 the court to consider certain testimony and evidence
 63 regarding a patient's incompetence; amending s.
 64 394.46715, F.S.; revising rulemaking authority of the
 65 department; creating s. 394.761, F.S.; authorizing the
 66 agency and the department to develop a plan for
 67 revenue maximization; requiring the plan to be
 68 submitted to the Legislature by a certain date;
 69 amending s. 394.875, F.S.; requiring the department to
 70 modify licensure rules and procedures to create an
 71 option for a single, consolidated license for certain
 72 providers by a specified date; amending s. 394.9082,
 73 F.S.; providing a purpose for behavioral health
 74 managing entities; revising definitions; providing
 75 duties of the department; requiring the department to
 76 revise its contracts with managing entities; providing
 77 duties for managing entities; deleting provisions
 78 relating to legislative findings and intent, service
 79 delivery strategies, essential elements, reporting
 80 requirements, and rulemaking authority; amending s.
 81 397.311, F.S.; defining the term "involuntary
 82 services"; revising the definition of the term
 83 "qualified professional"; conforming a cross-
 84 reference; amending s. 397.675, F.S.; revising the
 85 criteria for involuntary admissions due to substance
 86 abuse or co-occurring mental health disorders;
 87 amending s. 397.679, F.S.; specifying the licensed
 88 professionals who may complete a certificate for the
 89 involuntary admission of an individual; amending s.
 90 397.6791, F.S.; providing a list of professionals

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91 authorized to initiate a certificate for an emergency
 92 assessment or admission of a person with a substance
 93 abuse disorder; amending s. 397.6793, F.S.; revising
 94 the criteria for initiation of a certificate for an
 95 emergency admission for a person who is substance
 96 abuse impaired; amending s. 397.6795, F.S.; revising
 97 the list of persons who may deliver a person for an
 98 emergency assessment; amending s. 397.681, F.S.;
 99 prohibiting the court from charging a fee for
 100 involuntary petitions; amending s. 397.6811, F.S.;
 101 revising the list of persons who may file a petition
 102 for an involuntary assessment and stabilization;
 103 amending s. 397.6814, F.S.; prohibiting a fee from
 104 being charged for the filing of a petition for
 105 involuntary assessment and stabilization; amending s.
 106 397.6819, F.S.; revising the responsibilities of
 107 service providers who admit an individual for an
 108 involuntary assessment and stabilization; amending s.
 109 397.695, F.S.; authorizing certain persons to file a
 110 petition for involuntary outpatient services of an
 111 individual; providing procedures and requirements for
 112 such petitions; amending s. 397.6951, F.S.; requiring
 113 that certain additional information be included in a
 114 petition for involuntary outpatient services; amending
 115 s. 397.6955, F.S.; requiring a court to fulfill
 116 certain additional duties upon the filing of petition
 117 for involuntary outpatient services; amending s.
 118 397.6957, F.S.; providing additional requirements for
 119 a hearing on a petition for involuntary outpatient

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120 services; amending s. 397.697, F.S.; authorizing a
 121 court to make a determination of involuntary
 122 outpatient services; prohibiting a court from ordering
 123 involuntary outpatient services under certain
 124 circumstances; requiring the service provider to
 125 document certain inquiries; requiring the managing
 126 entity to document certain efforts; requiring a copy
 127 of the court's order to be sent to the department and
 128 managing entity; providing procedures for
 129 modifications to such orders; amending s. 397.6971,
 130 F.S.; establishing the requirements for an early
 131 release from involuntary outpatient services; amending
 132 s. 397.6975, F.S.; requiring the court to appoint
 133 certain counsel; providing requirements for hearings
 134 on petitions for continued involuntary outpatient
 135 services; requiring notice of such hearings; amending
 136 s. 397.6977, F.S.; conforming provisions to changes
 137 made by the act; creating s. 397.6978, F.S.; providing
 138 for the appointment of guardian advocates if an
 139 individual is found incompetent to consent to
 140 treatment; providing a list of persons prohibited from
 141 being appointed as an individual's guardian advocate;
 142 providing requirements for a facility requesting the
 143 appointment of a guardian advocate; requiring a
 144 training course for guardian advocates; providing
 145 requirements for the training course; providing
 146 requirements for the prioritization of individuals to
 147 be selected as guardian advocates; authorizing certain
 148 guardian advocates to consent to medical treatment;

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149 providing exceptions; providing procedures for the
 150 discharge of a guardian advocate; amending ss. 39.407,
 151 212.055, 394.4599, 394.495, 394.496, 394.9085,
 152 397.405, 397.407, 397.416, 409.972, 440.102, 744.704,
 153 and 790.065, F.S.; conforming cross-references;
 154 providing an effective date.
 155

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

157
 158 Section 1. Paragraph (e) is added to subsection (10) of
 159 section 29.004, Florida Statutes, to read:

160 29.004 State courts system.—For purposes of implementing s.
 161 14, Art. V of the State Constitution, the elements of the state
 162 courts system to be provided from state revenues appropriated by
 163 general law are as follows:

164 (10) Case management. Case management includes:

165 (e) Service referral, coordination, monitoring, and
 166 tracking for mental health programs under chapter 394.
 167

168 Case management may not include costs associated with the
 169 application of therapeutic jurisprudence principles by the
 170 courts. Case management also may not include case intake and
 171 records management conducted by the clerk of court.

172 Section 2. Subsection (6) of section 39.001, Florida
 173 Statutes, is amended to read:

174 39.001 Purposes and intent; personnel standards and
 175 screening.—

176 (6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

177 (a) The Legislature recognizes that early referral and

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comprehensive treatment can help combat mental illness and
substance abuse disorders in families and that treatment is
cost-effective.

(b) The Legislature establishes the following goals for the
state related to mental illness and substance abuse treatment
services in the dependency process:

1. To ensure the safety of children.

2. To prevent and remediate the consequences of mental
illness and substance abuse disorders on families involved in
protective supervision or foster care and reduce the occurrences
of mental illness and substance abuse disorders, including
alcohol abuse or other related disorders, for families who are
at risk of being involved in protective supervision or foster
care.

3. To expedite permanency for children and reunify healthy,
intact families, when appropriate.

4. To support families in recovery.

(c) The Legislature finds that children in the care of the
state's dependency system need appropriate health care services,
that the impact of mental illnesses and substance abuse on
health indicates the need for health care services to include
treatment for mental health and substance abuse disorders for
services to children and parents where appropriate, and that it
is in the state's best interest that such children be provided
the services they need to enable them to become and remain
independent of state care. In order to provide these services,
the state's dependency system must have the ability to identify
and provide appropriate intervention and treatment for children
with personal or family-related mental illness and substance

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abuse problems.

(d) It is the intent of the Legislature to encourage the
use of the mental health programs established under chapter 394
and the drug court program model established under ~~by~~ s. 397.334
and authorize courts to assess children and persons who have
custody or are requesting custody of children where good cause
is shown to identify and address mental illnesses and substance
abuse disorders ~~problems~~ as the court deems appropriate at every
stage of the dependency process. Participation in treatment,
including a treatment-based mental health court program or a
treatment-based drug court program, may be required by the court
following adjudication. Participation in assessment and
treatment ~~before~~ prior to adjudication is ~~shall be~~ voluntary,
except as provided in s. 39.407(16).

(e) It is therefore the purpose of the Legislature to
provide authority for the state to contract with mental health
service providers and community substance abuse treatment
providers for the development and operation of specialized
support and overlay services for the dependency system, which
will be fully implemented and used as resources permit.

(f) Participation in a treatment-based mental health court
program or a ~~the~~ treatment-based drug court program does not
divest any public or private agency of its responsibility for a
child or adult, but is intended to enable these agencies to
better meet their needs through shared responsibility and
resources.

Section 3. Subsection (10) of section 39.507, Florida
Statutes, is amended to read:

39.507 Adjudicatory hearings; orders of adjudication.—

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(10) After an adjudication of dependency, or a finding of dependency where adjudication is withheld, the court may order a person who has custody or is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The assessment or evaluation must be administered by a qualified professional, as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health program established under chapter 394 or a treatment-based drug court program established under s. 397.334. In addition to supervision by the department, the court, including a treatment-based mental health court program or a the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subsection may be made only upon good cause shown. This subsection does not authorize placement of a child with a person seeking custody, other than the parent or legal custodian, who requires mental health or substance abuse disorder treatment.

Section 4. Paragraph (b) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.-

(1) A disposition hearing shall be conducted by the court,

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if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(b) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal custodian and the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental illness or substance abuse disorder assessment or evaluation. The assessment or evaluation must be administered by a qualified professional, as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health program established under chapter 394 or a treatment-based drug court program established under s. 397.334. In addition to supervision by the department, the court, including a treatment-based mental health court program or a the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a

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finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department ~~must shall~~ set forth the powers of the custodian of the child and ~~shall~~ include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, ~~no~~ further judicial reviews are not required ~~if, so long as~~ permanency has been established for

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the child.

Section 5. Section 394.455, Florida Statutes, is amended to read:

394.455 Definitions.—As used in this part, ~~unless the context clearly requires otherwise,~~ the term:

(1) "Access center" or "drop-off center" means a facility staffed by medical, behavioral, and substance abuse professionals which provides emergency screening and evaluation for mental health or substance abuse disorders and may provide transportation to an appropriate facility if an individual is in need of more intensive services.

(2) "Addictions receiving facility" means a secure, acute care facility that, at a minimum, provides emergency screening, evaluation, and short-term stabilization services; is operated 24 hours per day, 7 days per week; and is designated by the department to serve individuals found to have substance abuse impairment who qualify for services under this part.

(3) ~~(1)~~ "Administrator" means the chief administrative officer of a receiving or treatment facility or his or her designee.

(4) "Adult" means an individual who is 18 years of age or older or who has had the disability of nonage removed under chapter 743.

(5) "Advanced registered nurse practitioner" means any person licensed in this state to practice professional nursing who is certified in advanced or specialized nursing practice under s. 464.012.

~~(2) "Clinical psychologist" means a psychologist as defined in s. 490.003(7) with 3 years of postdoctoral experience in the~~

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~~practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility under this part.~~

~~(6)(3)~~ "Clinical record" means all parts of the record required to be maintained and includes all medical records, progress notes, charts, and admission and discharge data, and all other information recorded by a facility staff which pertains to the patient's hospitalization or treatment.

~~(7)(4)~~ "Clinical social worker" means a person licensed as a clinical social worker under s. 491.005 or s. 491.006 ~~chapter 491.~~

~~(8)(5)~~ "Community facility" means a any community service provider that contracts ~~contracting~~ with the department to furnish substance abuse or mental health services under part IV of this chapter.

~~(9)(6)~~ "Community mental health center or clinic" means a publicly funded, not-for-profit center that ~~which~~ contracts with the department for the provision of inpatient, outpatient, day treatment, or emergency services.

~~(10)(7)~~ "Court," unless otherwise specified, means the circuit court.

~~(11)(8)~~ "Department" means the Department of Children and Families.

~~(12)~~ "Designated receiving facility" means a facility approved by the department which provides, at a minimum, emergency screening, evaluation, and short-term stabilization for mental health or substance abuse disorders, and which may

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have an agreement with a corresponding facility for transportation and services.

(13) "Detoxification facility" means a facility licensed to provide detoxification services under chapter 397.

(14) "Electronic means" is a form of telecommunication which requires all parties to maintain visual as well as audio communication.

~~(15)(9)~~ "Express and informed consent" means consent voluntarily given ~~in writing~~, by a competent person, after sufficient explanation and disclosure of the subject matter involved to enable the person to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

~~(16)(10)~~ "Facility" means any hospital, community facility, public or private facility, or receiving or treatment facility providing for the evaluation, diagnosis, care, treatment, training, or hospitalization of persons who appear to have a ~~mental illness~~ or who have been diagnosed as having a mental illness or substance abuse impairment. The term "Facility" does not include a any program or an entity licensed under pursuant ~~to~~ chapter 400 or chapter 429.

(17) "Governmental facility" means a facility owned, operated, or administered by the Department of Corrections or the United States Department of Veterans Affairs.

~~(18)(11)~~ "Guardian" means the natural guardian of a minor, or a person appointed by a court to act on behalf of a ward's person if the ward is a minor or has been adjudicated incapacitated.

~~(19)(12)~~ "Guardian advocate" means a person appointed by a

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410 court to make decisions regarding mental health or substance
 411 abuse treatment on behalf of a patient who has been found
 412 incompetent to consent to treatment pursuant to this part. ~~The~~
 413 ~~guardian advocate may be granted specific additional powers by~~
 414 ~~written order of the court, as provided in this part.~~

415 ~~(20)(13)~~ "Hospital" means a hospital ~~facility as defined in~~
 416 ~~s. 395.002 and licensed under chapter 395 and part II of chapter~~
 417 408.

418 ~~(21)(14)~~ "Incapacitated" means that a person has been
 419 adjudicated incapacitated pursuant to part V of chapter 744 and
 420 a guardian of the person has been appointed.

421 ~~(22)(15)~~ "Incompetent to consent to treatment" means a
 422 state in which ~~that~~ a person's judgment is so affected by a his
 423 ~~or her~~ mental illness, a substance abuse impairment, or any
 424 medical or organic cause that he or she ~~the person~~ lacks the
 425 capacity to make a well-reasoned, willful, and knowing decision
 426 concerning his or her medical, ~~or~~ mental health, or substance
 427 abuse treatment.

428 ~~(23)~~ "Involuntary examination" means an examination
 429 performed under s. 394.463 or s. 397.675 to determine whether a
 430 person qualifies for involuntary outpatient services or
 431 involuntary inpatient placement.

432 ~~(24)~~ "Involuntary services" means court-ordered outpatient
 433 services or inpatient placement for mental health treatment
 434 pursuant to s. 394.4655 or s. 394.467.

435 ~~(25)(16)~~ "Law enforcement officer" has the same meaning as
 436 provided means a law enforcement officer as defined in s.
 437 943.10.

438 ~~(26)~~ "Marriage and family therapist" means a person

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439 licensed to practice marriage and family therapy under s.
 440 491.005 or s. 491.006.

441 ~~(27)~~ "Mental health counselor" means a person licensed to
 442 practice mental health counseling under s. 491.005 or s.
 443 491.006.

444 ~~(28)(17)~~ "Mental health overlay program" means a mobile
 445 service that ~~which~~ provides an independent examination for
 446 voluntary admission ~~admissions~~ and a range of supplemental
 447 onsite services to persons with a mental illness in a
 448 residential setting such as a nursing home, an assisted living
 449 facility, or an adult family-care home, or a nonresidential
 450 setting such as an adult day care center. Independent
 451 examinations provided ~~pursuant to this part~~ through a mental
 452 health overlay program must only be provided under contract with
 453 the department ~~for this service~~ or be attached to a public
 454 receiving facility that is also a community mental health
 455 center.

456 ~~(29)(18)~~ "Mental illness" means an impairment of the mental
 457 or emotional processes that exercise conscious control of one's
 458 actions or of the ability to perceive or understand reality,
 459 which impairment substantially interferes with the person's
 460 ability to meet the ordinary demands of living. For the purposes
 461 of this part, the term does not include a developmental
 462 disability as defined in chapter 393, intoxication, or
 463 conditions manifested only by antisocial behavior or substance
 464 abuse impairment.

465 ~~(30)~~ "Minor" means an individual who is 17 years of age or
 466 younger and who has not had the disability of nonage removed
 467 pursuant to s. 743.01 or s. 743.015.

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468 ~~(31)(19)~~ "Mobile crisis response service" means a
 469 nonresidential crisis service ~~attached to a public receiving~~
 470 ~~facility and available 24 hours a day, 7 days a week, through~~
 471 which provides immediate intensive assessments and
 472 interventions, including screening for admission into a mental
 473 health receiving facility, an addictions receiving facility, or
 474 a detoxification facility, take place for the purpose of
 475 identifying appropriate treatment services.

476 ~~(32)(20)~~ "Patient" means any person who is held or accepted
 477 for mental health or substance abuse treatment.

478 ~~(33)(21)~~ "Physician" means a medical practitioner licensed
 479 under chapter 458 or chapter 459 ~~who has experience in the~~
 480 ~~diagnosis and treatment of mental and nervous disorders~~ or a
 481 physician employed by a facility operated by the United States
 482 Department of Veterans Affairs or the United States Department
 483 of Defense which qualifies as a receiving or treatment facility
 484 under this part.

485 ~~(34)~~ "Physician assistant" means a person licensed under
 486 chapter 458 or chapter 459 who has experience in the diagnosis
 487 and treatment of mental disorders.

488 ~~(35)(22)~~ "Private facility" means any hospital or facility
 489 operated by a for-profit or not-for-profit corporation or
 490 association which that provides mental health or substance abuse
 491 services and is not a public facility.

492 ~~(36)(23)~~ "Psychiatric nurse" means an advanced registered
 493 nurse practitioner certified under s. 464.012 who has a master's
 494 or doctoral degree in psychiatric nursing, holds a national
 495 advanced practice certification as a psychiatric mental health
 496 advanced practice nurse, and has 2 years of post-master's

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497 clinical experience under the supervision of a physician.

498 ~~(37)(24)~~ "Psychiatrist" means a medical practitioner
 499 licensed under chapter 458 or chapter 459 ~~who has primarily~~
 500 ~~diagnosed and treated mental and nervous disorders for at least~~
 501 ~~a period of not less than~~ 3 years, inclusive of psychiatric
 502 residency.

503 ~~(38)~~ "Psychologist" has the same meaning as provided in s.
 504 490.003 or means a psychologist employed by a facility operated
 505 by the United States Department of Veterans Affairs which
 506 qualifies as a receiving or treatment facility under this part.

507 ~~(39)(25)~~ "Public facility" means a ~~any~~ facility that has
 508 contracted with the department to provide mental health or
 509 substance abuse services to all persons, regardless of ~~their~~
 510 ability to pay, and is receiving state funds for such purpose.

511 ~~(40)~~ "Qualified professional" means a physician or a
 512 physician assistant licensed under chapter 458 or chapter 459; a
 513 professional licensed under chapter 490 or chapter 491; a
 514 psychiatrist licensed under chapter 458 or chapter 459; or a
 515 psychiatric nurse as defined in subsection (36).

516 ~~(41)(26)~~ "Receiving facility" means any public or private
 517 facility designated by the department to receive and hold or
 518 refer, as appropriate, involuntary patients under emergency
 519 conditions ~~or~~ for mental health or substance abuse ~~psychiatric~~
 520 evaluation and to provide ~~short-term~~ treatment or transportation
 521 to the appropriate service provider. The term does not include a
 522 county jail.

523 ~~(42)(27)~~ "Representative" means a person selected to
 524 receive notice of proceedings during the time a patient is held
 525 in or admitted to a receiving or treatment facility.

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526 (43)(28) (a) "Restraint" means: a physical device, method,
 527 or drug used to control behavior.

528 (a) A physical restraint, including is any manual method or
 529 physical or mechanical device, material, or equipment attached
 530 or adjacent to an the individual's body so that he or she cannot
 531 easily remove the restraint and which restricts freedom of
 532 movement or normal access to one's body. Physical restraint
 533 includes the physical holding of a person during a procedure to
 534 forcibly administer psychotropic medication. Physical restraint
 535 does not include physical devices such as orthopedically
 536 prescribed appliances, surgical dressings and bandages,
 537 supportive body bands, or other physical holding when necessary
 538 for routine physical examinations and tests or for purposes of
 539 orthopedic, surgical, or other similar medical treatment, when
 540 used to provide support for the achievement of functional body
 541 position or proper balance, or when used to protect a person
 542 from falling out of bed.

543 (b) A drug or used as a restraint is a medication used to
 544 control a the person's behavior or to restrict his or her
 545 freedom of movement which and is not part of the standard
 546 treatment regimen of a person with a diagnosed mental illness
 547 who is a client of the department. Physically holding a person
 548 during a procedure to forcibly administer psychotropic
 549 medication is a physical restraint.

550 (c) Restraint does not include physical devices, such as
 551 orthopedically prescribed appliances, surgical dressings and
 552 bandages, supportive body bands, or other physical holding when
 553 necessary for routine physical examinations and tests; or for
 554 purposes of orthopedic, surgical, or other similar medical

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555 ~~treatment, when used to provide support for the achievement of~~
 556 ~~functional body position or proper balance; or when used to~~
 557 ~~protect a person from falling out of bed.~~

558 (44) "School psychologist" has the same meaning as in s.
 559 490.003.

560 (45)(29) "Seclusion" means the physical segregation ~~of a~~
 561 ~~person in any fashion~~ or involuntary isolation of a person in a
 562 room or area from which the person is prevented from leaving.
 563 The prevention may be by physical barrier or by a staff member
 564 who is acting in a manner, or who is physically situated, so as
 565 to prevent the person from leaving the room or area. For
 566 purposes of this ~~part~~ chapter, the term does not mean isolation
 567 due to a person's medical condition or symptoms.

568 (46)(30) "Secretary" means the Secretary of Children and
 569 Families.

570 (47) "Service provider" means a receiving facility, any
 571 facility licensed under chapter 397, a treatment facility, an
 572 entity under contract with the department to provide mental
 573 health or substance abuse services, a community mental health
 574 center or clinic, a psychologist, a clinical social worker, a
 575 marriage and family therapist, a mental health counselor, a
 576 physician, a psychiatrist, an advanced registered nurse
 577 practitioner, a psychiatric nurse, or a qualified professional
 578 as defined in this section.

579 (48) "Substance abuse impairment" means a condition
 580 involving the use of alcoholic beverages or any psychoactive or
 581 mood-altering substance in such a manner as to induce mental,
 582 emotional, or physical problems and cause socially dysfunctional
 583 behavior.

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584 ~~(49)(31)~~ "Transfer evaluation" means the process by which
 585 ~~as approved by the appropriate district office of the~~
 586 ~~department, whereby~~ a person who is being considered for
 587 placement in a state treatment facility is ~~first~~ evaluated for
 588 appropriateness of admission to a state treatment ~~the~~ facility
 589 ~~by a community-based public receiving facility or by a community~~
 590 ~~mental health center or clinic if the public receiving facility~~
 591 ~~is not a community mental health center or clinic.~~

592 ~~(50)(32)~~ "Treatment facility" means a ~~any~~ state-owned,
 593 state-operated, or state-supported hospital, center, or clinic
 594 designated by the department for extended treatment and
 595 hospitalization, beyond that provided for by a receiving
 596 facility, of persons who have a mental illness or substance
 597 abuse disorders, including facilities of the United States
 598 Government, and any private facility designated by the
 599 department when rendering such services to a person pursuant to
 600 the provisions of this part. Patients treated in facilities of
 601 the United States Government shall be solely those whose care is
 602 the responsibility of the United States Department of Veterans
 603 Affairs.

604 ~~(51)~~ "Triage center" means a facility that is staffed by
 605 medical, behavioral, and substance abuse professionals who
 606 provide emergency screening and evaluation of individuals
 607 transported to the center by a law enforcement officer.

608 ~~(33)~~ "Service provider" means ~~any public or private~~
 609 ~~receiving facility, an entity under contract with the Department~~
 610 ~~of Children and Families to provide mental health services, a~~
 611 ~~clinical psychologist, a clinical social worker, a marriage and~~
 612 ~~family therapist, a mental health counselor, a physician, a~~

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613 ~~psychiatric nurse as defined in subsection (23), or a community~~
 614 ~~mental health center or clinic as defined in this part.~~

615 ~~(34)~~ "Involuntary examination" means ~~an examination~~
 616 ~~performed under s. 394.463 to determine if an individual~~
 617 ~~qualifies for involuntary inpatient treatment under s.~~
 618 ~~394.467(1) or involuntary outpatient treatment under s.~~
 619 ~~394.4655(1).~~

620 ~~(35)~~ "Involuntary placement" means ~~either involuntary~~
 621 ~~outpatient treatment pursuant to s. 394.4655 or involuntary~~
 622 ~~inpatient treatment pursuant to s. 394.467.~~

623 ~~(36)~~ "Marriage and family therapist" means ~~a person~~
 624 ~~licensed as a marriage and family therapist under chapter 491.~~

625 ~~(37)~~ "Mental health counselor" means ~~a person licensed as a~~
 626 ~~mental health counselor under chapter 491.~~

627 ~~(38)~~ "Electronic means" means ~~a form of telecommunication~~
 628 ~~that requires all parties to maintain visual as well as audio~~
 629 ~~communication.~~

630 Section 6. Section 394.4573, Florida Statutes, is amended
 631 to read:

632 394.4573 Coordinated system of care; annual assessment;
 633 essential elements Continuity of care management system;
 634 measures of performance; system improvement grants; reports.-On
 635 or before October 1 of each year, the department shall submit to
 636 the Governor, the President of the Senate, and the Speaker of
 637 the House of Representatives an assessment of the behavioral
 638 health services in this state in the context of the No-Wrong-
 639 Door model and standards set forth in this section. The
 640 department's assessment shall be based on both quantitative and
 641 qualitative data and must identify any significant regional

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variations. The assessment must include information gathered from managing entities, service providers, law enforcement, judicial officials, local governments, behavioral health consumers and their family members, and the public.

(1) ~~As used in For the purposes of~~ this section:

(a) "Case management" means those direct services provided to a client in order to assess his or her activities aimed at assessing client needs, plan or arrange planning services, coordinate service providers, monitor linking the service system to a client, coordinating the various system components, monitoring service delivery, and evaluate patient outcomes evaluating the effect of service delivery.

(b) "Case manager" means an individual who works with clients, and their families and significant others, to provide case management.

(c) "Client manager" means an employee of the managing entity or entity under contract with the managing entity ~~department~~ who is assigned to specific provider agencies and geographic areas to ensure that the full range of needed services is available to clients.

(d) "Coordinated system Continuity of care management system" means ~~a system that assures, within available resources, that clients have access to~~ the full array of behavioral and related services in a region or community offered by all service providers, whether participating under contract with the managing entity or another method of community partnership or mutual agreement within the mental health services delivery system.

(e) "No-Wrong-Door model" means a model for the delivery of

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health care services to persons who have mental health or substance abuse disorders, or both, which optimizes access to care, regardless of the entry point to the behavioral health care system.

(2) The essential elements of a coordinated system of care include:

(a) Community interventions, such as prevention, primary care for behavioral health needs, therapeutic and supportive services, crisis response services, and diversion programs.

(b) A designated receiving system consisting of one or more facilities serving a defined geographic area and responsible for assessment and evaluation, both voluntary and involuntary, and treatment or triage for patients who present with mental illness, substance abuse disorder, or co-occurring disorders. The system must be authorized by each county or by several counties, planned through an inclusive process, approved by the managing entity, and documented through written memoranda of agreement or other binding arrangements. The designated receiving system may be organized in any of the following ways so long as it functions as a No-Wrong-Door model that responds to individual needs and integrates services among various providers:

1. A central receiving system, which consists of a designated central receiving facility that serves as a single entry point for persons with mental health or substance abuse disorders, or both. The designated receiving facility must be capable of assessment, evaluation, and triage or treatment for various conditions and circumstances.

2. A coordinated receiving system, which consists of

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multiple entry points that are linked by shared data systems, formal referral agreements, and cooperative arrangements for care coordination and case management. Each entry point must be a designated receiving facility and must provide or arrange for necessary services following an initial assessment and evaluation.

3. A tiered receiving system, which consists of multiple entry points, some of which offer only specialized or limited services. Each service provider participating in the tiered receiving system must be classified as a designated receiving facility, a triage center, or an access center. All participating service providers must be linked by shared data systems, formal referral agreements, and cooperative arrangements for care coordination and case management. An accurate inventory of the participating service providers which specifies the capabilities and limitations of each provider must be maintained and made available at all times to all first responders in the service area.

(c) Transportation in accordance with a plan developed under s. 394.462.

(d) Crisis services, including mobile response teams, crisis stabilization units, addiction receiving facilities, and detoxification facilities.

(e) Case management, including intensive case management for individuals determined to be high-need or high-utilization individuals under s. 394.9082(2)(e).

(f) Outpatient services.

(g) Residential services.

(h) Hospital inpatient care.

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(i) Aftercare and other post-discharge services.

(j) Medication assistance and management.

(k) Recovery support, including housing assistance and support for competitive employment, educational attainment, independent living skills development, family support and education, and wellness management and self-care.

(3) The department's annual assessment must compare the status and performance of the extant behavioral health system with the following standards and any other standards or measures that the department determines to be applicable.

(a) The capacity of the contracted service providers to meet estimated need when such estimates are based on credible evidence and sound methodologies.

(b) The extent to which the behavioral health system uses evidence-based practices and broadly disseminates the results of quality improvement activities to all service providers.

(c) The degree to which services are offered in the least restrictive and most appropriate therapeutic environment.

(d) The scope of systemwide accountability activities used to monitor patient outcomes and measure continuous improvement in the behavioral health system.

(4) Subject to a specific appropriation by the Legislature, the department may award system improvement grants to managing entities based on the submission of a detailed plan to enhance services, coordination, or performance measurement in accordance with the model and standards specified in this section. Such a grant must be awarded through a performance-based contract that links payments to the documented and measurable achievement of system improvements. ~~The department is directed to implement a~~

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continuity of care management system for the provision of mental health care, through the provision of client and case management, including clients referred from state treatment facilities to community mental health facilities. Such system shall include a network of client managers and case managers throughout the state designed to:

(a) Reduce the possibility of a client's admission or readmission to a state treatment facility.

(b) Provide for the creation or designation of an agency in each county to provide single intake services for each person seeking mental health services. Such agency shall provide information and referral services necessary to ensure that clients receive the most appropriate and least restrictive form of care, based on the individual needs of the person seeking treatment. Such agency shall have a single telephone number, operating 24 hours per day, 7 days per week, where practicable, at a central location, where each client will have a central record.

(c) Advocate on behalf of the client to ensure that all appropriate services are afforded to the client in a timely and dignified manner.

(d) Require that any public receiving facility initiating a patient transfer to a licensed hospital for acute care mental health services not accessible through the public receiving facility shall notify the hospital of such transfer and send all records relating to the emergency psychiatric or medical condition.

(3) The department is directed to develop and include in contracts with service providers measures of performance with

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regard to goals and objectives as specified in the state plan. Such measures shall use, to the extent practical, existing data collection methods and reports and shall not require, as a result of this subsection, additional reports on the part of service providers. The department shall plan monitoring visits of community mental health facilities with other state, federal, and local governmental and private agencies charged with monitoring such facilities.

Section 7. Paragraphs (d) and (e) of subsection (2) of section 394.4597, Florida Statutes, are amended to read:

394.4597 Persons to be notified; patient's representative.—

(2) INVOLUNTARY PATIENTS.—

(d) When the receiving or treatment facility selects a representative, first preference shall be given to a health care surrogate, if one has been previously selected by the patient. If the patient has not previously selected a health care surrogate, the selection, except for good cause documented in the patient's clinical record, shall be made from the following list in the order of listing:

1. The patient's spouse.
2. An adult child of the patient.
3. A parent of the patient.
4. The adult next of kin of the patient.
5. An adult friend of the patient.

~~6. The appropriate Florida local advocacy council as provided in s. 402.166.~~

(e) The following persons are prohibited from selection as a patient's representative:

1. A professional providing clinical services to the

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patient under this part.

2. The licensed professional who initiated the involuntary examination of the patient, if the examination was initiated by professional certificate.

3. An employee, an administrator, or a board member of the facility providing the examination of the patient.

4. An employee, an administrator, or a board member of a treatment facility providing treatment for the patient.

5. A person providing any substantial professional services to the patient, including clinical and nonclinical services.

6. A creditor of the patient.

7. A person subject to an injunction for protection against domestic violence under s. 741.30, whether the order of injunction is temporary or final, and for which the patient was the petitioner.

8. A person subject to an injunction for protection against repeat violence, sexual violence, or dating violence under s. 784.046, whether the order of injunction is temporary or final, and for which the patient was the petitioner ~~A licensed professional providing services to the patient under this part, an employee of a facility providing direct services to the patient under this part, a department employee, a person providing other substantial services to the patient in a professional or business capacity, or a creditor of the patient shall not be appointed as the patient's representative.~~

Section 8. Present subsections (2) through (7) of section 394.4598, Florida Statutes, are redesignated as subsections (3) through (8), respectively, a new subsection (2) is added to that section, and present subsections (3) and (4) of that section are

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amended, to read:

394.4598 Guardian advocate.—

(2) The following persons are prohibited from appointment as a patient's guardian advocate:

(a) A professional providing clinical services to the patient under this part.

(b) The licensed professional who initiated the involuntary examination of the patient, if the examination was initiated by professional certificate.

(c) An employee, an administrator, or a board member of the facility providing the examination of the patient.

(d) An employee, an administrator, or a board member of a treatment facility providing treatment of the patient.

(e) A person providing any substantial professional services to the patient, including clinical and nonclinical services.

(f) A creditor of the patient.

(g) A person subject to an injunction for protection against domestic violence under s. 741.30, whether the order of injunction is temporary or final, and for which the patient was the petitioner.

(h) A person subject to an injunction for protection against repeat violence, sexual violence, or dating violence under s. 784.046, whether the order of injunction is temporary or final, and for which the patient was the petitioner.

(4)(3) In lieu of the training required of guardians appointed pursuant to chapter 744, Prior to a guardian advocate must attend at least a 4-hour training course approved by the court before exercising his or her authority, the guardian

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874 ~~advocate shall attend a training course approved by the court.~~
 875 ~~At a minimum, this training course, of not less than 4 hours,~~
 876 ~~must include, at minimum, information about the patient rights,~~
 877 ~~psychotropic medications, the diagnosis of mental illness, the~~
 878 ~~ethics of medical decisionmaking, and duties of guardian~~
 879 ~~advocates. This training course shall take the place of the~~
 880 ~~training required for guardians appointed pursuant to chapter~~
 881 ~~744.~~

882 (5)(4) The required training course and the information to
 883 be supplied to prospective guardian advocates before prior to
 884 their appointment and the training course for guardian advocates
 885 must be developed and completed through a course developed by
 886 the department, and approved by the chief judge of the circuit
 887 court, and taught by a court-approved organization, which-
 888 Court-approved organizations may include, but is are not limited
 889 to, a community college community or junior colleges, a
 890 guardianship organization guardianship organizations, a and the
 891 local bar association, or The Florida Bar. The court may, in its
 892 discretion, waive some or all of the training requirements for
 893 guardian advocates or impose additional requirements. The court
 894 shall make its decision on a case-by-case basis and, in making
 895 its decision, shall consider the experience and education of the
 896 guardian advocate, the duties assigned to the guardian advocate,
 897 and the needs of the patient.

898 Section 9. Section 394.462, Florida Statutes, is amended to
 899 read:

900 394.462 Transportation.-A transportation plan must be
 901 developed and implemented in each county in accordance with this
 902 section. A county may enter into a memorandum of understanding

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903 with the governing boards of nearby counties to establish a
 904 shared transportation plan. When multiple counties enter into a
 905 memorandum of understanding for this purpose, the managing
 906 entity must be notified and provided a copy of the agreement.
 907 The transportation plan must specify methods of transport to a
 908 facility within the designated receiving system and may delegate
 909 responsibility for other transportation to a participating
 910 facility when necessary and agreed to by the facility. The plan
 911 must ensure that individuals who meet the criteria for
 912 involuntary assessment and evaluation pursuant to ss. 394.463
 913 and 397.675 will be transported. The plan may rely on emergency
 914 medical transport services or private transport companies as
 915 appropriate.

916 (1) TRANSPORTATION TO A RECEIVING FACILITY.-

917 (a) Each county shall designate a single law enforcement
 918 agency within the county, or portions thereof, to take a person
 919 into custody upon the entry of an ex parte order or the
 920 execution of a certificate for involuntary examination by an
 921 authorized professional and to transport that person to an
 922 appropriate facility within the designated receiving system the
 923 nearest receiving facility for examination.

924 (b)1. The designated law enforcement agency may decline to
 925 transport the person to a receiving facility only if:

926 a.1- The jurisdiction designated by the county has
 927 contracted on an annual basis with an emergency medical
 928 transport service or private transport company for
 929 transportation of persons to receiving facilities pursuant to
 930 this section at the sole cost of the county; and

931 b.2- The law enforcement agency and the emergency medical

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transport service or private transport company agree that the continued presence of law enforcement personnel is not necessary for the safety of the person or others.

~~2.3-~~ The entity providing transportation jurisdiction designated by the county may seek reimbursement for transportation expenses. The party responsible for payment for such transportation is the person receiving the transportation. The county shall seek reimbursement from the following sources in the following order:

a. From a private or public third-party payor ~~an insurance company, health care corporation, or other source~~, if the person receiving the transportation has applicable coverage is covered by an insurance policy or subscribes to a health care corporation or other source for payment of such expenses.

b. From the person receiving the transportation.

c. From a financial settlement for medical care, treatment, hospitalization, or transportation payable or accruing to the injured party.

~~(c)(b)~~ A Any company that transports a patient pursuant to this subsection is considered an independent contractor and is solely liable for the safe and dignified transport ~~transportation~~ of the patient. Such company must be insured and provide no less than \$100,000 in liability insurance with respect to the transport ~~transportation~~ of patients.

~~(d)(e)~~ Any company that contracts with a governing board of a county to transport patients shall comply with the applicable rules of the department to ensure the safety and dignity of ~~the~~ patients.

~~(e)(d)~~ When a law enforcement officer takes custody of a

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person pursuant to this part, the officer may request assistance from emergency medical personnel if such assistance is needed for the safety of the officer or the person in custody.

~~(f)(e)~~ When a member of a mental health overlay program or a mobile crisis response service is a professional authorized to initiate an involuntary examination pursuant to s. 394.463 or s. 397.675 and that professional evaluates a person and determines that transportation to a receiving facility is needed, the service, at its discretion, may transport the person to the facility or may call on the law enforcement agency or other transportation arrangement best suited to the needs of the patient.

~~(g)(f)~~ When any law enforcement officer has custody of a person based on either noncriminal or minor criminal behavior that meets the statutory guidelines for involuntary examination under this part, the law enforcement officer shall transport the person to an appropriate ~~the nearest receiving~~ facility within the designated receiving system for examination.

~~(h)(g)~~ When any law enforcement officer has arrested a person for a felony and it appears that the person meets the statutory guidelines for involuntary examination or placement under this part, such person must ~~shall~~ first be processed in the same manner as any other criminal suspect. The law enforcement agency shall thereafter immediately notify the appropriate nearest public receiving facility within the designated receiving system, which shall be responsible for promptly arranging for the examination and treatment of the person. A receiving facility is not required to admit a person charged with a crime for whom the facility determines and

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documents that it is unable to provide adequate security, but shall provide ~~mental health~~ examination and treatment to the person where he or she is held.

(i) ~~(h)~~ If the appropriate law enforcement officer believes that a person has an emergency medical condition as defined in s. 395.002, the person may be first transported to a hospital for emergency medical treatment, regardless of whether the hospital is a designated receiving facility.

(j) ~~(i)~~ The costs of transportation, evaluation, hospitalization, and treatment incurred under this subsection by persons who have been arrested for violations of any state law or county or municipal ordinance may be recovered as provided in s. 901.35.

(k) ~~(j)~~ The ~~nearest receiving facility within the designated receiving system~~ must accept persons brought by law enforcement officers, an emergency medical transport service, or a private transport company for involuntary examination.

(l) ~~(k)~~ Each law enforcement agency designated pursuant to paragraph (a) shall establish a policy that ~~develop a memorandum of understanding with each receiving facility within the law enforcement agency's jurisdiction which~~ reflects a single set of protocols approved by the managing entity for the safe and secure transportation ~~of the person~~ and transfer of custody of the person. ~~These protocols must also address crisis intervention measures.~~

(m) ~~(l)~~ When a jurisdiction has entered into a contract with an emergency medical transport service or a private transport company for transportation of persons to ~~receiving facilities within the designated receiving system~~, such service or company

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shall be given preference for transportation of persons from nursing homes, assisted living facilities, adult day care centers, or adult family-care homes, unless the behavior of the person being transported is such that transportation by a law enforcement officer is necessary.

(n) ~~(m)~~ ~~Nothing in~~ This section may not ~~shall~~ be construed to limit emergency examination and treatment of incapacitated persons provided in accordance with ~~the provisions of~~ s. 401.445.

(2) TRANSPORTATION TO A TREATMENT FACILITY.—

(a) If neither the patient nor any person legally obligated or responsible for the patient is able to pay for the expense of transporting a voluntary or involuntary patient to a treatment facility, the transportation plan established by the governing board of the county or counties must specify how in which the hospitalized patient will be transported to, from, and between facilities in a ~~is hospitalized shall arrange for such required transportation and shall ensure the safe and dignified manner transportation of the patient. The governing board of each county is authorized to contract with private transport companies for the transportation of such patients to and from a treatment facility.~~

(b) A ~~Any~~ company that transports a patient pursuant to this subsection is considered an independent contractor and is solely liable for the safe and dignified transportation of the patient. Such company must be insured and provide no less than \$100,000 in liability insurance with respect to the transport ~~transportation~~ of patients.

(c) A ~~Any~~ company that contracts with one or more counties

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the governing board of a county to transport patients in accordance with this section shall comply with the applicable rules of the department to ensure the safety and dignity of the patients.

(d) County or municipal law enforcement and correctional personnel and equipment may ~~shall~~ not be used to transport patients adjudicated incapacitated or found by the court to meet the criteria for involuntary placement pursuant to s. 394.467, except in small rural counties where there are no cost-efficient alternatives.

(3) TRANSFER OF CUSTODY.—Custody of a person who is transported pursuant to this part, along with related documentation, shall be relinquished to a responsible individual at the appropriate receiving or treatment facility.

~~(4) EXCEPTIONS.—An exception to the requirements of this section may be granted by the secretary of the department for the purposes of improving service coordination or better meeting the special needs of individuals. A proposal for an exception must be submitted by the district administrator after being approved by the governing boards of any affected counties, prior to submission to the secretary.~~

~~(a) A proposal for an exception must identify the specific provision from which an exception is requested; describe how the proposal will be implemented by participating law enforcement agencies and transportation authorities; and provide a plan for the coordination of services such as case management.~~

~~(b) The exception may be granted only for:~~

~~1. An arrangement centralizing and improving the provision of services within a district, which may include an exception to~~

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the requirement for transportation to the nearest receiving facility;

~~2. An arrangement by which a facility may provide, in addition to required psychiatric services, an environment and services which are uniquely tailored to the needs of an identified group of persons with special needs, such as persons with hearing impairments or visual impairments, or elderly persons with physical frailties; or~~

~~3. A specialized transportation system that provides an efficient and humane method of transporting patients to receiving facilities, among receiving facilities, and to treatment facilities.~~

~~(c) Any exception approved pursuant to this subsection shall be reviewed and approved every 5 years by the secretary.~~

Section 10. Subsection (2) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(2) INVOLUNTARY EXAMINATION.—

(a) An involuntary examination may be initiated by any one of the following means:

1. A circuit or county court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination and specifying, giving the findings on which that conclusion is based. The ex parte order for involuntary examination must be based on written or oral sworn testimony that includes specific facts that support the findings, written or oral. If other, less restrictive, means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer, or other designated agent

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of the court, shall take the person into custody and deliver him or her to an appropriate nearest receiving facility within the designated receiving system for involuntary examination. The order of the court shall be made a part of the patient's clinical record. ~~A No fee may not shall~~ be charged for the filing of an order under this subsection. Any ~~receiving~~ facility accepting the patient based on this order must send a copy of the order to the managing entity in the region and to the department Agency for Health Care Administration on the next working day. The order shall be valid only until the person is delivered to the appropriate facility ~~executed or, if not executed,~~ for the period specified in the order itself, whichever comes first. If no time limit is specified in the order, the order shall be valid for 7 days after the date that the order was signed.

2. A law enforcement officer shall take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to the appropriate nearest receiving facility within the designated receiving system for examination. The officer shall execute a written report detailing the circumstances under which the person was taken into custody, which must ~~and the report shall~~ be made a part of the patient's clinical record. Any ~~receiving~~ facility accepting the patient based on this report must send a copy of the report to the department and the managing entity Agency for Health Care Administration on the next working day.

3. A physician, ~~clinical~~ psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker may execute a certificate stating that he

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or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based. If other, less restrictive means, such as voluntary appearance for outpatient evaluation, are not available, ~~such as voluntary appearance for outpatient evaluation~~, a law enforcement officer shall take into custody the person named in the certificate ~~into custody~~ and deliver him or her to the appropriate nearest receiving facility within the designated receiving system for involuntary examination. The law enforcement officer shall execute a written report detailing the circumstances under which the person was taken into custody. The report and certificate shall be made a part of the patient's clinical record. Any ~~receiving~~ facility accepting the patient based on this certificate must send a copy of the certificate to the managing entity and the department Agency for Health Care Administration on the next working day.

(b) A person may ~~shall~~ not be removed from any program or residential placement licensed under chapter 400 or chapter 429 and transported to a receiving facility for involuntary examination unless an ex parte order, a professional certificate, or a law enforcement officer's report is first prepared. If the condition of the person is such that preparation of a law enforcement officer's report is not practicable before removal, the report shall be completed as soon as possible after removal, but in any case before the person is transported to a receiving facility. A receiving facility admitting a person for involuntary examination who is not accompanied by the required ex parte order, professional

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certificate, or law enforcement officer's report shall notify the ~~managing entity and the department Agency for Health Care Administration~~ of such admission by certified mail or by electronic means if available, by no later than the next working day. The provisions of this paragraph do not apply when transportation is provided by the patient's family or guardian.

(c) A law enforcement officer acting in accordance with an ex parte order issued pursuant to this subsection may serve and execute such order on any day of the week, at any time of the day or night.

(d) A law enforcement officer acting in accordance with an ex parte order issued pursuant to this subsection may use such reasonable physical force as is necessary to gain entry to the premises, and any dwellings, buildings, or other structures located on the premises, and to take custody of the person who is the subject of the ex parte order.

(e) The ~~managing entity and the department Agency for Health Care Administration~~ shall receive and maintain the copies of ex parte petitions and orders, involuntary outpatient services placement orders issued pursuant to s. 394.4655, involuntary inpatient placement orders issued pursuant to s. 394.467, professional certificates, and law enforcement officers' reports. These documents shall be considered part of the clinical record, governed by the provisions of s. 394.4615. These documents shall be provided by the department to the Agency for Health Care Administration and used by the agency to ~~The agency shall~~ prepare annual reports analyzing the data obtained from these documents, without information identifying patients, and shall provide copies of reports to the department,

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the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the Senate and the House of Representatives.

(f) A patient shall be examined by a physician ~~or, a psychologist clinical psychologist,~~ or by a psychiatric nurse performing within the framework of an established protocol with a psychiatrist at a ~~receiving~~ facility without unnecessary delay to determine if the criteria for involuntary services are met. Emergency treatment may be provided and may, upon the order of a physician, if the physician determines ~~be given emergency treatment if it is determined~~ that such treatment is necessary for the safety of the patient or others. The patient may not be released by the receiving facility or its contractor without the documented approval of a psychiatrist or a psychologist clinical psychologist or, if the receiving facility is owned or operated by a hospital or health system, the release may also be approved by a psychiatric nurse performing within the framework of an established protocol with a psychiatrist, or an attending emergency department physician with experience in the diagnosis and treatment of mental illness and nervous disorders and after completion of an involuntary examination pursuant to this subsection. A psychiatric nurse may not approve the release of a patient if the involuntary examination was initiated by a psychiatrist unless the release is approved by the initiating psychiatrist. ~~However, a patient may not be held in a receiving facility for involuntary examination longer than 72 hours.~~

(g) A person may not be held for involuntary examination for more than 72 hours from the time of his or her arrival at the facility. Based on the person's needs, one of the following

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actions must be taken within the involuntary examination period:

1. The person must be released with the approval of a physician, psychiatrist, psychiatric nurse, or psychologist. However, if the examination is conducted in a hospital, an attending emergency department physician with experience in the diagnosis and treatment of mental illness may approve the release. The professional approving the release must have personally conducted the involuntary examination.

2. The person must be asked to give express and informed consent for voluntary admission if a physician, psychiatrist, psychiatric nurse, or psychologist has determined that the individual is competent to consent to treatment.

3. A petition for involuntary services must be completed and filed in the circuit court by the facility administrator. If electronic filing of the petition is not available in the county and the 72-hour period ends on a weekend or legal holiday, the petition must be filed by the next working day. If involuntary services are deemed necessary, the least restrictive treatment consistent with the optimum improvement of the person's condition must be made available.

(h) An individual discharged from a facility on a voluntary or an involuntary basis who is currently charged with a crime shall be released to the custody of a law enforcement officer, unless the individual has been released from law enforcement custody by posting of a bond, by a pretrial conditional release, or by other judicial release.

(i) ~~(g)~~ A person for whom an involuntary examination has been initiated who is being evaluated or treated at a hospital for an emergency medical condition specified in s. 395.002 must

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be examined by an appropriate ~~a receiving~~ facility within 72 hours. The 72-hour period begins when the patient arrives at the hospital and ceases when the attending physician documents that the patient has an emergency medical condition. If the patient is examined at a hospital providing emergency medical services by a professional qualified to perform an involuntary examination and is found as a result of that examination not to meet the criteria for involuntary outpatient services placement pursuant to s. 394.4655(1) or involuntary inpatient placement pursuant to s. 394.467(1), the patient may be offered voluntary placement, if appropriate, or released directly from the hospital providing emergency medical services. The finding by the professional that the patient has been examined and does not meet the criteria for involuntary inpatient placement or involuntary outpatient services placement must be entered into the patient's clinical record. ~~Nothing in~~ This paragraph is not intended to prevent a hospital providing emergency medical services from appropriately transferring a patient to another hospital before ~~prior to~~ stabilization if, provided the requirements of s. 395.1041(3)(c) have been met.

~~(j) (h)~~ One of the following must occur within 12 hours after the patient's attending physician documents that the patient's medical condition has stabilized or that an emergency medical condition does not exist:

1. The patient must be examined by an appropriate ~~a designated receiving~~ facility and released; or

2. The patient must be transferred to a designated ~~receiving~~ facility in which appropriate medical treatment is available. However, the ~~receiving~~ facility must be notified of

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1280 the transfer within 2 hours after the patient's condition has
 1281 been stabilized or after determination that an emergency medical
 1282 condition does not exist.

1283 ~~(i) Within the 72-hour examination period or, if the 72~~
 1284 ~~hours ends on a weekend or holiday, no later than the next~~
 1285 ~~working day thereafter, one of the following actions must be~~
 1286 ~~taken, based on the individual needs of the patient:~~

1287 ~~1. The patient shall be released, unless he or she is~~
 1288 ~~charged with a crime, in which case the patient shall be~~
 1289 ~~returned to the custody of a law enforcement officer;~~

1290 ~~2. The patient shall be released, subject to the provisions~~
 1291 ~~of subparagraph 1., for voluntary outpatient treatment;~~

1292 ~~3. The patient, unless he or she is charged with a crime,~~
 1293 ~~shall be asked to give express and informed consent to placement~~
 1294 ~~as a voluntary patient, and, if such consent is given, the~~
 1295 ~~patient shall be admitted as a voluntary patient; or~~

1296 ~~4. A petition for involuntary placement shall be filed in~~
 1297 ~~the circuit court when outpatient or inpatient treatment is~~
 1298 ~~deemed necessary. When inpatient treatment is deemed necessary,~~
 1299 ~~the least restrictive treatment consistent with the optimum~~
 1300 ~~improvement of the patient's condition shall be made available.~~
 1301 ~~When a petition is to be filed for involuntary outpatient~~
 1302 ~~placement, it shall be filed by one of the petitioners specified~~
 1303 ~~in s. 394.4655(3)(a). A petition for involuntary inpatient~~
 1304 ~~placement shall be filed by the facility administrator.~~

1305 Section 11. Section 394.4655, Florida Statutes, is amended
 1306 to read:

1307 394.4655 Involuntary outpatient services placement.-

1308 (1) CRITERIA FOR INVOLUNTARY OUTPATIENT SERVICES

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1309 ~~PLACEMENT.~~-A person may be ordered to involuntary outpatient
 1310 ~~services placement~~ upon a finding of the court, by clear and
 1311 convincing evidence, that the person meets all of the following
 1312 criteria by clear and convincing evidence:

1313 (a) The person is 18 years of age or older.†

1314 (b) The person has a mental illness.†

1315 (c) The person is unlikely to survive safely in the
 1316 community without supervision, based on a clinical
 1317 determination.†

1318 (d) The person has a history of lack of compliance with
 1319 treatment for mental illness.†

1320 (e) The person has:

1321 1. At least twice within the immediately preceding 36
 1322 months been involuntarily admitted to a receiving or treatment
 1323 facility as defined in s. 394.455, or has received mental health
 1324 services in a forensic or correctional facility. The 36-month
 1325 period does not include any period during which the person was
 1326 admitted or incarcerated; or

1327 2. Engaged in one or more acts of serious violent behavior
 1328 toward self or others, or attempts at serious bodily harm to
 1329 himself or herself or others, within the preceding 36 months.†

1330 (f) The person is, as a result of his or her mental
 1331 illness, unlikely to voluntarily participate in the recommended
 1332 treatment plan and either ~~he or she~~ has refused voluntary
 1333 services placement for treatment after sufficient and
 1334 conscientious explanation and disclosure of why the services are
 1335 necessary purpose of placement for treatment or ~~he or she~~ is
 1336 unable to determine for himself or herself whether services are
 1337 placement is necessary.†

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1338 (g) In view of the person's treatment history and current
 1339 behavior, the person is in need of involuntary outpatient
 1340 ~~services placement~~ in order to prevent a relapse or
 1341 deterioration that would be likely to result in serious bodily
 1342 harm to himself or herself or others, or a substantial harm to
 1343 his or her well-being as set forth in s. 394.463(1).~~+~~

1344 (h) It is likely that the person will benefit from
 1345 involuntary outpatient ~~services, placement, and~~

1346 (i) All available, less restrictive alternatives that would
 1347 offer an opportunity for improvement of his or her condition
 1348 have been judged to be inappropriate or unavailable.

1349 (2) INVOLUNTARY OUTPATIENT SERVICES PLACEMENT.—

1350 (a)1. A patient who is being recommended for involuntary
 1351 outpatient ~~services placement~~ by the administrator of the
 1352 ~~receiving~~ facility where the patient has been examined may be
 1353 retained by the facility after adherence to the notice
 1354 procedures provided in s. 394.4599. The recommendation must be
 1355 supported by the opinion of two qualified professionals ~~a~~
 1356 ~~psychiatrist and the second opinion of a clinical psychologist~~
 1357 ~~or another psychiatrist~~, both of whom have personally examined
 1358 the patient within the preceding 72 hours, that the criteria for
 1359 involuntary outpatient ~~services placement~~ are met. However, in a
 1360 county having a population of fewer than 50,000, if the
 1361 administrator certifies that a qualified professional
 1362 ~~psychiatrist or clinical psychologist~~ is not available to
 1363 provide the second opinion, the second opinion may be provided
 1364 by a ~~licensed~~ physician who has postgraduate training and
 1365 experience in diagnosis and treatment of mental ~~and nervous~~
 1366 disorders or by a psychiatric nurse. Any second opinion

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1367 authorized in this subparagraph may be conducted through a face-
 1368 to-face examination, in person or by electronic means, including
 1369 telemedicine. Such recommendation must be entered on an
 1370 involuntary outpatient ~~services placement~~ certificate that
 1371 authorizes the ~~receiving~~ facility to retain the patient pending
 1372 completion of a hearing. The certificate must ~~shall~~ be made a
 1373 part of the patient's clinical record.

1374 2. If the patient has been stabilized and no longer meets
 1375 the criteria for involuntary examination pursuant to s.
 1376 394.463(1), the patient must be released from the ~~receiving~~
 1377 facility while awaiting the hearing for involuntary outpatient
 1378 ~~services placement~~. Before filing a petition for involuntary
 1379 outpatient ~~services treatment~~, the administrator of ~~the~~ ~~a~~
 1380 ~~receiving~~ facility or a designated department representative
 1381 must identify the service provider that will have primary
 1382 responsibility for service provision under an order for
 1383 involuntary outpatient services placement, unless the person is
 1384 otherwise participating in outpatient psychiatric treatment and
 1385 is not in need of public financing for that treatment, in which
 1386 case the individual, if eligible, may be ordered to involuntary
 1387 treatment pursuant to the existing psychiatric treatment
 1388 relationship.

1389 3. The service provider shall prepare a written proposed
 1390 treatment plan in consultation with the patient or the patient's
 1391 guardian advocate, if appointed, for the court's consideration
 1392 for inclusion in the involuntary outpatient ~~services placement~~
 1393 order. The service provider shall also provide a copy of the
 1394 proposed treatment plan to the patient and the administrator of
 1395 the ~~receiving~~ facility. The treatment plan must specify the

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1396 nature and extent of the patient's mental illness, address the
 1397 reduction of symptoms that necessitate involuntary outpatient
 1398 ~~services placement~~, and include measurable goals and objectives
 1399 for the services ~~and treatment~~ that are provided to treat the
 1400 person's mental illness and assist the person in living and
 1401 functioning in the community or to prevent a relapse or
 1402 deterioration. Service providers may select and supervise other
 1403 individuals to implement specific aspects of the treatment plan.
 1404 The services in the ~~treatment~~ plan must be deemed clinically
 1405 appropriate by a physician, ~~clinical~~ psychologist, psychiatric
 1406 nurse, mental health counselor, marriage and family therapist,
 1407 or clinical social worker who consults with, or is employed or
 1408 contracted by, the service provider. The service provider must
 1409 certify to the court in the proposed treatment plan whether
 1410 sufficient services for improvement and stabilization are
 1411 currently available and whether the service provider agrees to
 1412 provide those services. If the service provider certifies that
 1413 the services in the proposed treatment plan are not available,
 1414 the petitioner may not file the petition. The service provider
 1415 must document its inquiry with the department and the managing
 1416 entity as to the availability of the requested services. The
 1417 managing entity must document such efforts to obtain the
 1418 requested services.

1419 (b) If a patient in involuntary inpatient placement meets
 1420 the criteria for involuntary outpatient ~~services placement~~, the
 1421 administrator of the ~~treatment~~ facility may, before the
 1422 expiration of the period during which the ~~treatment~~ facility is
 1423 authorized to retain the patient, recommend involuntary
 1424 outpatient ~~services placement~~. The recommendation must be

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1425 supported by the opinion of two qualified professionals a
 1426 ~~psychiatrist and the second opinion of a clinical psychologist~~
 1427 ~~or another psychiatrist~~, both of whom have personally examined
 1428 the patient within the preceding 72 hours, that the criteria for
 1429 involuntary outpatient ~~services placement~~ are met. However, in a
 1430 county having a population of fewer than 50,000, if the
 1431 administrator certifies that a qualified professional
 1432 ~~psychiatrist or clinical psychologist~~ is not available to
 1433 provide the second opinion, the second opinion may be provided
 1434 by a ~~licensed~~ physician who has postgraduate training and
 1435 experience in diagnosis and treatment of mental ~~and nervous~~
 1436 disorders or by a psychiatric nurse. Any second opinion
 1437 authorized in this paragraph ~~subparagraph~~ may be conducted
 1438 through a face-to-face examination, in person or by electronic
 1439 means including telemedicine. Such recommendation must be
 1440 entered on an involuntary outpatient ~~services placement~~
 1441 certificate, and the certificate must be made a part of the
 1442 patient's clinical record.

1443 (c)1. The administrator of the ~~treatment~~ facility shall
 1444 provide a copy of the involuntary outpatient ~~services placement~~
 1445 certificate and a copy of the state mental health discharge form
 1446 to a department representative in the county where the patient
 1447 will be residing. For persons who are leaving a state mental
 1448 health treatment facility, the petition for involuntary
 1449 outpatient ~~services placement~~ must be filed in the county where
 1450 the patient will be residing.

1451 2. The service provider that will have primary
 1452 responsibility for service provision shall be identified by the
 1453 designated department representative before ~~prior to~~ the order

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for involuntary outpatient services placement and must, before
~~prior to~~ filing a petition for involuntary outpatient services
~~placement~~, certify to the court whether the services recommended
in the patient's discharge plan are available ~~in the local~~
~~community~~ and whether the service provider agrees to provide
those services. The service provider must develop with the
patient, or the patient's guardian advocate, if appointed, a
treatment or service plan that addresses the needs identified in
the discharge plan. The plan must be deemed to be clinically
appropriate by a physician, ~~clinical~~ psychologist, psychiatric
nurse, mental health counselor, marriage and family therapist,
or clinical social worker, as defined in this chapter, who
consults with, or is employed or contracted by, the service
provider.

3. If the service provider certifies that the services in
the proposed treatment or service plan are not available, the
petitioner may not file the petition. The service provider must
document its inquiry with the department and the managing entity
as to the availability of the requested services. The managing
entity must document such efforts to obtain the requested
services.

(3) PETITION FOR INVOLUNTARY OUTPATIENT SERVICES
~~PLACEMENT.~~

(a) A petition for involuntary outpatient services
~~placement~~ may be filed by:

1. The administrator of a receiving facility; or
2. The administrator of a treatment facility.

(b) Each required criterion for involuntary outpatient
services placement must be alleged and substantiated in the

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petition for involuntary outpatient services placement. A copy
of the certificate recommending involuntary outpatient services
~~placement~~ completed by two a qualified professionals
~~professional specified in subsection (2)~~ must be attached to the
petition. A copy of the proposed treatment plan must be attached
to the petition. Before the petition is filed, the service
provider shall certify that the services in the proposed
treatment plan are available. If the necessary services are not
available ~~in the patient's local community to respond to the~~
~~person's individual needs~~, the petition may not be filed. The
service provider must document its inquiry with the department
and the managing entity as to the availability of the requested
services. The managing entity must document such efforts to
obtain the requested services.

(c) The petition for involuntary outpatient services
~~placement~~ must be filed in the county where the patient is
located, unless the patient is being placed from a state
treatment facility, in which case the petition must be filed in
the county where the patient will reside. When the petition has
been filed, the clerk of the court shall provide copies of the
petition and the proposed treatment plan to the department, the
managing entity, the patient, the patient's guardian or
representative, the state attorney, and the public defender or
the patient's private counsel. A fee may not be charged for
filing a petition under this subsection.

(4) APPOINTMENT OF COUNSEL.—Within 1 court working day
after the filing of a petition for involuntary outpatient
services placement, the court shall appoint the public defender
to represent the person who is the subject of the petition,

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1512 unless the person is otherwise represented by counsel. The clerk
 1513 of the court shall immediately notify the public defender of the
 1514 appointment. The public defender shall represent the person
 1515 until the petition is dismissed, the court order expires, or the
 1516 patient is discharged from involuntary outpatient services
 1517 ~~placement~~. An attorney who represents the patient must be
 1518 ~~provided shall have~~ access to the patient, witnesses, and
 1519 records relevant to the presentation of the patient's case and
 1520 shall represent the interests of the patient, regardless of the
 1521 source of payment to the attorney.

1522 (5) CONTINUANCE OF HEARING.—The patient is entitled, with
 1523 the concurrence of the patient's counsel, to at least one
 1524 continuance of the hearing. The continuance shall be for a
 1525 period of up to 4 weeks.

1526 (6) HEARING ON INVOLUNTARY OUTPATIENT SERVICES PLACEMENT.—

1527 (a)1. The court shall hold the hearing on involuntary
 1528 outpatient services placement within 5 working days after the
 1529 filing of the petition, unless a continuance is granted. The
 1530 hearing must ~~shall~~ be held in the county where the petition is
 1531 filed, must ~~shall~~ be as convenient to the patient as is
 1532 consistent with orderly procedure, and must ~~shall~~ be conducted
 1533 in physical settings not likely to be injurious to the patient's
 1534 condition. If the court finds that the patient's attendance at
 1535 the hearing is not consistent with the best interests of the
 1536 patient and if the patient's counsel does not object, the court
 1537 may waive the presence of the patient from all or any portion of
 1538 the hearing. The state attorney for the circuit in which the
 1539 patient is located shall represent the state, rather than the
 1540 petitioner, as the real party in interest in the proceeding.

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1541 2. The court may appoint a general or special master to
 1542 preside at the hearing. One of the professionals who executed
 1543 the involuntary outpatient services placement certificate shall
 1544 be a witness. The patient and the patient's guardian or
 1545 representative shall be informed by the court of the right to an
 1546 independent expert examination. If the patient cannot afford
 1547 such an examination, the court shall ensure that one is
 1548 provided, as otherwise provided by law ~~provide for one~~. The
 1549 independent expert's report is ~~shall be~~ confidential and not
 1550 discoverable, unless the expert is to be called as a witness for
 1551 the patient at the hearing. The court shall allow testimony from
 1552 individuals, including family members, deemed by the court to be
 1553 relevant under state law, regarding the person's prior history
 1554 and how that prior history relates to the person's current
 1555 condition. The testimony in the hearing must be given under
 1556 oath, and the proceedings must be recorded. The patient may
 1557 refuse to testify at the hearing.

1558 (b)1. If the court concludes that the patient meets the
 1559 criteria for involuntary outpatient services placement pursuant
 1560 to subsection (1), the court shall issue an order for
 1561 involuntary outpatient services placement. The court order shall
 1562 be for a period of up to 90 days ~~6 months~~. However, an order for
 1563 involuntary services in a state treatment facility may be for up
 1564 to 6 months. The order must specify the nature and extent of the
 1565 patient's mental illness. The order of the court and the
 1566 treatment plan must ~~shall~~ be made part of the patient's clinical
 1567 record. The service provider shall discharge a patient from
 1568 involuntary outpatient services placement when the order expires
 1569 or any time the patient no longer meets the criteria for

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1570 involuntary services ~~placement~~. Upon discharge, the service
 1571 provider shall send a certificate of discharge to the court.

1572 2. The court may not order the department or the service
 1573 provider to provide services if the program or service is not
 1574 available in the patient's local community, if there is no space
 1575 available in the program or service for the patient, or if
 1576 funding is not available for the program or service. The service
 1577 provider must document its inquiry with the department and the
 1578 managing entity as to the availability of the requested
 1579 services. The managing entity must document such efforts to
 1580 obtain the requested services. A copy of the order must be sent
 1581 to the department and the managing entity ~~Agency for Health Care~~
 1582 ~~Administration~~ by the service provider within 1 working day
 1583 after it is received from the court. After the ~~placement~~ order
 1584 for involuntary services is issued, the service provider and the
 1585 patient may modify ~~provisions of~~ the treatment plan. For any
 1586 material modification of the treatment plan to which the patient
 1587 or, if one is appointed, the patient's guardian advocate agrees,
 1588 ~~if appointed, does agree~~, the service provider shall send notice
 1589 of the modification to the court. Any material modifications of
 1590 the treatment plan which are contested by the patient or the
 1591 patient's guardian advocate, if applicable ~~appointed~~, must be
 1592 approved or disapproved by the court consistent with subsection
 1593 (2).

1594 3. If, in the clinical judgment of a physician, the patient
 1595 has failed or ~~has~~ refused to comply with the treatment ordered
 1596 by the court, and, in the clinical judgment of the physician,
 1597 efforts were made to solicit compliance and the patient may meet
 1598 the criteria for involuntary examination, a person may be

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1599 brought to a receiving facility pursuant to s. 394.463. If,
 1600 after examination, the patient does not meet the criteria for
 1601 involuntary inpatient placement pursuant to s. 394.467, the
 1602 patient must be discharged from the ~~receiving~~ facility. The
 1603 involuntary outpatient services ~~placement~~ order shall remain in
 1604 effect unless the service provider determines that the patient
 1605 no longer meets the criteria for involuntary outpatient services
 1606 ~~placement~~ or until the order expires. The service provider must
 1607 determine whether modifications should be made to the existing
 1608 treatment plan and must attempt to continue to engage the
 1609 patient in treatment. For any material modification of the
 1610 treatment plan to which the patient or the patient's guardian
 1611 advocate, if applicable ~~appointed~~, agrees ~~does agree~~, the
 1612 service provider shall send notice of the modification to the
 1613 court. Any material modifications of the treatment plan which
 1614 are contested by the patient or the patient's guardian advocate,
 1615 if applicable ~~appointed~~, must be approved or disapproved by the
 1616 court consistent with subsection (2).

1617 (c) If, at any time before the conclusion of the initial
 1618 hearing on involuntary outpatient services ~~placement~~, it appears
 1619 to the court that the person does not meet the criteria for
 1620 involuntary outpatient services ~~placement~~ under this section
 1621 but, instead, meets the criteria for involuntary inpatient
 1622 placement, the court may order the person admitted for
 1623 involuntary inpatient examination under s. 394.463. If the
 1624 person instead meets the criteria for involuntary assessment,
 1625 protective custody, or involuntary admission pursuant to s.
 1626 397.675, the court may order the person to be admitted for
 1627 involuntary assessment for a period of 5 days pursuant to s.

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1628 397.6811. Thereafter, all proceedings are ~~shall be~~ governed by
1629 chapter 397.

1630 (d) At the hearing on involuntary outpatient services
1631 ~~placement~~, the court shall consider testimony and evidence
1632 regarding the patient's competence to consent to treatment. If
1633 the court finds that the patient is incompetent to consent to
1634 treatment, it shall appoint a guardian advocate as provided in
1635 s. 394.4598. The guardian advocate shall be appointed or
1636 discharged in accordance with s. 394.4598.

1637 (e) The administrator of the receiving facility or the
1638 designated department representative shall provide a copy of the
1639 court order and adequate documentation of a patient's mental
1640 illness to the service provider for involuntary outpatient
1641 services placement. Such documentation must include any advance
1642 directives made by the patient, a psychiatric evaluation of the
1643 patient, and any evaluations of the patient performed by a
1644 ~~clinical~~ psychologist or a clinical social worker.

1645 (7) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT SERVICES
1646 ~~PLACEMENT~~.-

1647 (a)1. If the person continues to meet the criteria for
1648 involuntary outpatient services placement, the service provider
1649 shall, at least 10 days before the expiration of the period
1650 during which the treatment is ordered for the person, file in
1651 the county or circuit court a petition for continued involuntary
1652 outpatient services placement. The court shall immediately
1653 schedule a hearing on the petition to be held within 15 days
1654 after the petition is filed.

1655 2. The existing involuntary outpatient services placement
1656 order remains in effect until disposition on the petition for

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1657 continued involuntary outpatient services placement.

1658 3. A certificate shall be attached to the petition which
1659 includes a statement from the person's physician or ~~clinical~~
1660 psychologist justifying the request, a brief description of the
1661 patient's treatment during the time he or she was receiving
1662 involuntarily services placed, and an individualized plan of
1663 continued treatment.

1664 4. The service provider shall develop the individualized
1665 plan of continued treatment in consultation with the patient or
1666 the patient's guardian advocate, if applicable appointed. When
1667 the petition has been filed, the clerk of the court shall
1668 provide copies of the certificate and the individualized plan of
1669 continued treatment to the department, the patient, the
1670 patient's guardian advocate, the state attorney, and the
1671 patient's private counsel or the public defender.

1672 (b) Within 1 court working day after the filing of a
1673 petition for continued involuntary outpatient services
1674 ~~placement~~, the court shall appoint the public defender to
1675 represent the person who is the subject of the petition, unless
1676 the person is otherwise represented by counsel. The clerk of the
1677 court shall immediately notify the public defender of such
1678 appointment. The public defender shall represent the person
1679 until the petition is dismissed or the court order expires or
1680 the patient is discharged from involuntary outpatient services
1681 ~~placement~~. Any attorney representing the patient shall have
1682 access to the patient, witnesses, and records relevant to the
1683 presentation of the patient's case and shall represent the
1684 interests of the patient, regardless of the source of payment to
1685 the attorney.

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(c) Hearings on petitions for continued involuntary outpatient services must ~~placement shall~~ be before the circuit court. The court may appoint a general or special master to preside at the hearing. The procedures for obtaining an order pursuant to this paragraph must meet the requirements of ~~shall be in accordance with~~ subsection (6), except that the time period included in paragraph (1)(e) does not apply when is not ~~applicable in~~ determining the appropriateness of additional periods of involuntary outpatient services placement.

(d) Notice of the hearing must ~~shall~~ be provided as set forth in s. 394.4599. The patient and the patient's attorney may agree to a period of continued outpatient services placement without a court hearing.

(e) The same procedure must ~~shall~~ be repeated before the expiration of each additional period the patient is placed in treatment.

(f) If the patient has previously been found incompetent to consent to treatment, the court shall consider testimony and evidence regarding the patient's competence. Section 394.4598 governs the discharge of the guardian advocate if the patient's competency to consent to treatment has been restored.

Section 12. Section 394.467, Florida Statutes, is amended to read:

394.467 Involuntary inpatient placement.—

(1) CRITERIA.—A person may be ordered for ~~placed in~~ involuntary inpatient placement for treatment upon a finding of the court by clear and convincing evidence that:

(a) He or she has a mental illness ~~is mentally ill~~ and because of his or her mental illness:

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1.a. He or she has refused voluntary inpatient placement for treatment after sufficient and conscientious explanation and disclosure of the purpose of inpatient placement for treatment; or

b. He or she is unable to determine for himself or herself whether inpatient placement is necessary; and

2.a. He or she is ~~manifestly~~ incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment, is likely to suffer from neglect or refuse to care for himself or herself, and such neglect or refusal poses a real and present threat of substantial physical or mental harm to his or her well-being; or

b. There is substantial likelihood that in the near future he or she will inflict serious bodily harm on self or others ~~himself or herself or another person~~, as evidenced by recent behavior causing, attempting, or threatening such harm; and

(b) All available, less restrictive treatment alternatives that which ~~which~~ would offer an opportunity for improvement of his or her condition have been judged to be inappropriate.

(2) ADMISSION TO A TREATMENT FACILITY.—A patient may be retained by a ~~receiving~~ facility or involuntarily placed in a treatment facility upon the recommendation of the administrator of the ~~receiving~~ facility where the patient has been examined and after adherence to the notice and hearing procedures provided in s. 394.4599. The recommendation must be supported by the opinion of a psychiatrist and the second opinion of a psychiatric nurse, clinical ~~clinical~~ psychologist, or another psychiatrist, both of whom have personally examined the patient

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within the preceding 72 hours, that the criteria for involuntary inpatient placement are met. However, in a county that has a population of fewer than 50,000, if the administrator certifies that a psychiatrist, psychiatric nurse, or ~~clinical~~ psychologist is not available to provide the second opinion, the second opinion may be provided by a ~~licensed~~ physician who has postgraduate training and experience in diagnosis and treatment of mental ~~illness and nervous disorders~~ or by a psychiatric nurse. Any second opinion authorized in this subsection may be conducted through a face-to-face examination, in person or by electronic means, including telemedicine. Such recommendation shall be entered on a petition for an involuntary inpatient placement certificate that authorizes the receiving facility to retain the patient pending transfer to a treatment facility or completion of a hearing.

(3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—

(a) The administrator of the facility shall file a petition for involuntary inpatient placement in the court in the county where the patient is located. Upon filing, the clerk of the court shall provide copies to the department, the patient, the patient's guardian or representative, and the state attorney and public defender of the judicial circuit in which the patient is located. A No fee may not shall be charged for the filing of a petition under this subsection.

(b) A facility filing a petition under this subsection for involuntary inpatient placement shall send a copy of the petition to the department and the managing entity in its area.

(4) APPOINTMENT OF COUNSEL.—Within 1 court working day after the filing of a petition for involuntary inpatient

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placement, the court shall appoint the public defender to represent the person who is the subject of the petition, unless the person is otherwise represented by counsel. The clerk of the court shall immediately notify the public defender of such appointment. Any attorney representing the patient shall have access to the patient, witnesses, and records relevant to the presentation of the patient's case and shall represent the interests of the patient, regardless of the source of payment to the attorney.

(5) CONTINUANCE OF HEARING.—The patient is entitled, with the concurrence of the patient's counsel, to at least one continuance of the hearing. ~~The continuance shall be for a period of~~ up to 4 weeks.

(6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

(a)1. The court shall hold the hearing on involuntary inpatient placement within 5 court working days, unless a continuance is granted.

2. Except for good cause documented in the court file, the hearing ~~must shall~~ be held in the county or the facility, as appropriate, where the patient is located, must and shall be as convenient to the patient as ~~is may be~~ consistent with orderly procedure, and shall be conducted in physical settings not likely to be injurious to the patient's condition. If the court finds that the patient's attendance at the hearing is not consistent with the best interests of the patient, and the patient's counsel does not object, the court may waive the presence of the patient from all or any portion of the hearing. The state attorney for the circuit in which the patient is located shall represent the state, rather than the petitioning

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facility administrator, as the real party in interest in the proceeding.

3.2- The court may appoint a general or special magistrate to preside at the hearing. One of the two professionals who executed the petition for involuntary inpatient placement certificate shall be a witness. The patient and the patient's guardian or representative shall be informed by the court of the right to an independent expert examination. If the patient cannot afford such an examination, the court shall ensure that one is provided, as otherwise provided for by law ~~provide for one~~. The independent expert's report is ~~shall be~~ confidential and not discoverable, unless the expert is to be called as a witness for the patient at the hearing. The testimony in the hearing must be given under oath, and the proceedings must be recorded. The patient may refuse to testify at the hearing.

(b) If the court concludes that the patient meets the criteria for involuntary inpatient placement, it may ~~shall~~ order that the patient be transferred to a treatment facility or, if the patient is at a treatment facility, that the patient be retained there or be treated at any other appropriate ~~receiving or treatment~~ facility, or that the patient receive services from such a receiving or treatment facility or service provider, on an involuntary basis, for a period of up to 90 days ~~6 months~~. However, any order for involuntary mental health services in a state treatment facility may be for up to 6 months. The order shall specify the nature and extent of the patient's mental illness. The facility shall discharge a patient any time the patient no longer meets the criteria for involuntary inpatient placement, unless the patient has transferred to voluntary

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status.

(c) If at any time ~~before~~ prior to the conclusion of the hearing on involuntary inpatient placement it appears to the court that the person does not meet the criteria for involuntary inpatient placement under this section, but instead meets the criteria for involuntary outpatient services ~~placement~~, the court may order the person evaluated for involuntary outpatient services ~~placement~~ pursuant to s. 394.4655. The petition and hearing procedures set forth in s. 394.4655 shall apply. If the person instead meets the criteria for involuntary assessment, protective custody, or involuntary admission pursuant to s. 397.675, then the court may order the person to be admitted for involuntary assessment for a period of 5 days pursuant to s. 397.6811. Thereafter, all proceedings are ~~shall be~~ governed by chapter 397.

(d) At the hearing on involuntary inpatient placement, the court shall consider testimony and evidence regarding the patient's competence to consent to treatment. If the court finds that the patient is incompetent to consent to treatment, it shall appoint a guardian advocate as provided in s. 394.4598.

(e) The administrator of the petitioning ~~receiving~~ facility shall provide a copy of the court order and adequate documentation of a patient's mental illness to the administrator of a treatment facility if the ~~whenever a~~ patient is ordered for involuntary inpatient placement, whether by civil or criminal court. The documentation must ~~shall~~ include any advance directives made by the patient, a psychiatric evaluation of the patient, and any evaluations of the patient performed by a clinical ~~clinical~~ psychologist, a marriage and family therapist, a mental

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health counselor, or a clinical social worker. The administrator of a treatment facility may refuse admission to any patient directed to its facilities on an involuntary basis, whether by civil or criminal court order, who is not accompanied ~~at the same time~~ by adequate orders and documentation.

(7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT PLACEMENT.—

(a) Hearings on petitions for continued involuntary inpatient placement of an individual placed at any state treatment facility are ~~shall be~~ administrative hearings and must ~~shall be~~ conducted in accordance with ~~the provisions of~~ s. 120.57(1), except that any order entered by the administrative law judge is ~~shall be~~ final and subject to judicial review in accordance with s. 120.68. Orders concerning patients committed after successfully pleading not guilty by reason of insanity are ~~shall be~~ governed by ~~the provisions of~~ s. 916.15.

(b) If the patient continues to meet the criteria for involuntary inpatient placement and is being treated at a state treatment facility, the administrator shall, before ~~prior to~~ the expiration of the period ~~during which~~ the state treatment facility is authorized to retain the patient, file a petition requesting authorization for continued involuntary inpatient placement. The request must ~~shall~~ be accompanied by a statement from the patient's physician, psychiatrist, psychiatric nurse, or ~~clinical~~ psychologist justifying the request, a brief description of the patient's treatment during the time he or she was involuntarily placed, and an individualized plan of continued treatment. Notice of the hearing must ~~shall~~ be provided as provided ~~set forth~~ in s. 394.4599. If a patient's

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attendance at the hearing is voluntarily waived, the administrative law judge must determine that the waiver is knowing and voluntary before waiving the presence of the patient from all or a portion of the hearing. Alternatively, if at the hearing the administrative law judge finds that attendance at the hearing is not consistent with the best interests of the patient, the administrative law judge may waive the presence of the patient from all or any portion of the hearing, unless the patient, through counsel, objects to the waiver of presence. The testimony in the hearing must be under oath, and the proceedings must be recorded.

(c) Unless the patient is otherwise represented or is ineligible, he or she shall be represented at the hearing on the petition for continued involuntary inpatient placement by the public defender of the circuit in which the facility is located.

(d) If at a hearing it is shown that the patient continues to meet the criteria for involuntary inpatient placement, the administrative law judge shall sign the order for continued involuntary inpatient placement for a period of up to 90 days ~~not to exceed 6 months. However, any order for involuntary mental health services in a state treatment facility may be for up to 6 months~~ ~~The same procedure shall be repeated prior to the expiration of each additional period the patient is retained.~~

(e) If continued involuntary inpatient placement is necessary for a patient admitted while serving a criminal sentence, but his or her ~~whose~~ sentence is about to expire, or for a minor patient ~~involuntarily placed, while a minor~~ but who is about to reach the age of 18, the administrator shall petition the administrative law judge for an order authorizing

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continued involuntary inpatient placement.

(f) If the patient has been previously found incompetent to consent to treatment, the administrative law judge shall consider testimony and evidence regarding the patient's competence. If the administrative law judge finds evidence that the patient is now competent to consent to treatment, the administrative law judge may issue a recommended order to the court that found the patient incompetent to consent to treatment that the patient's competence be restored and that any guardian advocate previously appointed be discharged.

(g) If the patient has been ordered to undergo involuntary inpatient placement and has previously been found incompetent to consent to treatment, the court shall consider testimony and evidence regarding the patient's incompetence. If the patient's competency to consent to treatment is restored, the discharge of the guardian advocate shall be governed by the provisions of s. 394.4598.

The procedure required in this subsection must be followed before the expiration of each additional period the patient is involuntarily receiving services.

(8) RETURN TO FACILITY OF PATIENTS.—If a patient involuntarily held ~~When a patient at a treatment facility under this part~~ leaves the facility without the administrator's authorization, the administrator may authorize a search for the patient and ~~his or her the return of the patient~~ to the facility. The administrator may request the assistance of a law enforcement agency in this regard ~~the search for and return of the patient.~~

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Section 13. Section 394.46715, Florida Statutes, is amended to read:

394.46715 Rulemaking authority.—The department may adopt rules to administer this part ~~Department of Children and Families shall have rulemaking authority to implement the provisions of ss. 394.455, 394.4598, 394.4615, 394.463, 394.4655, and 394.467 as amended or created by this act. These rules shall be for the purpose of protecting the health, safety, and well-being of persons examined, treated, or placed under this act.~~

Section 14. Section 394.761, Florida Statutes, is created to read:

394.761 Revenue maximization.—The agency and the department shall develop a plan to obtain federal approval for increasing the availability of federal Medicaid funding for behavioral health care. Increased funding shall be used to advance the goal of improved integration of behavioral health and primary care services through development and effective implementation of coordinated care as described in s. 394.9082. The agency and the department shall submit the written plan to the President of the Senate and the Speaker of the House of Representatives by November 1, 2016. The plan shall identify the amount of general revenue funding appropriated for mental health and substance abuse services which is eligible to be used as state Medicaid match. The plan must evaluate alternative uses of increased Medicaid funding, including expansion of Medicaid eligibility for the severely and persistently mentally ill; increased reimbursement rates for behavioral health services; adjustments to the capitation rate for Medicaid enrollees with chronic

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1976 mental illness and substance abuse disorders; supplemental
 1977 payments to mental health and substance abuse providers through
 1978 a designated state health program or other mechanism; and
 1979 innovative programs for incentivizing improved outcomes for
 1980 behavioral health conditions. The plan must identify the
 1981 advantages and disadvantages of each alternative and assess the
 1982 potential of each for achieving improved integration of
 1983 services. The plan must identify the federal approvals necessary
 1984 to implement each alternative and project a timeline for
 1985 implementation.

1986 Section 15. Subsection (11) is added to section 394.875,
 1987 Florida Statutes, to read:

1988 394.875 Crisis stabilization units, residential treatment
 1989 facilities, and residential treatment centers for children and
 1990 adolescents; authorized services; license required.—

1991 (11) By January 1, 2017, the department shall modify
 1992 licensure rules and procedures to create an option for a single,
 1993 consolidated license for a provider who offers multiple types of
 1994 mental health and substance abuse services regulated under this
 1995 chapter and chapter 397. Providers eligible for a consolidated
 1996 license shall operate these services through a single corporate
 1997 entity and a unified management structure. Any provider serving
 1998 adults and children must meet department standards for separate
 1999 facilities and other requirements necessary to ensure children's
 2000 safety and promote therapeutic efficacy.

2001 Section 16. Section 394.9082, Florida Statutes, is amended
 2002 to read:

2003 (Substantial rewording of section. See
 2004 s. 394.9082, F.S., for present text.)

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2005 394.9082 Behavioral health managing entities' purpose;
 2006 definitions; duties; contracting; accountability.—
 2007 (1) PURPOSE.—The purpose of the behavioral health managing
 2008 entities is to plan for and coordinate the delivery of community
 2009 mental health and substance abuse services, to improve access to
 2010 care, to promote service continuity, and to support efficient
 2011 and effective delivery of services.
 2012 (2) DEFINITIONS.—As used in this section, the term:
 2013 (a) "Behavioral health services" means mental health
 2014 services and substance abuse prevention and treatment services
 2015 as described in this chapter and chapter 397.
 2016 (b) "Case management" means those direct services provided
 2017 to a client in order to assess needs, plan or arrange services,
 2018 coordinate service providers, monitor service delivery, and
 2019 evaluate outcomes.
 2020 (c) "Coordinated system of care" means the full array of
 2021 behavioral health and related services in a region or a
 2022 community offered by all service providers, whether
 2023 participating under contract with the managing entity or through
 2024 another method of community partnership or mutual agreement.
 2025 (d) "Geographic area" means one or more contiguous
 2026 counties, circuits, or regions as described in s. 409.966 or s.
 2027 381.0406.
 2028 (e) "High-need or high-utilization individual" means a
 2029 recipient who meets one or more of the following criteria and
 2030 may be eligible for intensive case management services:
 2031 1. Has resided in a state mental health facility for at
 2032 least 6 months in the last 36 months;
 2033 2. Has had two or more admissions to a state mental health

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2034 facility in the last 36 months; or

2035 3. Has had three or more admissions to a crisis
 2036 stabilization unit, an addictions receiving facility, a short-
 2037 term residential facility, or an inpatient psychiatric unit
 2038 within the last 12 months.

2039 (f) "Managing entity" means a corporation designated or
 2040 filed as a nonprofit organization under s. 501(c)(3) of the
 2041 Internal Revenue Code which is selected by, and is under
 2042 contract with, the department to manage the daily operational
 2043 delivery of behavioral health services through a coordinated
 2044 system of care.

2045 (g) "Provider network" means the group of direct service
 2046 providers, facilities, and organizations under contract with a
 2047 managing entity to provide a comprehensive array of emergency,
 2048 acute care, residential, outpatient, recovery support, and
 2049 consumer support services.

2050 (h) "Receiving facility" means any public or private
 2051 facility designated by the department to receive and hold or to
 2052 refer, as appropriate, involuntary patients under emergency
 2053 conditions for mental health or substance abuse evaluation and
 2054 to provide treatment or transportation to the appropriate
 2055 service provider. County jails may not be used or designated as
 2056 a receiving facility, a triage center, or an access center.

2057 (3) DEPARTMENT DUTIES.—The department shall:

2058 (a) Designate, with input from the managing entity,
 2059 facilities that meet the definitions in s. 394.455(1), (2),
 2060 (12), and (41) and the receiving system developed by one or more
 2061 counties pursuant to s. 394.4573(2)(b).

2062 (b) Contract with organizations to serve as the managing

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2063 entity in accordance with the requirements of this section.

2064 (c) Specify the geographic area served.

2065 (d) Specify data reporting and use of shared data systems.

2066 (e) Develop strategies to divert persons with mental
 2067 illness or substance abuse disorders from the criminal and
 2068 juvenile justice systems.

2069 (f) Support the development and implementation of a
 2070 coordinated system of care by requiring each provider that
 2071 receives state funds for behavioral health services through a
 2072 direct contract with the department to work with the managing
 2073 entity in the provider's service area to coordinate the
 2074 provision of behavioral health services, as part of the contract
 2075 with the department.

2076 (g) Set performance measures and performance standards for
 2077 managing entities based on nationally recognized standards, such
 2078 as those developed by the National Quality Forum, the National
 2079 Committee for Quality Assurance, or similar credible sources.
 2080 Performance standards must include all of the following:

2081 1. Annual improvement in the extent to which the need for
 2082 behavioral health services is met by the coordinated system of
 2083 care in the geographic area served.

2084 2. Annual improvement in the percentage of patients who
 2085 receive services through the coordinated system of care and who
 2086 achieve improved functional status as indicated by health
 2087 condition, employment status, and housing stability.

2088 3. Annual reduction in the rates of readmissions to acute
 2089 care facilities, jails, prisons, and forensic facilities.

2090 4. Annual improvement in consumer and family satisfaction.

2091 (h) Provide technical assistance to the managing entities.

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- 2092 (i) Promote the integration of behavioral health care and
 2093 primary care.
- 2094 (j) Facilitate the coordination between the managing entity
 2095 and other payors of behavioral health care.
- 2096 (k) Develop and provide a unique identifier for clients
 2097 receiving services under the managing entity to coordinate care.
- 2098 (l) Coordinate procedures for the referral and admission of
 2099 patients to, and the discharge of patients from, state treatment
 2100 facilities and their return to the community.
- 2101 (m) Ensure that managing entities comply with state and
 2102 federal laws, rules, and regulations.
- 2103 (n) Develop rules for the operations of, and the
 2104 requirements that must be met by, the managing entity, if
 2105 necessary.
- 2106 (4) CONTRACT WITH MANAGING ENTITIES.—
- 2107 (a) The department's contracts with managing entities must
 2108 support efficient and effective administration of the behavioral
 2109 health system and ensure accountability for performance.
- 2110 (b) Beginning July 1, 2018, managing entities under
 2111 contract with the department are subject to a contract
 2112 performance review. The review must include:
- 2113 1. Analysis of the duties and performance measures
 2114 described in this section;
- 2115 2. The results of contract monitoring compiled during the
 2116 term of the contract; and
- 2117 3. Related compliance and performance issues.
- 2118 (c) For the managing entities whose performance is
 2119 determined satisfactory after completion of the review pursuant
 2120 to paragraph (b), and before the end of the term of the

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- 2121 contract, the department may negotiate and enter into a contract
 2122 with the managing entity for a period of 4 years pursuant to s.
 2123 287.057(3)(e).
- 2124 (d) The performance review must be completed by the
 2125 beginning of the third year of the 4-year contract. In the event
 2126 the managing entity does not meet the requirements of the
 2127 performance review, a corrective action plan must be created by
 2128 the department. The managing entity must complete the corrective
 2129 action plan before the beginning of the fourth year of the
 2130 contract. If the corrective action plan is not satisfactorily
 2131 completed, the department shall provide notice to the managing
 2132 entity that the contract will be terminated at the end of the
 2133 contract term and the department shall initiate a competitive
 2134 procurement process to select a new managing entity pursuant to
 2135 s. 287.057.
- 2136 (5) MANAGING ENTITIES DUTIES.—A managing entity shall:
- 2137 (a) Maintain a board of directors that is representative of
 2138 the community and that, at a minimum, includes consumers and
 2139 family members, community stakeholders and organizations, and
 2140 providers of mental health and substance abuse services,
 2141 including public and private receiving facilities.
- 2142 (b) Conduct a community behavioral health care needs
 2143 assessment in the geographic area served by the managing entity.
 2144 The needs assessment must be updated annually and provided to
 2145 the department. The assessment must include, at a minimum, the
 2146 information the department needs for its annual report to the
 2147 Governor and Legislature pursuant to s. 394.4573.
- 2148 (c) Develop local resources by pursuing third-party
 2149 payments for services, applying for grants, securing local

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- 2150 matching funds and in-kind services, and any other methods
 2151 needed to ensure services are available and accessible.
 2152 (d) Provide assistance to counties to develop a designated
 2153 receiving system pursuant to s. 394.4573(2)(b) and a
 2154 transportation plan pursuant to s. 394.462.
 2155 (e) Promote the development and effective implementation of
 2156 a coordinated system of care pursuant to s. 394.4573.
 2157 (f) Develop a comprehensive network of qualified providers
 2158 to deliver behavioral health services. The managing entity is
 2159 not required to competitively procure network providers, but
 2160 must have a process in place to publicize opportunities to join
 2161 the network and to evaluate providers in the network to
 2162 determine if they can remain in the network. These processes
 2163 must be published on the website of the managing entity. The
 2164 managing entity must ensure continuity of care for clients if a
 2165 provider ceases to provide a service or leaves the network.
 2166 (g) Enter into cooperative agreements with local homeless
 2167 councils and organizations to allow the sharing of available
 2168 resource information, shared client information, client referral
 2169 services, and any other data or information that may be useful
 2170 in addressing the homelessness of persons suffering from a
 2171 behavioral health crisis.
 2172 (h) Monitor network providers' performance and their
 2173 compliance with contract requirements and federal and state
 2174 laws, rules, and regulations.
 2175 (i) Provide or contract for case management services.
 2176 (j) Manage and allocate funds for services to meet the
 2177 requirements of law or rule.
 2178 (k) Promote integration of behavioral health with primary

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- 2179 care.
 2180 (l) Implement shared data systems necessary for the
 2181 delivery of coordinated care and integrated services, the
 2182 assessment of managing entity performance and provider
 2183 performance, and the reporting of outcomes and costs of
 2184 services.
 2185 (m) Operate in a transparent manner, providing public
 2186 access to information, notice of meetings, and opportunities for
 2187 public participation in managing entity decisionmaking.
 2188 (n) Establish and maintain effective relationships with
 2189 community stakeholders, including local governments and other
 2190 organizations that serve individuals with behavioral health
 2191 needs.
 2192 (o) Collaborate with local criminal and juvenile justice
 2193 systems to divert persons with mental illness or substance abuse
 2194 disorders, or both, from the criminal and juvenile justice
 2195 systems.
 2196 (p) Collaborate with the local court system to develop
 2197 procedures to maximize the use of involuntary outpatient
 2198 services; reduce involuntary inpatient treatment; and increase
 2199 diversion from the criminal and juvenile justice systems.
 2200 (6) FUNDING FOR MANAGING ENTITIES.—
 2201 (a) A contract established between the department and a
 2202 managing entity under this section must be funded by general
 2203 revenue, other applicable state funds, or applicable federal
 2204 funding sources. A managing entity may carry forward documented
 2205 unexpended state funds from one fiscal year to the next, but the
 2206 cumulative amount carried forward may not exceed 8 percent of
 2207 the total value of the contract. Any unexpended state funds in

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excess of that percentage must be returned to the department.
The funds carried forward may not be used in a way that would increase future recurring obligations or for any program or service that was not authorized as of July 1, 2016, under the existing contract with the department. Expenditures of funds carried forward must be separately reported to the department. Any unexpended funds that remain at the end of the contract period must be returned to the department. Funds carried forward may be retained through contract renewals and new contract procurements as long as the same managing entity is retained by the department.

(b) The method of payment for a fixed-price contract with a managing entity must provide for a 2-month advance payment at the beginning of each fiscal year and equal monthly payments thereafter.

(7) CRISIS STABILIZATION SERVICES UTILIZATION DATABASE.—The department shall develop, implement, and maintain standards under which a managing entity shall collect utilization data from all public receiving facilities situated within its geographic service area. As used in this subsection, the term “public receiving facility” means an entity that meets the licensure requirements of, and is designated by, the department to operate as a public receiving facility under s. 394.875 and that is operating as a licensed crisis stabilization unit.

(a) The department shall develop standards and protocols for managing entities and public receiving facilities to be used for data collection, storage, transmittal, and analysis. The standards and protocols must allow for compatibility of data and data transmittal between public receiving facilities, managing

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entities, and the department for the implementation and requirements of this subsection.

(b) A managing entity shall require a public receiving facility within its provider network to submit data, in real time or at least daily, to the managing entity for:

1. All admissions and discharges of clients receiving public receiving facility services who qualify as indigent, as defined in s. 394.4787; and

2. The current active census of total licensed beds, the number of beds purchased by the department, the number of clients qualifying as indigent who occupy those beds, and the total number of unoccupied licensed beds regardless of funding.

(c) A managing entity shall require a public receiving facility within its provider network to submit data, on a monthly basis, to the managing entity which aggregates the daily data submitted under paragraph (b). The managing entity shall reconcile the data in the monthly submission to the data received by the managing entity under paragraph (b) to check for consistency. If the monthly aggregate data submitted by a public receiving facility under this paragraph are inconsistent with the daily data submitted under paragraph (b), the managing entity shall consult with the public receiving facility to make corrections necessary to ensure accurate data.

(d) A managing entity shall require a public receiving facility within its provider network to submit data, on an annual basis, to the managing entity which aggregates the data submitted and reconciled under paragraph (c). The managing entity shall reconcile the data in the annual submission to the data received and reconciled by the managing entity under

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paragraph (c) to check for consistency. If the annual aggregate data submitted by a public receiving facility under this paragraph are inconsistent with the data received and reconciled under paragraph (c), the managing entity shall consult with the public receiving facility to make corrections necessary to ensure accurate data.

(e) After ensuring the accuracy of data pursuant to paragraphs (c) and (d), the managing entity shall submit the data to the department on a monthly and an annual basis. The department shall create a statewide database for the data described under paragraph (b) and submitted under this paragraph for the purpose of analyzing the payments for and the use of crisis stabilization services funded by the Baker Act on a statewide basis and on an individual public receiving facility basis.

Section 17. Present subsections (20) through (45) of section 397.311, Florida Statutes, are redesignated as subsections (21) through (46), respectively, a new subsection (20) is added to that section, and present subsections (30) and (38) of that section are amended, to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(20) "Involuntary services" means court-ordered outpatient services or treatment for substance abuse disorders or services provided in an inpatient placement in a receiving facility or treatment facility.

(31)-(30) "Qualified professional" means a physician or a physician assistant licensed under chapter 458 or chapter 459; a professional licensed under chapter 490 or chapter 491; an

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advanced registered nurse practitioner ~~having a specialty in~~ psychiatry licensed under part I of chapter 464; or a person who is certified through a department-recognized certification process for substance abuse treatment services and who holds, at a minimum, a bachelor's degree. A person who is certified in substance abuse treatment services by a state-recognized certification process in another state at the time of employment with a licensed substance abuse provider in this state may perform the functions of a qualified professional as defined in this chapter but must meet certification requirements contained in this subsection no later than 1 year after his or her date of employment.

(39)-(38) "Service component" or "component" means a discrete operational entity within a service provider which is subject to licensing as defined by rule. Service components include prevention, intervention, and clinical treatment described in subsection (23) ~~(22)~~.

Section 18. Section 397.675, Florida Statutes, is amended to read:

397.675 Criteria for involuntary admissions, including protective custody, emergency admission, and other involuntary assessment, involuntary treatment, and alternative involuntary assessment for minors, for purposes of assessment and stabilization, and for involuntary treatment.—A person meets the criteria for involuntary admission if there is good faith reason to believe that the person has a substance abuse or co-occurring mental health disorder ~~is substance abuse impaired~~ and, because of such disorder impairment ~~impairment~~:

(1) Has lost the power of self-control with respect to

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substance ~~abuse use~~; and ~~either~~

(2) (a) Without care or treatment, is likely to suffer from neglect or to refuse to care for himself or herself, that such neglect or refusal poses a real and present threat of substantial harm to his or her well-being and that it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services, or there is substantial likelihood that the person has inflicted, or threatened to or attempted to inflict, or, unless admitted, is likely to inflict, physical harm on himself, or ~~or~~ herself, or another; or

(b) Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that he or she ~~the person~~ is incapable of appreciating his or her need for such services and of making a rational decision in that regard, although thereto, however, mere refusal to receive such services does not constitute evidence of lack of judgment with respect to his or her need for such services.

Section 19. Section 397.679, Florida Statutes, is amended to read:

397.679 Emergency admission; circumstances justifying.—A person who meets the criteria for involuntary admission in s. 397.675 may be admitted to a hospital or to a licensed detoxification facility or addictions receiving facility for emergency assessment and stabilization, or to a less intensive component of a licensed service provider for assessment only, upon receipt by the facility of a ~~the physician's~~ certificate by a physician, an advanced registered nurse practitioner, a clinical psychologist, a licensed clinical social worker, a

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licensed marriage and family therapist, a licensed mental health counselor, a physician assistant working under the scope of practice of the supervising physician, or a master's-level-certified addictions professional, if the certificate is specific to substance abuse disorders, and the completion of an application for emergency admission.

Section 20. Section 397.6791, Florida Statutes, is amended to read:

397.6791 Emergency admission; persons who may initiate.—The following professionals ~~persons~~ may request a certificate for an ~~an~~ emergency assessment or admission:

(1) In the case of an adult, physicians, advanced registered nurse practitioners, clinical psychologists, licensed clinical social workers, licensed marriage and family therapists, licensed mental health counselors, physician assistants working under the scope of practice of the supervising physician, and a master's-level-certified addictions professional, if the certificate is specific to substance abuse disorders ~~the certifying physician~~, the person's spouse or legal guardian, any relative of the person, or any other responsible adult who has personal knowledge of the person's substance abuse impairment.

(2) In the case of a minor, the minor's parent, legal guardian, or legal custodian.

Section 21. Section 397.6793, Florida Statutes, is amended to read:

397.6793 Professional's ~~Physician's~~ certificate for emergency admission.—

(1) The professional's ~~physician's~~ certificate must include

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the name of the person to be admitted, the relationship between the person and the professional executing the certificate ~~physician~~, the relationship between the applicant and the professional physician, any relationship between the professional physician and the licensed service provider, ~~and~~ a statement that the person has been examined and assessed within the preceding 5 days of the application date, and ~~must include~~ factual allegations with respect to the need for emergency admission, including:

(a) The reason for the ~~physician's~~ belief that the person is substance abuse impaired; and

(b) The reason for the ~~physician's~~ belief that because of such impairment the person has lost the power of self-control with respect to substance abuse; and ~~either~~

(c) 1. The reason for the belief ~~physician believes~~ that, without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; that such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and that it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services or there is substantial likelihood that the person has inflicted or is likely to inflict physical harm on himself or herself or others unless admitted; or

2. The reason for the belief ~~physician believes~~ that the person's refusal to voluntarily receive care is based on judgment so impaired by reason of substance abuse that the person is incapable of appreciating his or her need for care and of making a rational decision regarding his or her need for

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care.

(2) The ~~professional's physician's~~ certificate must recommend the least restrictive type of service that is appropriate for the person. The certificate must be signed by the professional physician. If other less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer shall take the person named in the certificate into custody and deliver him or her to the appropriate facility for involuntary examination.

(3) A signed copy of the professional's physician's certificate shall accompany the person, and shall be made a part of the person's clinical record, together with a signed copy of the application. The application and the professional's physician's certificate authorize the involuntary admission of the person pursuant to, and subject to the provisions of, ss. 397.679-397.6797.

(4) The professional's certificate is valid for 7 days after issuance.

(5) The professional's physician's certificate must indicate whether the person requires transportation assistance for delivery for emergency admission and specify, pursuant to s. 397.6795, the type of transportation assistance necessary.

Section 22. Section 397.6795, Florida Statutes, is amended to read:

397.6795 Transportation-assisted delivery of persons for emergency assessment.—An applicant for a person's emergency admission, ~~or the person's spouse or guardian, or a law enforcement officer, or a health officer~~ may deliver a person named in the professional's physician's certificate for

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emergency admission to a hospital or a licensed detoxification facility or addictions receiving facility for emergency assessment and stabilization.

Section 23. Subsection (1) of section 397.681, Florida Statutes, is amended to read:

397.681 Involuntary petitions; general provisions; court jurisdiction and right to counsel.—

(1) JURISDICTION.—The courts have jurisdiction of involuntary assessment and stabilization petitions and involuntary treatment petitions for substance abuse impaired persons, and such petitions must be filed with the clerk of the court in the county where the person is located. The court may not charge a fee for the filing of a petition under this section. The chief judge may appoint a general or special magistrate to preside over all or part of the proceedings. The alleged impaired person is named as the respondent.

Section 24. Subsection (1) of section 397.6811, Florida Statutes, is amended to read:

397.6811 Involuntary assessment and stabilization.—A person determined by the court to appear to meet the criteria for involuntary admission under s. 397.675 may be admitted for a period of 5 days to a hospital or to a licensed detoxification facility or addictions receiving facility, for involuntary assessment and stabilization or to a less restrictive component of a licensed service provider for assessment only upon entry of a court order or upon receipt by the licensed service provider of a petition. Involuntary assessment and stabilization may be initiated by the submission of a petition to the court.

(1) If the person upon whose behalf the petition is being

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filed is an adult, a petition for involuntary assessment and stabilization may be filed by the respondent's spouse ~~or~~, legal guardian, any relative, a private practitioner, the director of a licensed service provider or the director's designee, or any individual ~~three adults~~ who has direct ~~have~~ personal knowledge of the respondent's substance abuse impairment.

Section 25. Section 397.6814, Florida Statutes, is amended to read:

397.6814 Involuntary assessment and stabilization; contents of petition.—A petition for involuntary assessment and stabilization must contain the name of the respondent, + the name of the applicant or applicants, + the relationship between the respondent and the applicant, and, + the name of the respondent's attorney, if known, and a statement of the respondent's ability to afford an attorney, and must state facts to support the need for involuntary assessment and stabilization, including:

(1) The reason for the petitioner's belief that the respondent is substance abuse impaired; ~~and~~

(2) The reason for the petitioner's belief that because of such impairment the respondent has lost the power of self-control with respect to substance abuse; and ~~either~~

(3) (a) The reason the petitioner believes that the respondent has inflicted or is likely to inflict physical harm on himself or herself or others unless admitted; or

(b) The reason the petitioner believes that the respondent's refusal to voluntarily receive care is based on judgment so impaired by reason of substance abuse that the respondent is incapable of appreciating his or her need for care and of making a rational decision regarding that need for care.

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If the respondent has refused to submit to an assessment, such refusal must be alleged in the petition.

A fee may not be charged for the filing of a petition pursuant to this section.

Section 26. Section 397.6819, Florida Statutes, is amended to read:

397.6819 Involuntary assessment and stabilization; responsibility of licensed service provider.—A licensed service provider may admit an individual for involuntary assessment and stabilization for a period not to exceed 5 days unless a petition for involuntary outpatient services has been initiated which authorizes the licensed service provider to retain physical custody of the person pending further order of the court pursuant to s. 397.6822. The individual must be assessed within 24 hours without unnecessary delay by a qualified professional. The person may not be held pursuant to this section beyond the 24-hour assessment period unless the assessment has been reviewed and authorized by a licensed physician as necessary for continued stabilization. If an assessment is performed by a qualified professional who is not a physician, the assessment must be reviewed by a physician before the end of the assessment period.

Section 27. Section 397.695, Florida Statutes, is amended to read:

397.695 Involuntary outpatient services ~~treatment~~; persons who may petition.—

(1) (a) If the respondent is an adult, a petition for involuntary outpatient services ~~treatment~~ may be filed by the

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respondent's spouse or legal guardian, any relative, a service provider, or any individual ~~three adults~~ who has direct ~~have~~ personal knowledge of the respondent's substance abuse impairment and his or her prior course of assessment and treatment.

(b) The administrator of a receiving facility, a crisis stabilization unit, or an addictions receiving facility where the patient has been examined may retain the patient at the facility after adherence to the notice procedures provided in s. 397.6955. The recommendation for involuntary outpatient services must be supported by the opinion of a qualified professional as defined in s. 397.311(31) or a master's-level-certified addictions professional and by the second opinion of a psychologist, a physician, or an advanced registered nurse practitioner licensed under chapter 464, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary outpatient services are met. However, in a county having a population of fewer than 50,000, if the administrator of the facility certifies that a qualified professional is not available to provide the second opinion, the second opinion may be provided by a physician who has postgraduate training and experience in the diagnosis and treatment of substance abuse disorders. Any second opinion authorized in this section may be conducted through face-to-face examination, in person, or by electronic means, including telemedicine. Such recommendation must be entered on an involuntary outpatient certificate that authorizes the facility to retain the patient pending completion of a hearing. The certificate must be made a part of the patient's clinical

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record.

(c) If the patient has been stabilized and no longer meets the criteria for involuntary assessment and stabilization pursuant to s. 397.6811, the patient must be released from the facility while awaiting the hearing for involuntary outpatient services. Before filing a petition for involuntary outpatient services, the administrator of the facility must identify the service provider that will have responsibility for service provision under the order for involuntary outpatient services, unless the person is otherwise participating in outpatient substance abuse disorder services and is not in need of public financing of the services, in which case the person, if eligible, may be ordered to involuntary outpatient services pursuant to the existing provision-of-services relationship he or she has for substance abuse disorder services.

(d) The service provider shall prepare a written proposed treatment plan in consultation with the patient or the patient's guardian advocate, if applicable, for the order for outpatient services and provide a copy of the proposed treatment plan to the patient and the administrator of the facility. The treatment plan must specify the nature and extent of the patient's substance abuse disorder, address the reduction of symptoms that necessitate involuntary outpatient services, and include measurable goals and objectives for the services and treatment that are provided to treat the person's substance abuse disorder and to assist the person in living and functioning in the community or prevent relapse or further deterioration. Service providers may coordinate, select, and supervise other individuals to implement specific aspects of the treatment plan.

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The services in the treatment plan must be deemed clinically appropriate by a qualified professional who consults with, or is employed by, the service provider. The service provider must certify that the recommended services in the treatment plan are available for the stabilization and improvement of the patient. If the service provider certifies that the recommended services in the proposed treatment plan are not available, the petition may not be filed. The service provider must document its inquiry with the department and the managing entity as to the availability of the requested services. The managing entity must document such efforts to obtain the requested services.

(e) If a patient in involuntary inpatient placement meets the criteria for involuntary outpatient services, the administrator of the treatment facility may, before the expiration of the period during which the treatment facility is authorized to retain the patient, recommend involuntary outpatient services. The recommendation must be supported by the opinion of a qualified professional as defined in s. 397.311(31) or a master's-level-certified addictions professional and by the second opinion of a psychologist, a physician, an advanced registered nurse practitioner licensed under chapter 464, or a mental health professional licensed under chapter 491, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary outpatient services are met. However, in a county having a population of fewer than 50,000, if the administrator of the facility certifies that a qualified professional is not available to provide the second opinion, the second opinion may be provided by a physician who has postgraduate training and experience in the diagnosis and

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treatment of substance abuse disorders. Any second opinion authorized in this section may be conducted through face-to-face examination, in person, or by electronic means, including telemedicine. Such recommendation must be entered on an involuntary outpatient certificate that authorizes the facility to retain the patient pending completion of a hearing. The certificate must be made a part of the patient's clinical record.

(f) The service provider who is responsible for providing services under the order for involuntary outpatient services must be identified before the entry of the order for outpatient services. The service provider shall certify to the court that the recommended services in the treatment plan are available for the stabilization and improvement of the patient. If the service provider certifies that the recommended services in the proposed treatment plan are not available, the petition may not be filed. The service provider must document its inquiry with the department and the managing entity as to the availability of the requested services. The managing entity must document such efforts to obtain the requested services.

(2) If the respondent is a minor, a petition for involuntary treatment may be filed by a parent, legal guardian, or service provider.

Section 28. Section 397.6951, Florida Statutes, is amended to read:

397.6951 Contents of petition for involuntary outpatient services treatment.—A petition for involuntary outpatient services treatment must contain the name of the respondent to be admitted; the name of the petitioner or petitioners; the

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relationship between the respondent and the petitioner; the name of the respondent's attorney, if known, and a statement of the petitioner's knowledge of the respondent's ability to afford an attorney; the findings and recommendations of the assessment performed by the qualified professional; and the factual allegations presented by the petitioner establishing the need for involuntary outpatient services. The factual allegations must demonstrate treatment, including:

(1) The reason for the petitioner's belief that the respondent is substance abuse impaired; and

(2) The respondent's history of failure to comply with requirements for treatment for substance abuse and that the respondent has been involuntarily admitted to a receiving or treatment facility at least twice within the immediately preceding 36 months; The reason for the petitioner's belief that because of such impairment the respondent has lost the power of self-control with respect to substance abuse; and either

(3) That the respondent is, as a result of his or her substance abuse disorder, unlikely to voluntarily participate in the recommended services after sufficient and conscientious explanation and disclosure of the purpose of the services or he or she is unable to determine for himself or herself whether outpatient services are necessary;

(4) That, in view of the person's treatment history and current behavior, the person is in need of involuntary outpatient services; that without services, the person is likely to suffer from neglect or to refuse to care for himself or herself; that such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and that

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there is a substantial likelihood that without services the person will cause serious bodily harm to himself, herself, or others in the near future, as evidenced by recent behavior; and

(5) That it is likely that the person will benefit from involuntary outpatient services.

~~(3)(a) The reason the petitioner believes that the respondent has inflicted or is likely to inflict physical harm on himself or herself or others unless admitted; or~~

~~(b) The reason the petitioner believes that the respondent's refusal to voluntarily receive care is based on judgment so impaired by reason of substance abuse that the respondent is incapable of appreciating his or her need for care and of making a rational decision regarding that need for care.~~

Section 29. Section 397.6955, Florida Statutes, is amended to read:

397.6955 Duties of court upon filing of petition for involuntary outpatient services ~~treatment.~~

(1) Upon the filing of a petition for the involuntary outpatient services for treatment of a substance abuse impaired person with the clerk of the court, the court shall immediately determine whether the respondent is represented by an attorney or whether the appointment of counsel for the respondent is appropriate. If the court appoints counsel for the person, the clerk of the court shall immediately notify the regional conflict counsel, created pursuant to s. 27.511, of the appointment. The regional conflict counsel shall represent the person until the petition is dismissed, the court order expires, or the person is discharged from involuntary outpatient services. An attorney that represents the person named in the

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petition shall have access to the person, witnesses, and records relevant to the presentation of the person's case and shall represent the interests of the person, regardless of the source of payment to the attorney.

(2) The court shall schedule a hearing to be held on the petition within 5 10 days unless a continuance is granted. The court may appoint a general or special master to preside at the hearing.

(3) A copy of the petition and notice of the hearing must be provided to the respondent; the respondent's parent, guardian, or legal custodian, in the case of a minor; the respondent's attorney, if known; the petitioner; the respondent's spouse or guardian, if applicable; and such other persons as the court may direct. If the respondent is a minor, a copy of the petition and notice of the hearing must be and have such petition and order personally delivered to the respondent ~~if he or she is a minor~~. The court shall also issue a summons to the person whose admission is sought.

Section 30. Section 397.6957, Florida Statutes, is amended to read:

397.6957 Hearing on petition for involuntary outpatient services treatment.

(1) At a hearing on a petition for involuntary outpatient services treatment, the court shall hear and review all relevant evidence, including the review of results of the assessment completed by the qualified professional in connection with the respondent's protective custody, emergency admission, involuntary assessment, or alternative involuntary admission. The respondent must be present unless the court finds that his

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or her presence is likely to be injurious to himself or herself or others, in which event the court must appoint a guardian advocate to act in behalf of the respondent throughout the proceedings.

(2) The petitioner has the burden of proving by clear and convincing evidence that:

(a) The respondent is substance abuse impaired and has a history of lack of compliance with treatment for substance abuse; ~~and~~

(b) Because of such impairment the respondent is unlikely to voluntarily participate in the recommended treatment or is unable to determine for himself or herself whether outpatient services are necessary the respondent has lost the power of self-control with respect to substance abuse; and ~~either~~

1. Without services, the respondent is likely to suffer from neglect or to refuse to care for himself or herself; that such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and that there is a substantial likelihood that without services the respondent will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior ~~The respondent has inflicted or is likely to inflict physical harm on himself or herself or others unless admitted;~~ or

2. The respondent's refusal to voluntarily receive care is based on judgment so impaired by reason of substance abuse that the respondent is incapable of appreciating his or her need for care and of making a rational decision regarding that need for care.

(3) One of the qualified professionals who executed the

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involuntary outpatient services certificate must be a witness. The court shall allow testimony from individuals, including family members, deemed by the court to be relevant under state law, regarding the respondent's prior history and how that prior history relates to the person's current condition. The testimony in the hearing must be under oath, and the proceedings must be recorded. The patient may refuse to testify at the hearing.

(4)(3) At the conclusion of the hearing the court shall either dismiss the petition or order the respondent to receive ~~undergo~~ involuntary outpatient services from his or her substance abuse treatment, with the respondent's chosen licensed service provider if to deliver the involuntary substance abuse treatment where possible and appropriate.

Section 31. Section 397.697, Florida Statutes, is amended to read:

397.697 Court determination; effect of court order for involuntary outpatient services ~~substance abuse treatment.~~

(1) When the court finds that the conditions for involuntary outpatient services ~~substance abuse treatment~~ have been proved by clear and convincing evidence, it may order the respondent to receive ~~undergo~~ involuntary outpatient services from treatment by a licensed service provider for a period not to exceed 60 days. If the court finds it necessary, it may direct the sheriff to take the respondent into custody and deliver him or her to the licensed service provider specified in the court order, or to the nearest appropriate licensed service provider, for involuntary outpatient services treatment. When the conditions justifying involuntary outpatient services ~~treatment~~ no longer exist, the individual must be released as

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provided in s. 397.6971. When the conditions justifying involuntary outpatient services ~~treatment~~ are expected to exist after 60 days of services ~~treatment~~, a renewal of the involuntary outpatient services ~~treatment~~ order may be requested pursuant to s. 397.6975 before ~~prior to~~ the end of the 60-day period.

(2) In all cases resulting in an order for involuntary outpatient services ~~substance abuse treatment~~, the court shall retain jurisdiction over the case and the parties for the entry of such further orders as the circumstances may require. The court's requirements for notification of proposed release must be included in the original ~~treatment~~ order.

(3) An involuntary outpatient services ~~treatment~~ order authorizes the licensed service provider to require the individual to receive services that undergo such treatment as will benefit him or her, including services ~~treatment~~ at any licensable service component of a licensed service provider.

(4) The court may not order involuntary outpatient services if the service provider certifies to the court that the recommended services are not available. The service provider must document its inquiry with the department and the managing entity as to the availability of the requested services. The managing entity must document such efforts to obtain the requested services.

(5) If the court orders involuntary outpatient services, a copy of the order must be sent to the department and the managing entity within 1 working day after it is received from the court. After the order for outpatient services is issued, the service provider and the patient may modify provisions of

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the treatment plan. For any material modification of the treatment plan to which the patient or the patient's guardian advocate, if appointed, agrees, the service provider shall send notice of the modification to the court. Any material modification of the treatment plan which is contested by the patient or the guardian advocate, if applicable, must be approved or disapproved by the court.

Section 32. Section 397.6971, Florida Statutes, is amended to read:

397.6971 Early release from involuntary outpatient services ~~substance abuse treatment.~~

(1) At any time before ~~prior to~~ the end of the 60-day involuntary outpatient services ~~treatment~~ period, or ~~prior to~~ the end of any extension granted pursuant to s. 397.6975, an individual receiving ~~admitted for~~ involuntary outpatient services ~~treatment~~ may be determined eligible for discharge to the most appropriate referral or disposition for the individual when any of the following apply:

(a) The individual no longer meets the criteria for involuntary admission and has given his or her informed consent to be transferred to voluntary treatment status.~~†~~

(b) If the individual was admitted on the grounds of likelihood of infliction of physical harm upon himself or herself or others, such likelihood no longer exists.~~† or~~

(c) If the individual was admitted on the grounds of need for assessment and stabilization or treatment, accompanied by inability to make a determination respecting such need,~~either:~~

1. Such inability no longer exists; or
2. It is evident that further treatment will not bring

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about further significant improvements in the individual's condition.

(d) The individual is no longer in need of services.

(e) The director of the service provider determines that the individual is beyond the safe management capabilities of the provider.

(2) Whenever a qualified professional determines that an individual admitted for involuntary outpatient services qualifies treatment is ready for early release under ~~for any of the reasons listed in~~ subsection (1), the service provider shall immediately discharge the individual, and must notify all persons specified by the court in the original treatment order.

Section 33. Section 397.6975, Florida Statutes, is amended to read:

397.6975 Extension of involuntary outpatient services substance abuse treatment period.

(1) Whenever a service provider believes that an individual who is nearing the scheduled date of his or her release from involuntary outpatient services treatment continues to meet the criteria for involuntary outpatient services treatment in s. 397.693, a petition for renewal of the involuntary outpatient services treatment order may be filed with the court at least 10 days before the expiration of the court-ordered outpatient services treatment period. The court shall immediately schedule a hearing to be held not more than 15 days after filing of the petition. The court shall provide the copy of the petition for renewal and the notice of the hearing to all parties to the proceeding. The hearing is conducted pursuant to s. 397.6957.

(2) If the court finds that the petition for renewal of the

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involuntary outpatient services treatment order should be granted, it may order the respondent to receive ~~undergo~~ involuntary outpatient services treatment for a period not to exceed an additional 90 days. When the conditions justifying involuntary outpatient services treatment no longer exist, the individual must be released as provided in s. 397.6971. When the conditions justifying involuntary outpatient services treatment continue to exist after an additional 90 days of service ~~additional treatment~~, a new petition requesting renewal of the involuntary outpatient services treatment order may be filed pursuant to this section.

(3) Within 1 court working day after the filing of a petition for continued involuntary outpatient services, the court shall appoint the regional conflict counsel to represent the respondent, unless the respondent is otherwise represented by counsel. The clerk of the court shall immediately notify the regional conflict counsel of such appointment. The regional conflict counsel shall represent the respondent until the petition is dismissed or the court order expires or the respondent is discharged from involuntary outpatient services. Any attorney representing the respondent shall have access to the respondent, witnesses, and records relevant to the presentation of the respondent's case and shall represent the interests of the respondent, regardless of the source of payment to the attorney.

(4) Hearings on petitions for continued involuntary outpatient services shall be before the circuit court. The court may appoint a general or special master to preside at the hearing. The procedures for obtaining an order pursuant to this

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section shall be in accordance with s. 397.697.

(5) Notice of hearing shall be provided to the respondent or his or her counsel. The respondent and the respondent's counsel may agree to a period of continued outpatient services without a court hearing.

(6) The same procedure shall be repeated before the expiration of each additional period of outpatient services.

(7) If the respondent has previously been found incompetent to consent to treatment, the court shall consider testimony and evidence regarding the respondent's competence.

Section 34. Section 397.6977, Florida Statutes, is amended to read:

397.6977 Disposition of individual upon completion of involuntary outpatient services ~~substance abuse treatment~~.—At the conclusion of the 60-day period of court-ordered involuntary outpatient services treatment, the respondent individual is automatically discharged unless a motion for renewal of the involuntary outpatient services treatment order has been filed with the court pursuant to s. 397.6975.

Section 35. Section 397.6978, Florida Statutes, is created to read:

397.6978 Guardian advocate; patient incompetent to consent; substance abuse disorder.—

(1) The administrator of a receiving facility or addictions receiving facility may petition the court for the appointment of a guardian advocate based upon the opinion of a qualified professional that the patient is incompetent to consent to treatment. If the court finds that a patient is incompetent to consent to treatment and has not been adjudicated incapacitated

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and that a guardian with the authority to consent to mental health treatment has not been appointed, it shall appoint a guardian advocate. The patient has the right to have an attorney represent him or her at the hearing. If the person is indigent, the court shall appoint the office of the regional conflict counsel to represent him or her at the hearing. The patient has the right to testify, cross-examine witnesses, and present witnesses. The proceeding shall be recorded electronically or stenographically, and testimony must be provided under oath. One of the qualified professionals authorized to give an opinion in support of a petition for involuntary placement, as described in s. 397.675 or s. 397.6981, must testify. A guardian advocate must meet the qualifications of a guardian contained in part IV of chapter 744. The person who is appointed as a guardian advocate must agree to the appointment.

(2) The following persons are prohibited from appointment as a patient's guardian advocate:

(a) A professional providing clinical services to the individual under this part.

(b) The qualified professional who initiated the involuntary examination of the individual, if the examination was initiated by a qualified professional's certificate.

(c) An employee, an administrator, or a board member of the facility providing the examination of the individual.

(d) An employee, an administrator, or a board member of the treatment facility providing treatment of the individual.

(e) A person providing any substantial professional services to the individual, including clinical and nonclinical services.

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2962 (f) A creditor of the individual.
 2963 (g) A person subject to an injunction for protection
 2964 against domestic violence under s. 741.30, whether the order of
 2965 injunction is temporary or final, and for which the individual
 2966 was the petitioner.
 2967 (h) A person subject to an injunction for protection
 2968 against repeat violence, sexual violence, or dating violence
 2969 under s. 784.046, whether the order of injunction is temporary
 2970 or final, and for which the individual was the petitioner.
 2971 (3) A facility requesting appointment of a guardian
 2972 advocate must, before the appointment, provide the prospective
 2973 guardian advocate with information about the duties and
 2974 responsibilities of guardian advocates, including information
 2975 about the ethics of medical decisionmaking. Before asking a
 2976 guardian advocate to give consent to treatment for a patient,
 2977 the facility must provide to the guardian advocate sufficient
 2978 information so that the guardian advocate can decide whether to
 2979 give express and informed consent to the treatment. Such
 2980 information must include information that demonstrates that the
 2981 treatment is essential to the care of the patient and does not
 2982 present an unreasonable risk of serious, hazardous, or
 2983 irreversible side effects. If possible, before giving consent to
 2984 treatment, the guardian advocate must personally meet and talk
 2985 with the patient and the patient's physician. If that is not
 2986 possible, the discussion may be conducted by telephone. The
 2987 decision of the guardian advocate may be reviewed by the court,
 2988 upon petition of the patient's attorney, the patient's family,
 2989 or the facility administrator.
 2990 (4) In lieu of the training required for guardians

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2991 appointed pursuant to chapter 744, a guardian advocate shall
 2992 attend at least a 4-hour training course approved by the court
 2993 before exercising his or her authority. At a minimum, the
 2994 training course must include information about patient rights,
 2995 the diagnosis of substance abuse disorders, the ethics of
 2996 medical decisionmaking, and the duties of guardian advocates.
 2997 (5) The required training course and the information to be
 2998 supplied to prospective guardian advocates before their
 2999 appointment must be developed by the department, approved by the
 3000 chief judge of the circuit court, and taught by a court-approved
 3001 organization, which may include, but need not be limited to, a
 3002 community college, a guardianship organization, a local bar
 3003 association, or The Florida Bar. The court may waive some or all
 3004 of the training requirements for guardian advocates or impose
 3005 additional requirements. The court shall make its decision on a
 3006 case-by-case basis and, in making its decision, shall consider
 3007 the experience and education of the guardian advocate, the
 3008 duties assigned to the guardian advocate, and the needs of the
 3009 patient.
 3010 (6) In selecting a guardian advocate, the court shall give
 3011 preference to the patient's health care surrogate, if one has
 3012 already been designated by the patient. If the patient has not
 3013 previously designated a health care surrogate, the selection
 3014 shall be made, except for good cause documented in the court
 3015 record, from among the following persons, listed in order of
 3016 priority:
 3017 (a) The patient's spouse.
 3018 (b) An adult child of the patient.
 3019 (c) A parent of the patient.

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3020 (d) The adult next of kin of the patient.
 3021 (e) An adult friend of the patient.
 3022 (f) An adult trained and willing to serve as the guardian
 3023 advocate for the patient.
 3024 (7) If a guardian with the authority to consent to medical
 3025 treatment has not already been appointed, or if the patient has
 3026 not already designated a health care surrogate, the court may
 3027 authorize the guardian advocate to consent to medical treatment
 3028 as well as substance abuse disorder treatment. Unless otherwise
 3029 limited by the court, a guardian advocate with authority to
 3030 consent to medical treatment has the same authority to make
 3031 health care decisions and is subject to the same restrictions as
 3032 a proxy appointed under part IV of chapter 765. Unless the
 3033 guardian advocate has sought and received express court approval
 3034 in a proceeding separate from the proceeding to determine the
 3035 competence of the patient to consent to medical treatment, the
 3036 guardian advocate may not consent to:
 3037 (a) Abortion.
 3038 (b) Sterilization.
 3039 (c) Electroshock therapy.
 3040 (d) Psychosurgery.
 3041 (e) Experimental treatments that have not been approved by
 3042 a federally approved institutional review board in accordance
 3043 with 45 C.F.R. part 46 or 21 C.F.R. part 56.
 3044
 3045 The court must base its authorization on evidence that the
 3046 treatment or procedure is essential to the care of the patient
 3047 and that the treatment does not present an unreasonable risk of
 3048 serious, hazardous, or irreversible side effects. In complying

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3049 with this subsection, the court shall follow the procedures set
 3050 forth in subsection (1).
 3051 (8) The guardian advocate shall be discharged when the
 3052 patient is discharged from an order for involuntary outpatient
 3053 services or involuntary inpatient placement or when the patient
 3054 is transferred from involuntary to voluntary status. The court
 3055 or a hearing officer shall consider the competence of the
 3056 patient as provided in subsection (1) and may consider an
 3057 involuntarily placed patient's competence to consent to
 3058 treatment at any hearing. Upon sufficient evidence, the court
 3059 may restore, or the hearing officer may recommend that the court
 3060 restore, the patient's competence. A copy of the order restoring
 3061 competence or the certificate of discharge containing the
 3062 restoration of competence shall be provided to the patient and
 3063 the guardian advocate.
 3064 Section 36. Paragraph (a) of subsection (3) of section
 3065 39.407, Florida Statutes, is amended to read:
 3066 39.407 Medical, psychiatric, and psychological examination
 3067 and treatment of child; physical, mental, or substance abuse
 3068 examination of person with or requesting child custody.—
 3069 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
 3070 or paragraph (e), before the department provides psychotropic
 3071 medications to a child in its custody, the prescribing physician
 3072 shall attempt to obtain express and informed consent, as defined
 3073 in s. 394.455(15) ~~s. 394.455(9)~~ and as described in s.
 3074 394.459(3) (a), from the child's parent or legal guardian. The
 3075 department must take steps necessary to facilitate the inclusion
 3076 of the parent in the child's consultation with the physician.
 3077 However, if the parental rights of the parent have been

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terminated, the parent's location or identity is unknown or cannot reasonably be ascertained, or the parent declines to give express and informed consent, the department may, after consultation with the prescribing physician, seek court authorization to provide the psychotropic medications to the child. Unless parental rights have been terminated and if it is possible to do so, the department shall continue to involve the parent in the decisionmaking process regarding the provision of psychotropic medications. If, at any time, a parent whose parental rights have not been terminated provides express and informed consent to the provision of a psychotropic medication, the requirements of this section that the department seek court authorization do not apply to that medication until such time as the parent no longer consents.

2. Any time the department seeks a medical evaluation to determine the need to initiate or continue a psychotropic medication for a child, the department must provide to the evaluating physician all pertinent medical information known to the department concerning that child.

Section 37. Paragraph (e) of subsection (5) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the

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procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

(e) A governing board, agency, or authority shall be chartered by the county commission upon this act becoming law. The governing board, agency, or authority shall adopt and implement a health care plan for indigent health care services. The governing board, agency, or authority shall consist of no more than seven and no fewer than five members appointed by the county commission. The members of the governing board, agency, or authority shall be at least 18 years of age and residents of the county. No member may be employed by or affiliated with a health care provider or the public health trust, agency, or authority responsible for the county public general hospital. The following community organizations shall each appoint a representative to a nominating committee: the South Florida Hospital and Healthcare Association, the Miami-Dade County

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3136 Public Health Trust, the Dade County Medical Association, the
 3137 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
 3138 County. This committee shall nominate between 10 and 14 county
 3139 citizens for the governing board, agency, or authority. The
 3140 slate shall be presented to the county commission and the county
 3141 commission shall confirm the top five to seven nominees,
 3142 depending on the size of the governing board. Until such time as
 3143 the governing board, agency, or authority is created, the funds
 3144 provided for in subparagraph (d)2. shall be placed in a
 3145 restricted account set aside from other county funds and not
 3146 disbursed by the county for any other purpose.

3147 1. The plan shall divide the county into a minimum of four
 3148 and maximum of six service areas, with no more than one
 3149 participant hospital per service area. The county public general
 3150 hospital shall be designated as the provider for one of the
 3151 service areas. Services shall be provided through participants'
 3152 primary acute care facilities.

3153 2. The plan and subsequent amendments to it shall fund a
 3154 defined range of health care services for both indigent persons
 3155 and the medically poor, including primary care, preventive care,
 3156 hospital emergency room care, and hospital care necessary to
 3157 stabilize the patient. For the purposes of this section,
 3158 "stabilization" means stabilization as defined in s. 397.311(42)
 3159 ~~s. 397.311(41)~~. Where consistent with these objectives, the plan
 3160 may include services rendered by physicians, clinics, community
 3161 hospitals, and alternative delivery sites, as well as at least
 3162 one regional referral hospital per service area. The plan shall
 3163 provide that agreements negotiated between the governing board,
 3164 agency, or authority and providers shall recognize hospitals

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3165 that render a disproportionate share of indigent care, provide
 3166 other incentives to promote the delivery of charity care to draw
 3167 down federal funds where appropriate, and require cost
 3168 containment, including, but not limited to, case management.
 3169 From the funds specified in subparagraphs (d)1. and 2. for
 3170 indigent health care services, service providers shall receive
 3171 reimbursement at a Medicaid rate to be determined by the
 3172 governing board, agency, or authority created pursuant to this
 3173 paragraph for the initial emergency room visit, and a per-member
 3174 per-month fee or capitation for those members enrolled in their
 3175 service area, as compensation for the services rendered
 3176 following the initial emergency visit. Except for provisions of
 3177 emergency services, upon determination of eligibility,
 3178 enrollment shall be deemed to have occurred at the time services
 3179 were rendered. The provisions for specific reimbursement of
 3180 emergency services shall be repealed on July 1, 2001, unless
 3181 otherwise reenacted by the Legislature. The capitation amount or
 3182 rate shall be determined before ~~prior to~~ program implementation
 3183 by an independent actuarial consultant. In no event shall such
 3184 reimbursement rates exceed the Medicaid rate. The plan must also
 3185 provide that any hospitals owned and operated by government
 3186 entities on or after the effective date of this act must, as a
 3187 condition of receiving funds under this subsection, afford
 3188 public access equal to that provided under s. 286.011 as to any
 3189 meeting of the governing board, agency, or authority the subject
 3190 of which is budgeting resources for the retention of charity
 3191 care, as that term is defined in the rules of the Agency for
 3192 Health Care Administration. The plan shall also include
 3193 innovative health care programs that provide cost-effective

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alternatives to traditional methods of service and delivery funding.

3. The plan's benefits shall be made available to all county residents currently eligible to receive health care services as indigents or medically poor as defined in paragraph (4) (d).

4. Eligible residents who participate in the health care plan shall receive coverage for a period of 12 months or the period extending from the time of enrollment to the end of the current fiscal year, per enrollment period, whichever is less.

5. At the end of each fiscal year, the governing board, agency, or authority shall prepare an audit that reviews the budget of the plan, delivery of services, and quality of services, and makes recommendations to increase the plan's efficiency. The audit shall take into account participant hospital satisfaction with the plan and assess the amount of poststabilization patient transfers requested, and accepted or denied, by the county public general hospital.

Section 38. Paragraph (c) of subsection (2) of section 394.4599, Florida Statutes, is amended to read:

394.4599 Notice.—

(2) INVOLUNTARY ADMISSION.—

(c)1. A receiving facility shall give notice of the whereabouts of a minor who is being involuntarily held for examination pursuant to s. 394.463 to the minor's parent, guardian, caregiver, or guardian advocate, in person or by telephone or other form of electronic communication, immediately after the minor's arrival at the facility. The facility may delay notification for no more than 24 hours after the minor's

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arrival if the facility has submitted a report to the central abuse hotline, pursuant to s. 39.201, based upon knowledge or suspicion of abuse, abandonment, or neglect and if the facility deems a delay in notification to be in the minor's best interest.

2. The receiving facility shall attempt to notify the minor's parent, guardian, caregiver, or guardian advocate until the receiving facility receives confirmation from the parent, guardian, caregiver, or guardian advocate, verbally, by telephone or other form of electronic communication, or by recorded message, that notification has been received. Attempts to notify the parent, guardian, caregiver, or guardian advocate must be repeated at least once every hour during the first 12 hours after the minor's arrival and once every 24 hours thereafter and must continue until such confirmation is received, unless the minor is released at the end of the 72-hour examination period, or until a petition for involuntary services placement is filed with the court pursuant to s. 394.463(2)(g) ~~s. 394.463(2)(i)~~. The receiving facility may seek assistance from a law enforcement agency to notify the minor's parent, guardian, caregiver, or guardian advocate if the facility has not received within the first 24 hours after the minor's arrival a confirmation by the parent, guardian, caregiver, or guardian advocate that notification has been received. The receiving facility must document notification attempts in the minor's clinical record.

Section 39. Subsection (3) of section 394.495, Florida Statutes, is amended to read:

394.495 Child and adolescent mental health system of care;

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3252 programs and services.—

3253 (3) Assessments must be performed by:

3254 (a) A professional as defined in s. 394.455(7), (33), (36),
 3255 (37), or (38) s. 394.455(2), (4), (21), (23), or (24);

3256 (b) A professional licensed under chapter 491; or

3257 (c) A person who is under the direct supervision of a
 3258 professional as defined in s. 394.455(7), (33), (36), (37), or
 3259 (38) s. 394.455(2), (4), (21), (23), or (24) or a professional
 3260 licensed under chapter 491.

3261 Section 40. Subsection (5) of section 394.496, Florida
 3262 Statutes, is amended to read:

3263 394.496 Service planning.—

3264 (5) A professional as defined in s. 394.455(7), (33), (36),
 3265 (37), or (38) s. 394.455(2), (4), (21), (23), or (24) or a
 3266 professional licensed under chapter 491 must be included among
 3267 those persons developing the services plan.

3268 Section 41. Subsection (6) of section 394.9085, Florida
 3269 Statutes, is amended to read:

3270 394.9085 Behavioral provider liability.—

3271 (6) For purposes of this section, the terms "detoxification
 3272 services," "addictions receiving facility," and "receiving
 3273 facility" have the same meanings as those provided in ss.
 3274 397.311(23)(a)4., 397.311(23)(a)1., and 394.455(41) s-
 3275 397.311(22)(a)4., 397.311(22)(a)1., and 394.455(26),
 3276 respectively.

3277 Section 42. Subsection (8) of section 397.405, Florida
 3278 Statutes, is amended to read:

3279 397.405 Exemptions from licensure.—The following are exempt
 3280 from the licensing provisions of this chapter:

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3281 (8) A legally cognizable church or nonprofit religious
 3282 organization or denomination providing substance abuse services,
 3283 including prevention services, which are solely religious,
 3284 spiritual, or ecclesiastical in nature. A church or nonprofit
 3285 religious organization or denomination providing any of the
 3286 licensed service components itemized under s. 397.311(23) s-
 3287 397.311(22) is not exempt from substance abuse licensure but
 3288 retains its exemption with respect to all services which are
 3289 solely religious, spiritual, or ecclesiastical in nature.

3290 The exemptions from licensure in this section do not apply to
 3291 any service provider that receives an appropriation, grant, or
 3292 contract from the state to operate as a service provider as
 3293 defined in this chapter or to any substance abuse program
 3294 regulated pursuant to s. 397.406. Furthermore, this chapter may
 3295 not be construed to limit the practice of a physician or
 3296 physician assistant licensed under chapter 458 or chapter 459, a
 3297 psychologist licensed under chapter 490, a psychotherapist
 3298 licensed under chapter 491, or an advanced registered nurse
 3299 practitioner licensed under part I of chapter 464, who provides
 3300 substance abuse treatment, so long as the physician, physician
 3301 assistant, psychologist, psychotherapist, or advanced registered
 3302 nurse practitioner does not represent to the public that he or
 3303 she is a licensed service provider and does not provide services
 3304 to individuals pursuant to part V of this chapter. Failure to
 3305 comply with any requirement necessary to maintain an exempt
 3306 status under this section is a misdemeanor of the first degree,
 3307 punishable as provided in s. 775.082 or s. 775.083.

3308 Section 43. Subsections (1) and (5) of section 397.407,
 3309

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Florida Statutes, are amended to read:

397.407 Licensure process; fees.—

(1) The department shall establish the licensure process to include fees and categories of licenses and must prescribe a fee range that is based, at least in part, on the number and complexity of programs listed in s. 397.311(23) ~~s. 397.311(22)~~ which are operated by a licensee. The fees from the licensure of service components are sufficient to cover at least 50 percent of the costs of regulating the service components. The department shall specify a fee range for public and privately funded licensed service providers. Fees for privately funded licensed service providers must exceed the fees for publicly funded licensed service providers.

(5) The department may issue probationary, regular, and interim licenses. The department shall issue one license for each service component that is operated by a service provider and defined pursuant to s. 397.311(23) ~~s. 397.311(22)~~. The license is valid only for the specific service components listed for each specific location identified on the license. The licensed service provider shall apply for a new license at least 60 days before the addition of any service components or 30 days before the relocation of any of its service sites. Provision of service components or delivery of services at a location not identified on the license may be considered an unlicensed operation that authorizes the department to seek an injunction against operation as provided in s. 397.401, in addition to other sanctions authorized by s. 397.415. Probationary and regular licenses may be issued only after all required information has been submitted. A license may not be

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transferred. As used in this subsection, the term "transfer" includes, but is not limited to, the transfer of a majority of the ownership interest in the licensed entity or transfer of responsibilities under the license to another entity by contractual arrangement.

Section 44. Section 397.416, Florida Statutes, is amended to read:

397.416 Substance abuse treatment services; qualified professional.—Notwithstanding any other provision of law, a person who was certified through a certification process recognized by the former Department of Health and Rehabilitative Services before January 1, 1995, may perform the duties of a qualified professional with respect to substance abuse treatment services as defined in this chapter, and need not meet the certification requirements contained in s. 397.311(31) ~~s. 397.311(30)~~.

Section 45. Paragraph (b) of subsection (1) of section 409.972, Florida Statutes, is amended to read:

409.972 Mandatory and voluntary enrollment.—

(1) The following Medicaid-eligible persons are exempt from mandatory managed care enrollment required by s. 409.965, and may voluntarily choose to participate in the managed medical assistance program:

(b) Medicaid recipients residing in residential commitment facilities operated through the Department of Juvenile Justice or a mental health treatment facility ~~facilities~~ as defined in ~~by~~ s. 394.455(50) ~~s. 394.455(32)~~.

Section 46. Paragraphs (d) and (g) of subsection (1) of section 440.102, Florida Statutes, are amended to read:

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3368 440.102 Drug-free workplace program requirements.—The
 3369 following provisions apply to a drug-free workplace program
 3370 implemented pursuant to law or to rules adopted by the Agency
 3371 for Health Care Administration:

3372 (1) DEFINITIONS.—Except where the context otherwise
 3373 requires, as used in this act:

3374 (d) "Drug rehabilitation program" means a service provider,
 3375 established pursuant to s. 397.311(40) ~~s. 397.311(39)~~, that
 3376 provides confidential, timely, and expert identification,
 3377 assessment, and resolution of employee drug abuse.

3378 (g) "Employee assistance program" means an established
 3379 program capable of providing expert assessment of employee
 3380 personal concerns; confidential and timely identification
 3381 services with regard to employee drug abuse; referrals of
 3382 employees for appropriate diagnosis, treatment, and assistance;
 3383 and followup services for employees who participate in the
 3384 program or require monitoring after returning to work. If, in
 3385 addition to the above activities, an employee assistance program
 3386 provides diagnostic and treatment services, these services shall
 3387 in all cases be provided by service providers pursuant to s.
 3388 397.311(40) ~~s. 397.311(39)~~.

3389 Section 47. Subsection (7) of section 744.704, Florida
 3390 Statutes, is amended to read:

3391 744.704 Powers and duties.—

3392 (7) A public guardian ~~may shall~~ not commit a ward to a
 3393 ~~mental health~~ treatment facility, as defined in s. 394.455(50)
 3394 ~~s. 394.455(32)~~, without an involuntary placement proceeding as
 3395 provided by law.

3396 Section 48. Paragraph (a) of subsection (2) of section

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3397 790.065, Florida Statutes, is amended to read:

3398 790.065 Sale and delivery of firearms.—

3399 (2) Upon receipt of a request for a criminal history record
 3400 check, the Department of Law Enforcement shall, during the
 3401 licensee's call or by return call, forthwith:

3402 (a) Review any records available to determine if the
 3403 potential buyer or transferee:

3404 1. Has been convicted of a felony and is prohibited from
 3405 receipt or possession of a firearm pursuant to s. 790.23;

3406 2. Has been convicted of a misdemeanor crime of domestic
 3407 violence, and therefore is prohibited from purchasing a firearm;

3408 3. Has had adjudication of guilt withheld or imposition of
 3409 sentence suspended on any felony or misdemeanor crime of
 3410 domestic violence unless 3 years have elapsed since probation or
 3411 any other conditions set by the court have been fulfilled or
 3412 expunction has occurred; or

3413 4. Has been adjudicated mentally defective or has been
 3414 committed to a mental institution by a court or as provided in
 3415 sub-sub-subparagraph b.(II), and as a result is prohibited by
 3416 state or federal law from purchasing a firearm.

3417 a. As used in this subparagraph, "adjudicated mentally
 3418 defective" means a determination by a court that a person, as a
 3419 result of marked subnormal intelligence, or mental illness,
 3420 incompetency, condition, or disease, is a danger to himself or
 3421 herself or to others or lacks the mental capacity to contract or
 3422 manage his or her own affairs. The phrase includes a judicial
 3423 finding of incapacity under s. 744.331(6) (a), an acquittal by
 3424 reason of insanity of a person charged with a criminal offense,
 3425 and a judicial finding that a criminal defendant is not

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competent to stand trial.

b. As used in this subparagraph, "committed to a mental institution" means:

(I) Involuntary commitment, commitment for mental defectiveness or mental illness, and commitment for substance abuse. The phrase includes involuntary inpatient placement as defined in s. 394.467, involuntary outpatient services placement as defined in s. 394.4655, involuntary assessment and stabilization under s. 397.6818, and involuntary substance abuse treatment under s. 397.6957, but does not include a person in a mental institution for observation or discharged from a mental institution based upon the initial review by the physician or a voluntary admission to a mental institution; or

(II) Notwithstanding sub-sub-subparagraph (I), voluntary admission to a mental institution for outpatient or inpatient treatment of a person who had an involuntary examination under s. 394.463, where each of the following conditions have been met:

(A) An examining physician found that the person is an imminent danger to himself or herself or others.

(B) The examining physician certified that if the person did not agree to voluntary treatment, a petition for involuntary outpatient or inpatient services treatment would have been filed under s. 394.463(2)(g) ~~s. 394.463(2)(i)4.~~, or the examining physician certified that a petition was filed and the person subsequently agreed to voluntary treatment before ~~prior to~~ a court hearing on the petition.

(C) Before agreeing to voluntary treatment, the person received written notice of that finding and certification, and

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written notice that as a result of such finding, he or she may be prohibited from purchasing a firearm, and may not be eligible to apply for or retain a concealed weapon or firearms license under s. 790.06 and the person acknowledged such notice in writing, in substantially the following form:

"I understand that the doctor who examined me believes I am a danger to myself or to others. I understand that if I do not agree to voluntary treatment, a petition will be filed in court to require me to receive involuntary treatment. I understand that if that petition is filed, I have the right to contest it. In the event a petition has been filed, I understand that I can subsequently agree to voluntary treatment prior to a court hearing. I understand that by agreeing to voluntary treatment in either of these situations, I may be prohibited from buying firearms and from applying for or retaining a concealed weapons or firearms license until I apply for and receive relief from that restriction under Florida law."

(D) A judge or a magistrate has, pursuant to sub-sub-subparagraph c.(II), reviewed the record of the finding, certification, notice, and written acknowledgment classifying the person as an imminent danger to himself or herself or others, and ordered that such record be submitted to the department.

c. In order to check for these conditions, the department shall compile and maintain an automated database of persons who

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are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

(I) Except as provided in sub-sub-subparagraph (II), clerks of court shall submit these records to the department within 1 month after the rendition of the adjudication or commitment. Reports shall be submitted in an automated format. The reports must, at a minimum, include the name, along with any known alias or former name, the sex, and the date of birth of the subject.

(II) For persons committed to a mental institution pursuant to sub-sub-subparagraph b.(II), within 24 hours after the person's agreement to voluntary admission, a record of the finding, certification, notice, and written acknowledgment must be filed by the administrator of the receiving or treatment facility, as defined in s. 394.455, with the clerk of the court for the county in which the involuntary examination under s. 394.463 occurred. No fee shall be charged for the filing under this sub-sub-subparagraph. The clerk must present the records to a judge or magistrate within 24 hours after receipt of the records. A judge or magistrate is required and has the lawful authority to review the records ex parte and, if the judge or magistrate determines that the record supports the classifying of the person as an imminent danger to himself or herself or others, to order that the record be submitted to the department. If a judge or magistrate orders the submittal of the record to the department, the record must be submitted to the department within 24 hours.

d. A person who has been adjudicated mentally defective or committed to a mental institution, as those terms are defined in

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this paragraph, may petition the circuit court that made the adjudication or commitment, or the court that ordered that the record be submitted to the department pursuant to sub-sub-subparagraph c.(II), for relief from the firearm disabilities imposed by such adjudication or commitment. A copy of the petition shall be served on the state attorney for the county in which the person was adjudicated or committed. The state attorney may object to and present evidence relevant to the relief sought by the petition. The hearing on the petition may be open or closed as the petitioner may choose. The petitioner may present evidence and subpoena witnesses to appear at the hearing on the petition. The petitioner may confront and cross-examine witnesses called by the state attorney. A record of the hearing shall be made by a certified court reporter or by court-approved electronic means. The court shall make written findings of fact and conclusions of law on the issues before it and issue a final order. The court shall grant the relief requested in the petition if the court finds, based on the evidence presented with respect to the petitioner's reputation, the petitioner's mental health record and, if applicable, criminal history record, the circumstances surrounding the firearm disability, and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest. If the final order denies relief, the petitioner may not petition again for relief from firearm disabilities until 1 year after the date of the final order. The petitioner may seek judicial review of a final order denying relief in the district court of appeal having jurisdiction over

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the court that issued the order. The review shall be conducted de novo. Relief from a firearm disability granted under this sub-subparagraph has no effect on the loss of civil rights, including firearm rights, for any reason other than the particular adjudication of mental defectiveness or commitment to a mental institution from which relief is granted.

e. Upon receipt of proper notice of relief from firearm disabilities granted under sub-subparagraph d., the department shall delete any mental health record of the person granted relief from the automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

f. The department is authorized to disclose data collected pursuant to this subparagraph to agencies of the Federal Government and other states for use exclusively in determining the lawfulness of a firearm sale or transfer. The department is also authorized to disclose this data to the Department of Agriculture and Consumer Services for purposes of determining eligibility for issuance of a concealed weapons or concealed firearms license and for determining whether a basis exists for revoking or suspending a previously issued license pursuant to s. 790.06(10). When a potential buyer or transferee appeals a nonapproval based on these records, the clerks of court and mental institutions shall, upon request by the department, provide information to help determine whether the potential buyer or transferee is the same person as the subject of the record. Photographs and any other data that could confirm or negate identity must be made available to the department for

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such purposes, notwithstanding any other provision of state law to the contrary. Any such information that is made confidential or exempt from disclosure by law shall retain such confidential or exempt status when transferred to the department.

Section 49. This act shall take effect July 1, 2016.

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