

SB 380 by **Bradley**; (Similar to H 0177) Persons with Developmental Disabilities

289934	A	S	AHS, Richter	Before L.14:	03/10 12:12 PM
173342	A	S	AHS, Sobel	Delete L.26 - 27:	03/10 12:11 PM

CS/SB 326 by **CF, Clemens**; (Similar to CS/H 0021) Substance Abuse Services

604168	D	S	AHS, Smith	Delete everything after	03/10 12:13 PM
606494	SD	S L	AHS, Smith	Delete everything after	03/10 07:05 PM

SB 7018 by **CF**; (Similar to CS/H 0293) State Ombudsman Program

172204	A	S L	AHS, Sobel	Delete L.442 - 443:	03/10 07:08 PM
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CS/CS/SB 296 by **GO, HP, Garcia (CO-INTRODUCERS) Joyner**; (Similar to H 0043) Diabetes Advisory Council

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND
HUMAN SERVICES
Senator Garcia, Chair
Senator Smith, Vice Chair

MEETING DATE: Wednesday, March 11, 2015

TIME: 9:00 a.m.—12:00 noon

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	Status Report on Children's Medical Services and the Early Steps Program State Surgeon General John H. Armstrong		
2	SB 380 Bradley (Similar H 177)	Persons with Developmental Disabilities; Requiring the Agency for Persons with Disabilities to allow an applicant whose parent or guardian is a member of the United States Armed Forces, the Florida National Guard, or the United States Reserve Forces to receive Medicaid home and community-based waiver program services under certain conditions, etc.	MS 02/17/2015 Favorable AHS 03/11/2015 AP
3	CS/SB 326 Children, Families, and Elder Affairs / Clemens (Similar CS/H 21)	Substance Abuse Services; Requiring the Department of Children and Families to create a voluntary certification program for recovery residences; directing the department to approve at least one credentialing entity by a specified date to develop and administer the certification program; requiring background screening of owners, directors, and chief financial officers of a recovery residence; requiring the department to publish the list on its website, etc.	CF 02/19/2015 Fav/CS AHS 03/11/2015 AP
4	SB 7018 Children, Families, and Elder Affairs (Similar CS/H 293, S 654, Compare H 1001, CS/S 382)	State Ombudsman Program; Revising legislative intent with respect to citizen ombudsmen; deleting references to ombudsman councils and transferring their responsibilities to representatives of the Office of State Long-Term Care Ombudsman; revising the duties and authority of the state ombudsman; requiring the state ombudsman to designate and direct program districts; providing conditions under which a representative of the office could be found to have a conflict of interest, etc.	AHS 03/11/2015 AP

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Health and Human Services
Wednesday, March 11, 2015, 9:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	CS/CS/SB 296 Governmental Oversight and Accountability / Health Policy / Garcia (Similar H 43)	Diabetes Advisory Council; Requiring the council, in conjunction with the Department of Health, the Agency for Health Care Administration, and the Department of Management Services, to develop plans to manage, treat, and prevent diabetes; requiring a report to the Governor and Legislature; specifying the contents of the report; adjusting the representation of certain areas of specialization or institutions in the membership of the council; adding an organization from which a representative may be selected to serve as a council member, etc.	HP 02/17/2015 Fav/CS GO 03/04/2015 Fav/CS AHS 03/11/2015 If received FP

Other Related Meeting Documents

Children's Medical Services



Florida Senate
Appropriations Subcommittee on Health and Human Services
March 11, 2015

Florida's Children



2

- Just over 4,000,000 children in Florida
 - Nearly all receive newborn screening from CMS
 - CMS Child Protection Teams protect all children
- 63,822 children in CMS Medicaid Plan
- 14,243 children in CMS Children's Health Insurance Program (CHIP)
- 27,265 children receive services from CMS Early Steps

Programs and Functions

3

Managed System
of Care

Prevention
Evaluation
Early Intervention

CMS Network Plan

Managed Medical
Assistance (MMA)
Specialty Plan
(Title XIX)

Managed Care Plan
for Children's Health
Insurance Program
(Title XXI)

CMS Network System Supports

Specialty
Contracts

Medical Foster
Care

Children's
Multidisciplinary
Assessment Team

CMS Statewide Programs

Title V -
CYSHCN

Newborn
Screening

Early Steps

Child
Protection

EARLY STEPS

4

(IDEA, PART C)

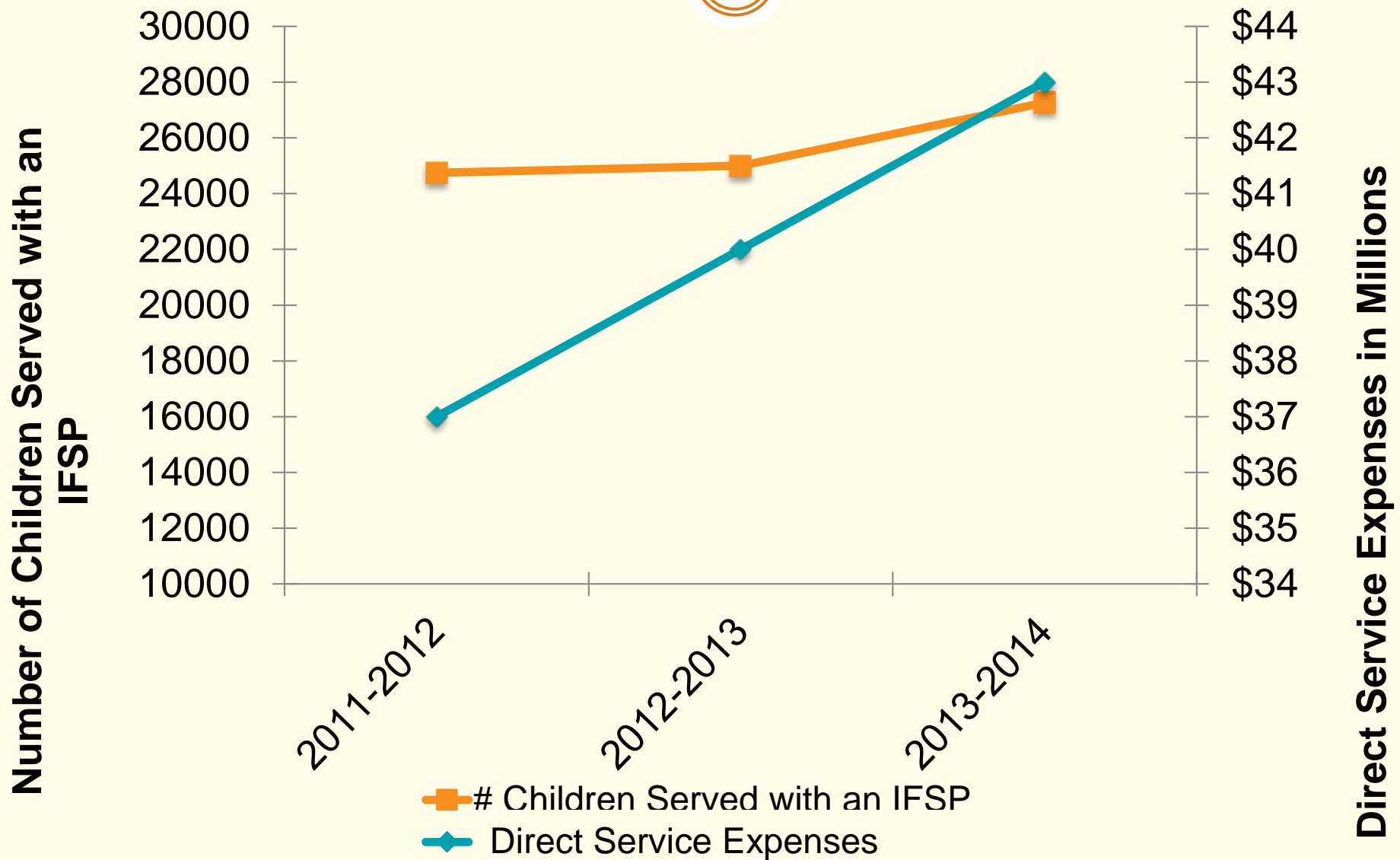
Early Steps: Eligibility

5

- Age Eligibility – Birth to age 3
- Financial Eligibility – No limits
- Clinical Eligibility – Developmental delay or a condition likely to result in developmental delay

Early Steps: Enrollment

6



Early Steps: Purpose

7

- Provide services to families to enhance their child's development
- Promote caregiver confidence and competence
- Increase opportunities for integrating children into their communities where they may learn, play and interact with children without disabilities

Chapter 391, Part III, Florida Statutes

Early Steps: Program Execution

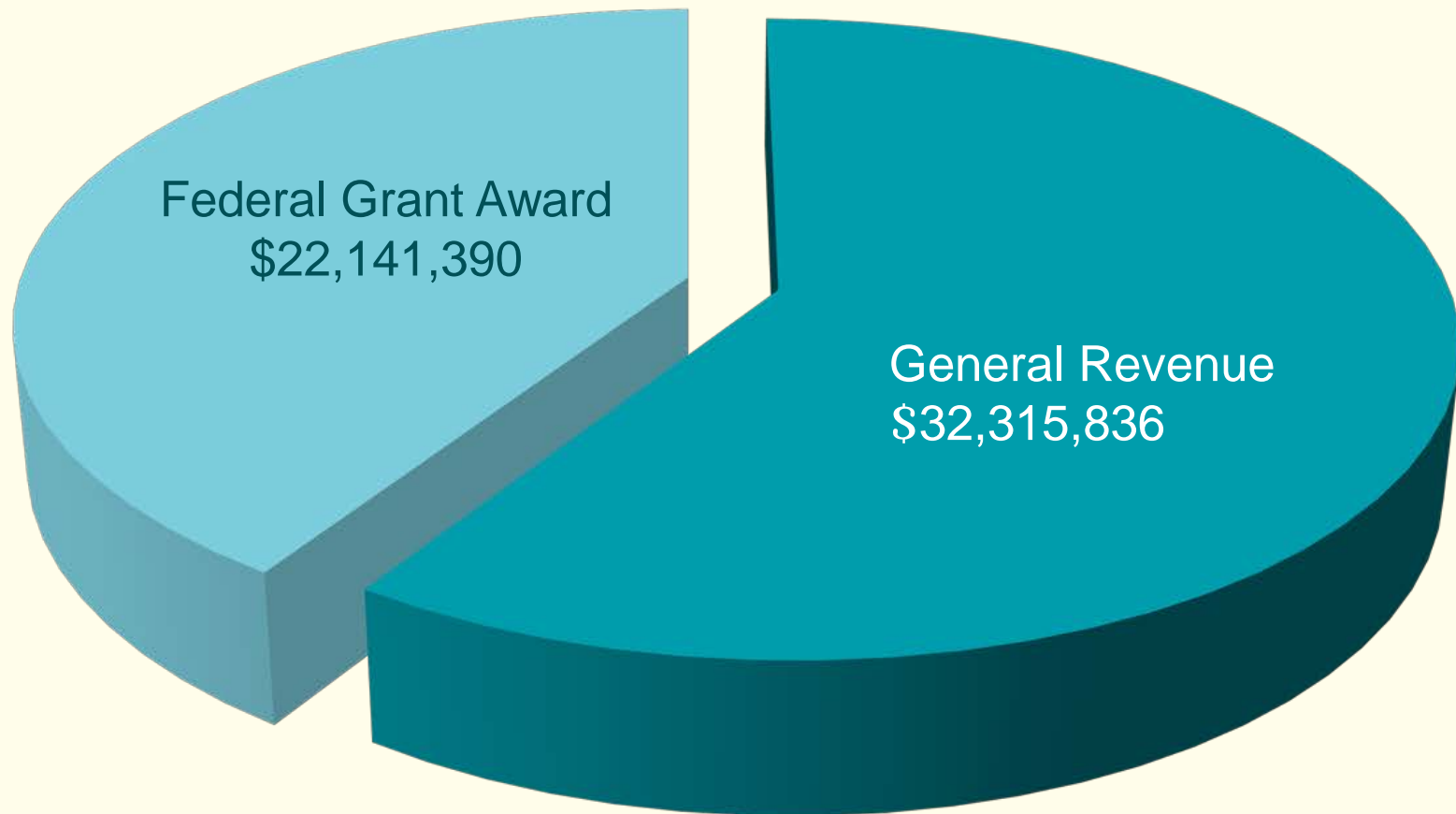
8

- CMS – Grant administration & contract management
- Local Early Steps (LES) – Eligibility, care coordination & data submission
- Third-Party Administrator (TPA) – Claims payment & data collection

Early Steps: Appropriations

9

FY 2014-2015 - Total Budget \$54,457,226



Early Steps: 14/15 Expenditures



10

• LES Contracts	\$ 35,194,388
• Personnel	\$ 1,405,966
• Medicaid State Match	\$ 4,923,916
• TPA	\$ 2,514,536
• Direct Services Payments	\$ 14,946,151
• Prior Year Payments	\$ 3,032,254
• Expenses	\$ 123,334
• Other Contracts	\$ 550,000
• Refunds	\$ <u>(1,339,685)</u>
Total	\$ 61,350,860

Early Steps: 14/15 Budget Realities



11

- \$6.9 million difference between appropriations and expenditures
- Solutions identified to ensure no disruption of services
 - Used \$1.5 million of Title V and GR funding
 - Request for use of \$5.4 million of existing trust fund dollars
 - Found administrative efficiencies

Early Steps: 15/16 Operations Plan



12

- Program Improvements
 - Administrative Efficiencies
 - Budget Controls
 - Contract Management
- Discontinue use of TPA
- 15% cap on administrative costs in LES contracts

Early Steps: Priorities

13

- Children Receive All Needed Services
- Financial Sustainability of the Program
- Continue Monitoring for Administrative Efficiencies
- Collaborate with LES Providers
 - Data Reporting System
 - Contracts for Fiscal Year 2015-2016

CMS Children's Health Insurance Program (CHIP)



14

(TITLE XXI)

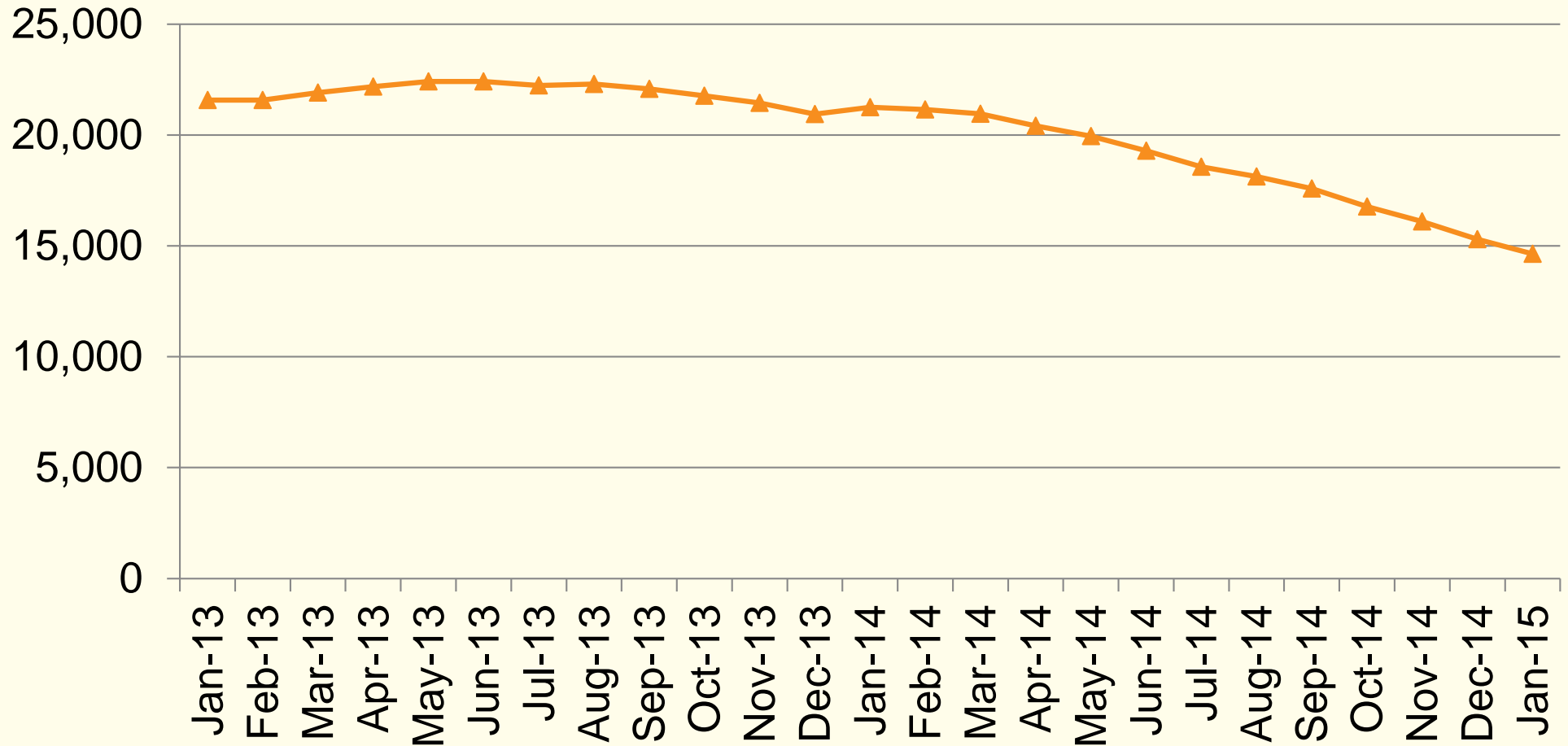
CMS CHIP: Eligibility

15

- Age Eligibility – 1 through 18
- Financial Eligibility –133 to 200% of FPL; monthly family premium
- Clinical Eligibility
 - Have chronic *and serious* physical, developmental, behavioral, or emotional conditions
 - Require health care and related services of a type or amount beyond that which is generally required by children

CMS CHIP: Enrollment

16



CMS CHIP: Purpose



17

- To provide health care coverage to uninsured children with special health care needs in Florida
 - Improve health outcomes
 - High quality services
 - Affordable benefits
 - Lower health care costs
 - Healthy future workforce
 - Less stress for families

Chapter 391, Part I, Florida Statutes

CMS CHIP: Execution

18

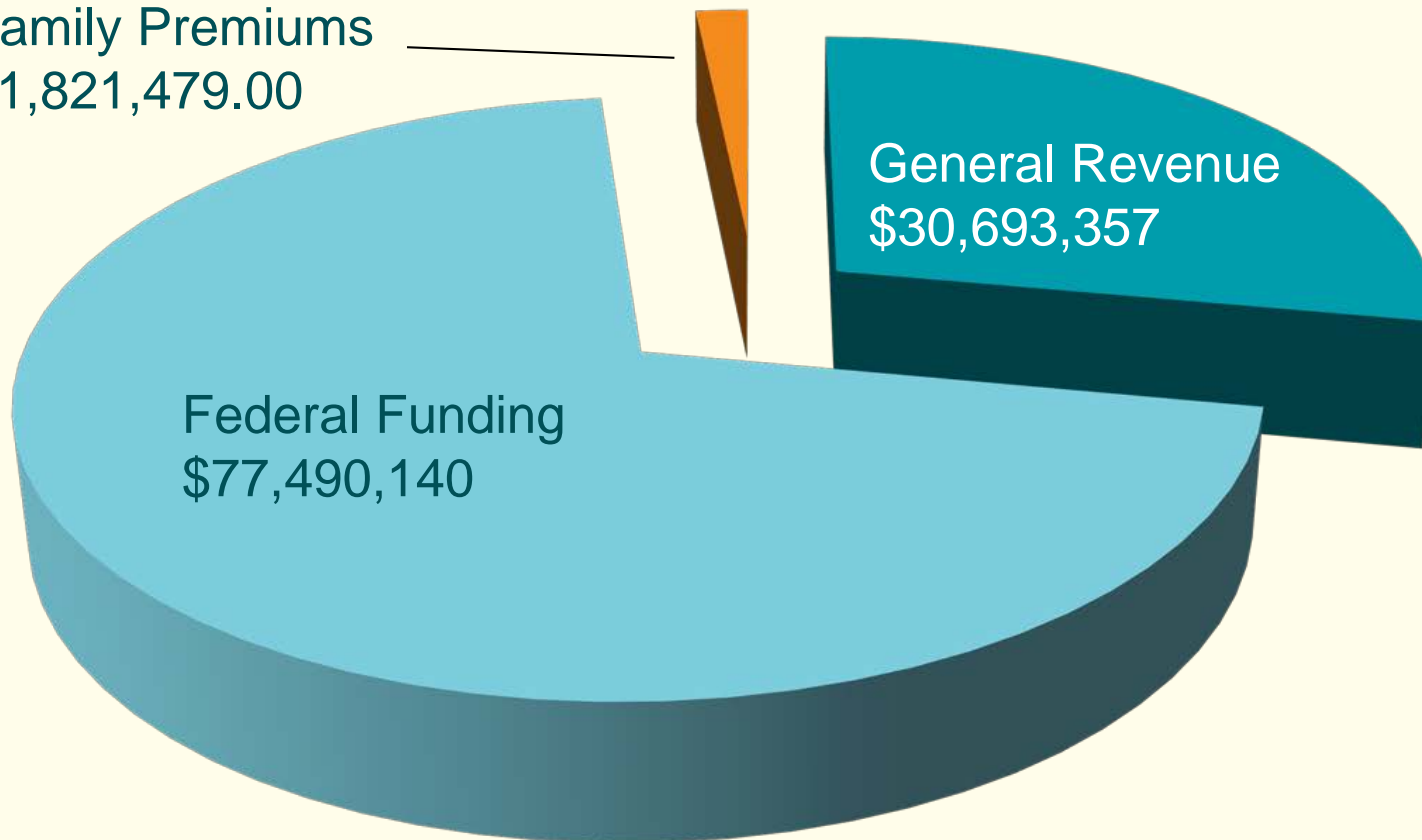
- Florida Healthy Kids Corp. – Financial eligibility
- CMS – Clinical eligibility & Care Coordination
- Integrated Care Systems (ICS) – Network and Administration
- TPA – Claims Payment and Data Collection
- Pharmacy Benefits Manager (PBM) – Pharmacy Management

CMS CHIP: Appropriation

19

FY 2014-2015 - Total Budget \$110,004,976

Family Premiums
\$1,821,479.00



CMS CHIP: Expenditures

20

• Direct Services	\$ 101,241,633
○ \$494.39 PMPM	
• CMS Personnel	\$ 8,763,343
• Contracts	
○ Collier Health Care	\$ 484,062
○ TPA	\$ 2,727,875
○ ICS	<u>\$ 10,376,042</u>
Total	\$ 123,592,955

CMS CHIP: 14/15 Budget Realities



21

- Flawed assumption regarding shared savings in Medicaid Reform counties
- Administrative costs have caused difference between appropriations and expenditures
- Identified solutions
 - Request to maximize administrative claiming
 - Request for sufficient appropriation to satisfy state match estimated at \$1.2 million
 - Creating administrative efficiencies

CMS CHIP: 15/16 Operations Plan



22

- Eligible Population
- Request to convert administrative and TPA costs to per member per month (PMPM) after independent analysis
- Program Improvements
 - Administrative Efficiencies
 - Budget Controls
 - Contract Management



CMS Managed Medical Assistance (MMA) Specialty Plan

23

(TITLE XIX)

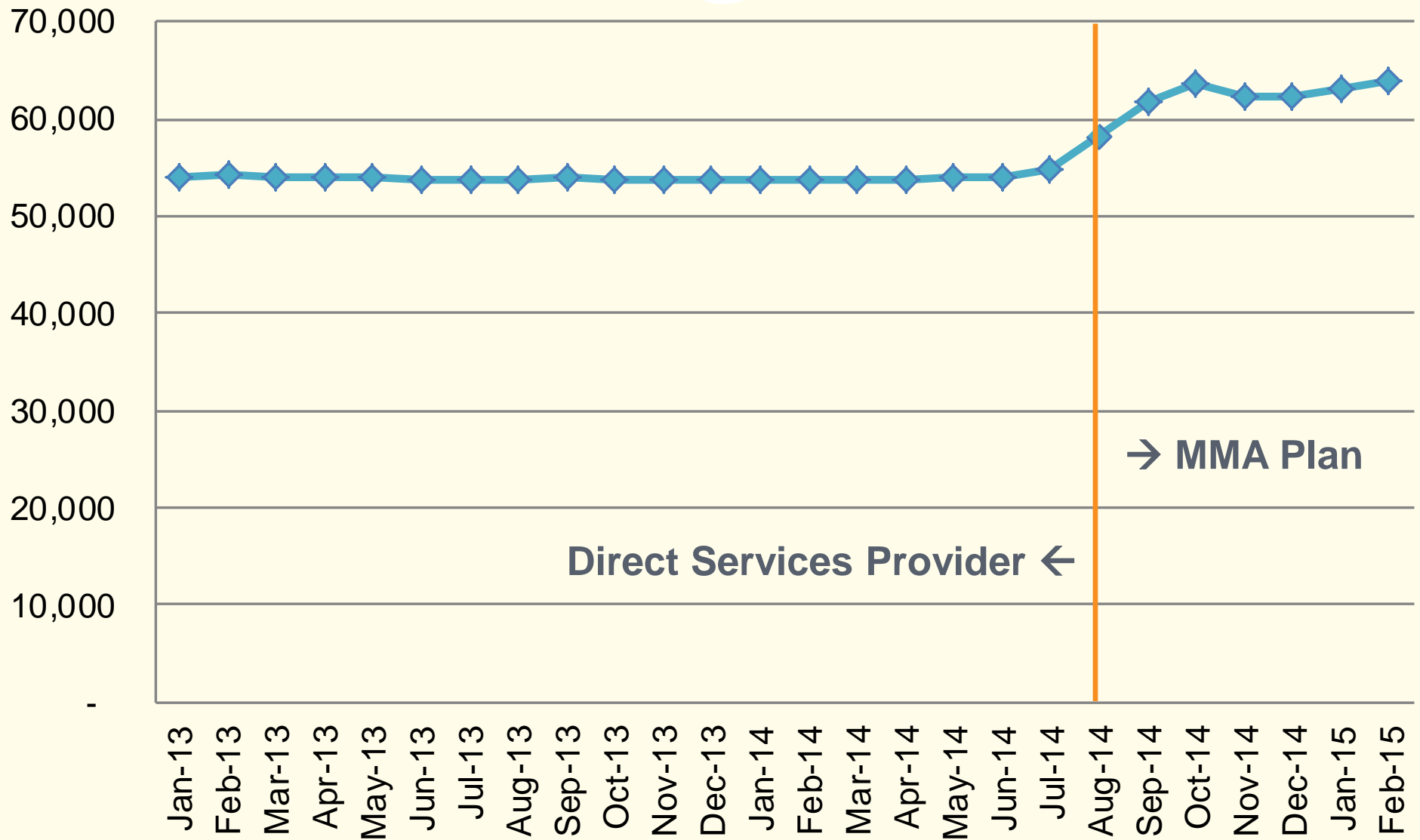
CMS MMA Plan: Eligibility

24

- Age Eligibility – Birth through 20
- Financial Eligibility – under age 1, 200% FPL; 1 through 18, 133% FPL; 19 through 20, 19% FPL
- Clinical Eligibility
 - Have chronic *and serious* physical, developmental, behavioral, or emotional conditions
 - Require health care and related services of a type or amount beyond that which is generally required by children

CMS Medicaid: Enrollment

25



CMS MMA Plan: Purpose



26

- To provide health care coverage to low-income uninsured children with special health care needs in Florida
 - Improve health outcomes
 - High quality services
 - Lower health care costs
 - Healthy future workforce
 - Less stress for families

Section 409.974, Florida Statutes

CMS MMA Plan: Children Served



27

- 16.1%- Tier 0 (unscored or under age 1)
- 55.8%- Tier 1 (risk score >0 and <1.5)
- 22.2%- Tier 2 (risk score ≥ 1.5 and <4)
- 5.9%- Tier 3 (risk score ≥ 4)

*Tiers are based on the AHCA MMA Chronic Illness and Disability Payment System + Medicaid Rx (CDPS+Rx) risk adjustment model

*Percentages are based on a sample (n=41,589) of September 2014 CMS MMA Plan enrollment

CMS MMA Plan: Screening Tool

28

- Department is in the process of revising the clinical eligibility screening tool.
 - December 2014: Risk scores discussed and revised screening tool presented to CMS Medical Directors at statewide meeting
 - March 2015: Screening tool pilot ends
 - July 2015: Anticipated deployment
- Department will coordinate with AHCA to ensure appropriate transitions for all affected children.

CMS MMA Plan: Execution

29

- Plan Model
 - No risk
 - Settle back provision
- CMS Area Offices
 - Clinical Eligibility
 - Care Coordination

CMS MMA Plan: Execution

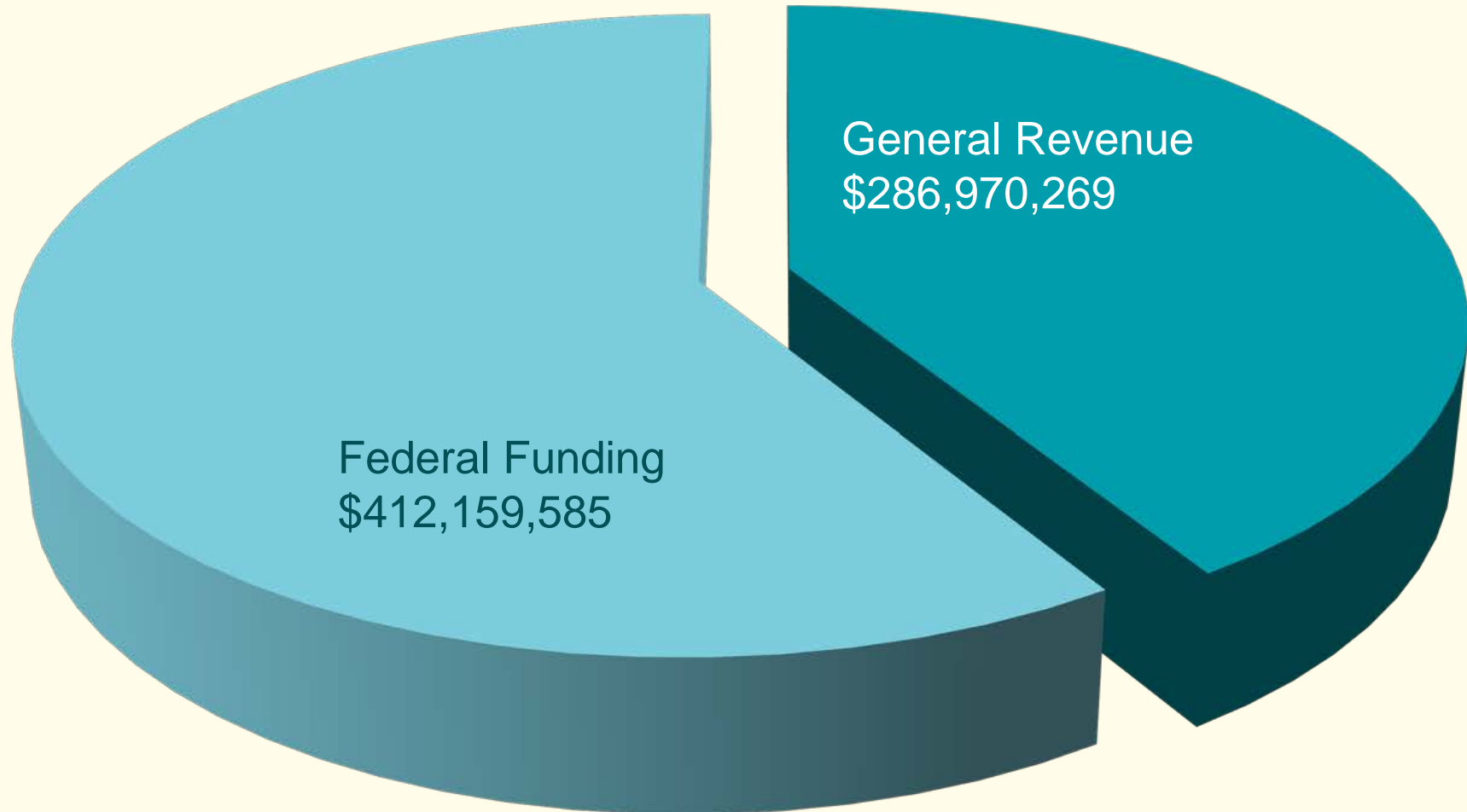
30

- ICS Contracts
 - Provider Network
 - Service Authorization & Administration
- TPA Contract
 - Eligibility & Enrollment System
 - Care Coordination & EHR System
 - Claims Payment & Reporting
- PBM Agreement with AHCA
 - Pharmacy Management

CMS MMA Plan: Appropriation

31

FY 2014-2015 - Estimated Budget \$699,129,854



CMS MMA Plan: Expenditures



32

• Direct Services	\$633,180,656
○ \$906.67 PMPM	
• CMS Personnel	\$ 30,927,828
• Contracts	\$ 35,052,370
○ ICS \$34 PMPM	
○ TPA \$11.75 PMPM	
Total	<hr/> \$699,129,854

CMS MMA Plan: Opportunities

33

- Administrative efficiencies
- Independent analysis of administrative PMPM
- Independent analysis of TPA PMPM
- Actuarial analysis
- Eligible population
- Plan model
- Review of legacy practices



Children's Medical Services Network Plan

Celeste Philip, MD
President &
Chief Medical Officer

Cassandra Pasley, BSN, JD
Chief Executive Officer

Kelli Stannard
CMSN Operations

Gail Vail
CMSN KidCare

Melissa Vergeson
Chief Operating Officer

CENTRAL OFFICE

- Accreditation as a health plan
- Compliance with federal and state requirements
- Contract management and monitoring
- Data analysis and reporting
- Enrollment files
- Financial management and reporting
- Fraud and abuse reporting
- Funding of claims payment
- Governance
- Information management
- Policies and procedures
- Provider credentialing
- Risk management
- Technical assistance and training

CMS AREA OFFICES

- Clinical eligibility
- Care coordination
- Specialty clinics

INTEGRATED CARE SYSTEMS (PED-I-CARE & SFCCN)

- Complaints, grievances and appeals
- Member services and helpline
- 24/7 toll free nurse line
- Provider network recruitment, contracting and maintenance
- Quality improvement program
- Service authorization review and notifications
- Utilization management

THIRD PARTY ADMINISTRATOR (MED3000)

- Claims payment
- Claims resolution
- Per member per month payments
- CMS KIDS modules management, training and technical assistance

PHARMACY BENEFITS MANAGER (MAGELLAN & MEDIMPACT)

- Pharmacy authorizations
- Pharmacy claims

Summary

35

- The Department is committed to all children in Florida.
- The Department recognizes its important role in delivering specialized services to Florida's medically vulnerable children through CMS.
- The Department is establishing a sound business framework to address existing shortfalls and ensure the success of CMS present into future.



The Florida Senate

Committee Agenda Request

To: Senator Rene Garcia, Chair
Appropriations Subcommittee on Health and Human Services

Subject: Committee Agenda Request

Date: February 17, 2015

I respectfully request that **Senate Bill # 380**, relating to Persons with Developmental Disabilities, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Rob Bradley".

Senator Rob Bradley
Florida Senate, District 7

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 380

INTRODUCER: Senator Bradley

SUBJECT: Persons with Developmental Disabilities

DATE: March 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sanders</u>	<u>Ryon</u>	<u>MS</u>	<u>Favorable</u>
2.	<u>Brown</u>	<u>Pigott</u>	<u>AHS</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 380 requires the Agency for Persons with Disabilities (APD) to allow the dependent of an active duty military member to receive Medicaid home and community-based services upon the military member's transfer to Florida if the dependent has a developmental disability, was receiving such services in another state prior to the transfer, and meets Florida's eligibility requirements. The bill also requires the APD to allow a dependent of a Florida National Guard member or U.S. military reservist who is based in Florida to receive home and community-based services upon meeting Florida's eligibility requirements.

The bill has an estimated recurring cost of approximately \$3 million from the General Revenue Fund. See Section V.C.

The bill has an effective date of July 1, 2015.

II. Present Situation:

Home and Community-Based Waiver Services

The Agency for Persons with Disabilities (APD) is responsible for providing all services for persons with developmental disabilities that are authorized under ch. 393, F.S., including the operation of all state-related institutional programs and the programmatic management of Medicaid waivers established to provide services to persons with developmental disabilities.¹ A person determined eligible by the APD to receive APD services is known as a "client,"² and the term includes persons receiving APD services and those on a waiting list to receive APD services.

¹ See s. 20.197(3), F.S.

² See s. 393.063(5), F.S.

Florida's Medicaid program is administered by the Agency for Health Care Administration (AHCA). The AHCA has been granted waiver authority from the federal Medicaid program for the state to implement a four-tiered system to serve eligible APD clients through a home and community-based services waiver (HCBS waiver). For the purpose of this waiver program, eligible clients include individuals with a diagnosis of Down syndrome or a developmental disability. A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.³ The APD is required to assign all clients receiving services through this waiver to a tier, based on financial eligibility guidelines and APD assessments.⁴

Under the HCBS waiver, the APD operates four tier-based programs that provide home and community-based supports and services to clients living at home or in a home-like setting. HCBS waiver services are funded by state revenue and federal Medicaid matching dollars. APD operates the HCBS waiver under the authorization of the AHCA's Division of Medicaid.

The purpose of the HCBS waiver is to promote, maintain, and restore the health of APD clients; to minimize the effects of illness and disabilities through the provision of needed supports and services in order to delay or prevent institutionalization; and to foster the principles of self-determination as a foundation for services and supports. The intent of the waiver is to provide a viable choice of services that allow clients to live as independently as possible in their own home or in the community and to achieve productive lives as close to normal as possible, as opposed to residing in an institutional setting.⁵

An individual is eligible for services under the HCBS waiver program if their domicile is in Florida, they have Down syndrome or a developmental disability, and are three years of age or older. Children who are at high risk of having a developmental disability and are between the ages of 3 and 5 are also eligible for services. As of February 12, 2015, there are 30,983 individuals currently receiving benefits from the HCBS waiver and an additional 20,824 disabled persons on the waiting list for services in Florida.⁶ The Legislature appropriated \$941,032,259 for Fiscal Year 2014-2015 to provide services through the HCBS waiver program.⁷ Florida's appropriated federal match for the waiver in Fiscal Year 2014-2015 is \$560,478,813.⁸

An application must be submitted in writing to the APD either by mail or by hand to be considered for a Medicaid waiver. The APD is required to return a decision on eligibility within 45 days for children under 6 and within 60 days for all other applicants.⁹ Applications for those in crisis will be considered for eligibility within 45 days.¹⁰ All applicants must undergo a

³ See s. 393.063(9), F.S.

⁴ See s. 393.0661(2), F.S.

⁵ Agency for Health Care Administration, *Developmental Disabilities Waiver Services Coverage and Limitations Handbook*, November 2010, sec. 1, p. 8, available at <
http://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/DD_Waiver_Handbook_Final_Rule_Nov_2010.pdf>, last visited March 20, 2014.

⁶ Agency for Persons with Disabilities, Allocation Budget Control (ABC) System (data retrieved on February 12, 2015).

⁷ Chapter 2014-51, Laws of Fla. (line 268)

⁸ *Id.*

⁹ See s. 393.065, F.S.

¹⁰ *Id.*

comprehensive assessment to determine eligibility. If an applicant is determined to be ineligible for services, the applicant may appeal the decision to the APD.¹¹

Clients who are determined to be eligible for the waiver program are either awarded a slot in the program or placed on a waiting list. As part of the wait list prioritization process, clients are assigned to a category as prescribed by s. 393.065(5), F.S., and further refined in Section 9 of ch. 2014-53, Laws of Florida. There are seven categories listed below in decreasing order of priority.

- Category 1 – Clients deemed to be in crisis.
- Category 2 – Children from the child welfare system at the time of:
 - Finalization of an adoption with placement in a family home;
 - Reunification with family members with placement in a family home; or
 - Permanent placement with a relative in a family home.
- Category 3 – Includes, but is not limited to, clients:
 - Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;
 - Who are at substantial risk of incarceration or court commitment without supports;
 - Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or
 - Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available.
- Category 4 – Includes, but is not limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available;
- Category 5 – Includes, but is not limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain or maintain competitive employment or to pursue an accredited program of postsecondary education to which they have been accepted.
- Category 6 – Clients 21 years of age or older who do not meet the criteria for categories 1-5.
- Category 7 – Clients younger than 21 years of age who do not meet the criteria for categories 1-4.

A wait list is utilized by the APD for those who qualify under categories 3-7. Clients may be removed from the waitlist or denied a waiver slot should the parent or guardian fail to maintain accurate contact information, fail to meet eligibility requirements, or become domiciled outside the state. There is currently no special consideration in the Florida Statutes for military families relocating to Florida.

During the 2014 Regular Session, the Legislature passed HB 5003 to require the APD to allow an individual meeting eligibility requirements to receive home and community-based services in this state if the individual's parent or legal guardian is an active-duty military service member and, at the time of the service member's transfer to Florida, the individual was receiving home and community-based services in another state. This statutory change is in place for one year and expires July 1, 2015. As of February 12, 2015, the APD has processed six requests for

¹¹ *Id.*

enrollment from military families under this temporary statutory provision. Out of the six requests for enrollment, four military families have enrolled and two families are in the process of enrollment.¹² Military families are encouraged to apply for the waiver program prior to relocating to Florida, but applicants cannot be eligible to receive services until they are Florida residents.¹³

Military Family Relocations

According to the Military One Source 2013 Demographic Report, Florida has the seventh largest population of active duty service men and women at 60,234 and the third largest population of reserve forces at 36,745, which includes the 12,000 members of the Florida National Guard^{14, 15} Florida is home to 20 major military bases and three of the nation's seven unified combatant commands.¹⁶ For military families transferring to Florida, the state offers temporary professional licensure for military spouses, participates in the Interstate Compact on Educational Opportunity for Military Children, and recognizes a military driving permit or valid driver's license issued by another state in lieu of requiring a new Florida license.

Active-duty military service members with developmentally disabled children or dependents who receive military orders to move are called upon to physically relocate and reestablish care for their disabled family member. When such military members are reassigned to an installation across state lines, they generally have to start the entire Medicaid waiver process again and reestablish eligibility based on the new state's criteria.¹⁷

III. Effect of Proposed Changes:

The bill amends s. 393.065, F.S., to require the Agency for Persons with Disabilities to allow an applicant who meets eligibility requirements to receive home and community-based services in this state if:

- The applicant's parent or legal guardian is a military service member on active duty and, at the time of the service member's transfer to this state, the applicant was receiving home and community-based care services in another state; or
- The applicant's parent or legal guardian is a member of the Florida National Guard or a member of the United States Reserve Forces and is based in this state.

This bill provides an effective date of July 1, 2015.

¹² E-mail correspondence with APD staff. February 12, 2015. (On file with Military and Veterans Affairs, Space, and Domestic Security staff.)

¹³ E-mail correspondence with APD staff. February 11, 2015. (On file with Military and Veterans Affairs, Space, and Domestic Security staff.)

¹⁴ Military One Source, *2013 Demographic Report*, <http://www.militaryonesource.mil/12038/MOS/Reports/2013-Demographics-Report.pdf> (last visited February 13, 2015).

¹⁵ Department of Military Affairs, <http://dma.myflorida.com/about-us/> (last visited February 13, 2015).

¹⁶ Florida Defense Alliance, <http://www.enterpriseflorida.com/floridadefense/> (last visited February 13, 2015).

¹⁷ USA4Military Families, *Issue 6: Allow service members to retain their earned priority for receiving Medicaid home and community care waivers*, http://www.usa4militaryfamilies.dod.mil/MOS/f?p=USA4:ISSUE:0:::P2_ISSUE,P2_STATE:6,FL# (last visited February 13, 2015).

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:

None.

C. Government Sector Impact:

The Agency for Persons with Disabilities (APD) estimates that 534 military dependents will qualify for home and community-based waiver services under SB 380. If all 534 receive services, APD estimates a recurring need for \$2,958,205 in state general revenue plus \$4,351,420 in federal Medicaid funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Current law under s. 393.065(5), F.S., requires the APD to assign priority to applicants for enrollment into waiver services based on specified criteria. However, the bill creates a new subsection (7) within s. 393.065, F.S., that stands alone, separate from the priority criteria found in subsection (5). The new subsection (7) requires the APD to allow an applicant meeting eligibility requirements to receive home and community-based services in this state if the applicant's parent or legal guardian is a member of the Florida National Guard or a member of the United States Reserve Forces and is based in this state, without regard to the APD's prioritization requirements set forth under subsection (5).

Because of the stand-alone nature of the new requirement in subsection (7), the bill seems to require the APD to bypass the prioritization categories under subsection (5) and give preference to those who qualify for services under subsection (7). For example, the bill appears to require

that an applicant who would otherwise be classified in priority category 6 or 7 to be enrolled into waiver services if his or her parent or guardian is a member of the National Guard, ahead of applicants from non-National Guard families in higher priority categories 1 through 5.^{18, 19}

VIII. Statutes Affected:

This bill amends section 393.065 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.

¹⁸ Agency for Persons with Disabilities, *2015 Agency Legislative Bill Analysis, SB 380*, February 16, 2015, p. 4-5, on file with the Senate Appropriations Subcommittee on Health and Human Services.

¹⁹ Telephone discussion between staff of the Agency with Persons with Disabilities and staff of the Senate Appropriations Subcommittee on Health and Human Services, February 25, 2015.



289934

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Before line 14

insert:

Section 1. Subsection (9) of section 393.063, Florida
Statutes, is amended to read:

393.063 Definitions.—For the purposes of this chapter, the
term:

(9) "Developmental disability" means a disorder or syndrome
that is attributable to intellectual disability, cerebral palsy,



289934

11 autism, Down syndrome, spina bifida, or Prader-Willi syndrome;
12 that manifests before the age of 18; and that constitutes a
13 substantial handicap that can reasonably be expected to continue
14 indefinitely.

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

16 And the title is amended as follows:

17 Delete line 3

18 and insert:

19 disabilities; amending s. 393.063, F.S.; revising the
20 definition of the term "developmental disability" to
21 include Down syndrome; amending s. 393.065, F.S.;
22 requiring the



173342

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 26 - 27

and insert:

the Florida National Guard and resides in this state.

The agency shall not prioritize an applicant who is eligible for
waiver services under this subsection with a higher priority
than a client waiting for waiver services who is prioritized in
category 1 or category 2 under subsection (5).



173342

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

12 And the title is amended as follows:

13 Delete lines 6 - 9

14 and insert:

15 United States Armed Forces or the Florida National
16 Guard to receive Medicaid home and community-based
17 waiver program services under certain conditions;
18 prohibiting the agency from prioritizing an applicant
19 who is eligible for waiver services with a higher
20 priority than certain other clients under certain
21 circumstances; providing an

By Senator Bradley

7-00526-15

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A bill to be entitled

An act relating to persons with developmental disabilities; amending s. 393.065, F.S.; requiring the Agency for Persons with Disabilities to allow an applicant whose parent or guardian is a member of the United States Armed Forces, the Florida National Guard, or the United States Reserve Forces to receive Medicaid home and community-based waiver program services under certain conditions; providing an effective date.

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

Section 1. Present subsection (7) of section 393.065, Florida Statutes, is redesignated as subsection (8), and a new subsection (7) is added to that section, to read:

393.065 Application and eligibility determination.—

(7) The agency shall allow an applicant who meets the eligibility requirements of subsection (1) to receive home and community-based services in this state if:

(a) The applicant's parent or legal guardian is a military servicemember on active duty and, at the time of the servicemember's transfer to this state, the applicant was receiving home and community-based services in another state; or

(b) The applicant's parent or legal guardian is a member of the Florida National Guard or a member of the United States Reserve Forces and is based in this state.

Section 2. This act shall take effect July 1, 2015.

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 326

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Clemens

SUBJECT: Substance Abuse Services

DATE: March 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	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 326 establishes processes for the voluntary certification of recovery residences and recovery residence administrators. The Department of Children and Families (DCF) is required to approve at least one credentialing entity by December 1, 2015, for the development and administration of the certification programs. The credentialing entity or entities must establish procedures for the certification of recovery residences.

The DCF is required to publish a list of all recovery residences and recovery residence administrators on its website but the bill allows for a recovery residence or recovery residence administrator to be excluded from the list under certain circumstances.

The bill has an indeterminate fiscal impact on the DCF.

The bill has an effective date of July 1, 2015.

II. Present Situation:

Recovery residences (also known as “sober homes”) function under the premise that individuals benefit in their recovery by residing in a recovery residence. There is no universally accepted definition of a recovery residences; however unlike most halfway houses, which receive government funding and limit the length of stays, recovery residences are designed to be financially self-sustaining through rent and fees paid by residents, and there is no limit on the

length of stay for those who abide by the rules.¹ Recovery residences are abstinence-based environments where consumption of alcohol or other drugs results in evictions.² A 2009 Connecticut study notes the following: “Sober houses do not provide treatment, [they are] just a place where people in similar circumstances can support one another in sobriety. Because they do not provide treatment, they typically are not subject to state regulation.”³

Some recovery residences voluntarily join coalitions or associations⁴ that monitor health, safety, quality, and adherence to the membership requirements for the specific coalition or association.⁵ The exact number of recovery residences in Florida is currently unknown.⁶ The facilities, operators, and organizational design of recovery residences vary greatly. The location of the home can be crucial to recovery, and the placement of the home in a single-family neighborhood might help residents avoid temptations that other environments can create.⁷ Organizationally, these homes can range from a private landlord renting his or her home to recovering addicts to corporations that operate full-time treatment centers across the country and employ professional staff.⁸

In 2013, the DCF conducted a study of recovery residences in Florida.⁹ The DCF sought public comment relating to community concerns for recovery residences. Three widely-held concerns for the recovery residences were the safety of the residents, safety of the neighborhoods, and lack of governmental oversight.¹⁰

Concerns raised by participants at public meetings included:

- Residents being evicted with little or no notice;
- Unscrupulous landlords, including an alleged sexual offender who was running a women’s program;
- A recovery residence owned by a bar owner and attached to the bar;
- Residents dying in recovery residences;
- Lack of regulation and harm to neighborhoods;

¹ *Recovery Residence Report*; Department of Children and Families, Office of Substance Abuse and Mental Health, October 1, 2013, (on file with the Senate Committee on Children, Families and Elder Affairs).

² *Id.*

³ *Id.*

⁴ *A Clean and Sober Place to Live: Philosophy, Structure, and Purported Therapeutic Factors in Sober Living Houses*, J Psychoactive Drugs, June 2008; 40(2): 153-159, Douglas L. Polcin, Ed.D., MFT and Diane Henderson, B.A. .available at <http://www.biomedsearch.com/article/Clean-sober-place-to-live/195982213.html>

⁵ *Id.*

⁶ *DCF Report* at page 6.

⁷ M.M. Gorman *et al.*, *Fair Housing for Sober Living: How the Fair Housing Act Addresses Recovery Homes for Drug and Alcohol Addiction*, THE URBAN LAWYER v. 42, No. 3 (Summer 2010) (on file with the Senate Committee on Children, Families and Elder Affairs).

⁸ M.M. Gorman *et al.*, *supra* note 2.

⁹ Ch. 2013-040, L.O.F. The 2013-2014 General Appropriations Act directed DCF to determine whether to establish a licensure/registration process for recovery residences and to provide the Governor and Legislature with a report on its findings. In its report, DCF was required to identify the number of recovery residences operating in Florida, identify benefits and concerns in connection with the operation of recovery residences, and the impact of recovery residences on effective treatment of alcoholism and on recovery residence residents and surrounding neighborhoods. DCF was also required to include the feasibility, cost, and consequences of licensing, regulating, registering, or certifying recovery residences and their operators. DCF submitted its report to the Governor and Legislature on October 1, 2013.

¹⁰ *Recovery Residence Report*, *supra* footnote 4.

- Land use problems and nuisance issues caused by visitors at recovery residences, including issues with trash, noise, fights, petty crimes, substandard maintenance, and parking;
- Mismanagement of resident funds or medication;
- Lack of security at recovery residences and abuse of residents;
- The need for background checks of recovery residence staff;
- The number of residents living in some recovery residences and the living conditions of these recovery residences;
- Houses being advertised as treatment facilities and marketed as the entry point for treatment rather than as a supportive service for individuals who are in existing treatment;
- False advertising;
- Medical tourism;
- The sufficiency or lack of state agency resources to enforce regulations and adequately regulate the homes;
- Allegations that medical providers are ordering medical tests and billing insurance companies unlawfully;
- Lack of uniformity in standards; and
- Alleged patient brokering in violation of Florida Statutes.¹¹

Currently, recovery residences, or their functional equivalents, are not subject to DCF oversight. Furthermore, there is no statewide certification process for recovery residence administrators. The DCF does not currently identify, endorse, or certify any entities as being responsible for the certification of recovery residence professionals.

Persons that are licensed or employed in professions that serve vulnerable populations are required to be of good moral character and most are required to comply with background screening requirements under ch. 435, F.S. Currently, the level 2 background screening requirements under s 435.04, F.S. do not apply to staff employed by a licensed substance abuse treatment provider who have direct contact with adults who are not developmentally disabled.¹² This specific adult population is not considered a vulnerable population under ch. 435, F.S.,¹³ and, therefore, the licensed service provider personnel who have direct contact with this specific adult population only are not subject to level 2 background screening requirements.

The DCF is aware of at least one private entity in Florida – the Florida Association of Recovery Residences (FARR) – that currently certifies recovery residences in accordance with national standards of the certification program developed by the National Alliance of Recovery Residences (NARR). Certification is voluntary, and the national standards are only for the certification of recovery residences. Recovery residence administrators are not currently certified under the existing certification program.

¹¹ *Id.*

¹² Section 397.451, F.S.

¹³ Section 435.02(6), F.S.

Federal Fair Housing Act

The Federal Fair Housing Act of 1988 (FFHA)¹⁴ prohibits discrimination on the basis of a handicap in all types of housing transactions. The FFHA defines a “handicap” to mean mental or physical impairments that substantially limit one or more major life activities. The term “mental or physical impairment” may include conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. The term “major life activity” may include seeing, hearing, walking, breathing, performing manual tasks, caring for oneself, learning, speaking, or working. The FFHA also protects persons who have a record of such impairment or are regarded as having such impairment. Persons who are currently using controlled substances illegally, person convicted of illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders are not considered disabled by virtue of that status under the FFHA.¹⁵

The Florida Fair Housing Act provides that it is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of a person residing in or intending to reside in that dwelling after it is sold, rented, or made available.¹⁶ Discrimination includes a refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.¹⁷

Americans with Disabilities Act

In July 1999, the U.S. Supreme Court held that the unnecessary institutionalization of persons with disabilities is a form of discrimination prohibited by the Americans with Disabilities Act (ADA).¹⁸ In its opinion, the Court challenged federal, state, and local governments to develop more opportunities for individuals with disabilities through accessible systems of cost-effective, community-based services. This decision interpreted Title II of the ADA and its implementing regulation, which requires states to administer their services, programs, and activities “in the most integrated setting appropriate to meet the needs of qualified individuals with disabilities.”

The ADA and the *Olmstead* decision apply to all qualified individuals with disabilities regardless of age. A former drug addict may be protected under the ADA because the addiction may be considered a substantially limiting impairment.¹⁹ In addition, in the *United States of America v. City of Boca Raton*, the court held that the city’s ordinance excluding substance abuse treatment facilities from residential areas violates the FFHA because it unjustifiably prohibits these individuals from enjoying the same rights and access to housing as anyone else.²⁰

¹⁴ 42 U.S.C. 3601 *et seq.*

¹⁵ See U.S. Department of Justice, *The Fair Housing Act*, available at http://www.justice.gov/crt/about/hce/housing_coverage.php (last visited Feb. 13, 2015).

¹⁶ See s. 760.23(7)(b), F.S.

¹⁷ See s. 760.23(9)(b), F.S.

¹⁸ *Olmstead v. L.C.*, 527 U.S. 581, (1999).

¹⁹ U.S. Commission on Civil Rights, *Sharing the Dream: Is the ADA Accommodating All?* available at http://www.usccr.gov/pubs/ada/ch4.htm#_ftn12 (last visited Feb. 6, 2014).

²⁰ *United States of America vs. City of Boca Raton* 1008 WL 686689 (S.D.Fla.2008).

III. Effect of Proposed Changes:

Section 1 amends s. 397.311, F.S., to add definitions for six new terms to implement the voluntary program for certification of recovery residences:

- Certificate of compliance;
- Certified recovery residence;
- Certified recovery residence administrator;
- Credentialing entity;
- Recovery residence; and
- Recovery residence administrator.

The bill defines the term “certified recovery residence” to mean “a recovery residence that holds a valid certificate of compliance or that is actively managed by a certified recovery residence administrator.” As written, this could allow a recovery residence to be certified by virtue of the professional certification of its administrator. The bill does not define “actively managed” and it is unclear whether multiple recovery residences that were managed by the same administrator could be certified by virtue of their administrator’s certification.

The bill also defines the term “recovery residence” to mean “a residential dwelling unit, or other form of group housing, that is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.” This definition could include other types of housing, such as supportive housing for homeless persons, domestic violence shelters, or halfway houses operated by or under contract with the Florida Department of Corrections and the Florida Department of Juvenile Justice. It is unclear whether “other form of group housing” refers to the physical grouping of housing units, such as a group of apartments or townhomes, or the group living arrangements for a specific group or population, such as group homes, foster homes, or community residential homes.

Section 2 creates s. 397.487, F.S., requiring the DCF, by December 15, 2015, to approve one or more credentialing entities that will function to develop and administer a voluntary certification program for recovery residences. The bill prescribes a series of standards that would be codified for a credentialing entity and the requirements and criteria that recovery residences must meet in order to be certified. However, the bill does not specify the criteria or approval process that the DCF must use to evaluate and approve a credentialing entity. The bill does not appear to give the DCF discretion or the ability to “deny” approval of a credentialing entity. In addition, the bill does not provide the DCF with specific rule-making authority necessary to establish the requirements and process for evaluating and approving credentialing entities.

In the bill, the credentialing entities are required to establish processes for several functions, such as training and development of a code of ethics. It is unclear if this is directed toward staff and volunteers, or for individuals living in a recovery residence. A policy and procedures manual would also be required to include a “good neighbor” policy to address neighborhood concerns and complaints.

As previously noted, the term “credentialing entity” is defined as a “nonprofit organization that develops and administers professional certification programs according to nationally recognized

certification and psychometric standards” but the bill does not require the certification to be based on nationally-recognized standards or psychometric standards. The certification of recovery residences would not be considered a type of professional certification but rather a type of facility or organization certification.

The credentialing entity must also establish application, inspection, and annual certification renewal fees. Application and annual certification renewal fees may not exceed \$100; however, the inspection fee must reflect actual costs for inspectors. An inspection must be performed before a recovery residence can be approved for certification. The credentialing entity must inspect certified recovery residences at least once a year. The bill does not specify the tasks or expenses that could be included in the cost of inspection, nor does the bill establish a maximum dollar amount for the fee that a recovery residence must pay for an inspection. The establishment of fees for application, inspection, and certification appears to be the only compensation that a credentialing entity would receive in exchange for administering recovery residences.

The bill specifies that a credentialing entity must require all owners, directors, and chief financial officers of a recovery residence applicant to pass a level 2 background screening under s. 435.04, F.S., as a condition of certification. The DCF is responsible for receiving and reviewing the results of the background screenings to determine if an employee meets the “certification requirements.” A credentialing entity must deny a recovery residence’s application and may revoke or suspend the certification of any owner, director, or chief financial officer, if the background screening indicates that such individual is subject to the disqualifying offenses set forth in s. 435.04(2), F.S., and does not have an exemption granted by the DCF under s. 397.4872, F.S.

The bill provides that under no circumstances may a disqualification from employment be removed from, nor may an exemption be granted to, any person who is a sexual predator,²¹ a career offender,²² or sexual offender,²³ unless the requirement to register as a sexual offender has been removed under s. 943.04354, F.S.

If any owner, director, or chief financial officer of a recovery residence is arrested or found guilty of any offense listed in s. 435.04(2), F.S., the certified recovery residence must immediately remove the person from his or her position and notify the credentialing entity within three business days after removal.

The bill also makes it a misdemeanor, under s. 775.082 or 775.083, F.S., to advertise as a “certified recovery residence” unless such residence has secured a certificate of compliance.

Section 3 creates s. 397.4871, F.S., requiring the DCF, by December 1, 2015, to approve at least one credentialing entity that will function to develop and administer a voluntary certification program for recovery residence administrators. The bill sets forth standards that would be codified for a credentialing entity and the requirements and criteria that recovery residence administrators must meet to be certified. However, the bill does not specify the criteria or approval process that the DCF must use in order to evaluate and approve a credentialing entity.

²¹ See s. 775.21, F.S.

²² See s. 775.261, F.S.

²³ See s. 943.0435, F.S.

The bill requires a credentialing entity to approve qualified training entities to provide pre-certification training to applicants and continuing education to certified recovery residence administrators. An approved credentialing entity or its affiliate is prohibited from providing training to applicants and continuing education to recovery residence administrators, in order to avoid a conflict of interest. The bill does not clarify how the provision of training by the approved credentialing entity would create a conflict of interest or what would constitute a conflict of interest. It is also unclear if the DCF is required under the bill to review the criteria used by a credentialing entity to evaluate and approve qualified training entities as part of the DCF's own process to evaluate and approve the credentialing entity. A credentialing entity is required to establish application, examination, and certification fees and an annual certification renewal fee. The application, examination, and certification fees may not exceed \$225 and the annual certification renewal fee may not exceed \$100.

The bill contains a provision establishing level 2 background screening for each recovery residence administrator applicant. If the background screening indicates that a recovery residence administrator is subject to a disqualifying offense set forth in s. 435.04(2), F.S, the DCF may grant an exemption from disqualification for disqualifying offenses under s. 397.4872, F.S., as created in section 4 of the bill.

The bill requires a credentialing entity to establish a certification program that "is directly related to the core competencies." The latter term is not defined. A credentialing entity is given the authority to suspend or revoke an administrator's certificate of compliance but does not provide a process for appeal.

If a certified recovery residence administrator of a recovery residence is arrested or found guilty of any offense listed in s. 435.04(2), F.S., he or she must be immediately removed from his or her position, and notification must be provided to the credentialing entity within three business days after removal. The recovery residence has 30 days to retain another certified recovery residence administrator. Failure to meet these requirements will result in revocation of a residence's certificate of compliance.

The bill provides conditions that allow a certified recovery residence administrator to qualify a recovery residence to receive referrals from licensed service providers by registering with his or her credentialing entity and by submitting an affidavit attesting that he or she is actively managing the recovery residence and is not using his or her status to qualify any additional recovery residences to receive referrals.

Section 4 creates s. 397.4872, F.S., which provides exemptions to staff disqualifications and administrator ineligibility due to disqualifying offenses identified in the background screening results. The DCF may exempt a person from a disqualifying offense if it has been at least three years since the person completed or has been lawfully released from confinement, supervision, or sanction.

By April 1, 2016, a credentialing entity must submit a list of certified recovery residences and certified recovery residence administrators that the credentialing entity has certified, if any, to the DCF, and the DCF must post any submitted lists on its website.

Section 5 amends s. 397.407, F.S., to prohibit licensed substance abuse treatment providers (licensed service providers) from referring a current or discharged patient to a recovery residence unless the residence holds a valid certificate of compliance as provided in s. 394.487 (created in section 2 of the bill) or is actively managed by a certified recovery residence administrator as provided in s. 397.4871 (created in section 3 of the bill), or both, or is owned and operated by a licensed service provider or a licensed service provider's wholly owned subsidiary. This prohibition is effective July 1, 2016. The bill specifies that a license service provider is not required to refer any patient to a recovery residence.

Sections 6, 7, 8, 9 and 10 revise statutory cross-references.

Section 11 provides an effective date of July 1, 2015.

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:

The fiscal impact of CS/SB 326 on recovery residences or recovery residence administrators is indeterminate. Because certification is voluntary, it is unknown how many residences and administrators will seek certification. Application fees may not exceed \$100 for certification of a recovery residence. Recovery residence certification also requires inspection fees to be charged a cost. Application fees for recovery residence administrators cannot exceed \$225 and renewal fees cannot exceed \$100.

The bill requires fingerprints be submitted to FDLE and FBI as part of the required background screening and provides these costs must be covered by prospective

employees or volunteers of the credentialing entity. The cost for level 2 background screens range from \$38 to \$75, depending upon the selected vendor.²⁴

C. Government Sector Impact:

The bill requires the DCF to review level 2 background screening results for any owners, directors, and chief financial officers of recovery residences. The DCF is also required to review all requests for exemptions from disqualifying offenses. To the extent that residences seek certification and owners, directors, and chief financial officers submit to background screening, this will increase the number of screenings and requests for exemptions that the DCF handles each year. The extent of the increase is indeterminate as the exact number of recovery residences and applicants to be certified recovery residence administrators is unknown. According to the DCF, a background screening FTE position is capable of completing 7,655 screenings per year.²⁵ The first-year cost for this position is \$63,917 with an annual recurring cost of \$60,035.²⁶

VI. Technical Deficiencies:

The certification requirements that must be established by an approved credentialing entity under section 2 of the bill appear to contradict with the definition of “credentialing entity” in section 1 of the bill.

The bill does not specify whether any owner, director, and chief financial officer of a recovery residence must undergo level 2 background screening each year as a requirement for application for renewal of a recovery residence’s application. The bill does not address persons who are not required to be re-fingerprinted.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 397.311, 397.407, 212.055, 394.9085, 397.405, 397.416, and 440.102.

This bill creates the following sections of the Florida Statutes: 397.487, 397.4871, and 397.4872.

²⁴ <http://www.dcf.state.fl.us/programs/backgroundscreening/map.asp>, Department of Children and Families’ website, accessed February 14, 2015.

²⁵ 2015 Agency legislative Bill Analysis, Department of Children and Families (January 27, 2015).

²⁶ *Id.*

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The committee substitute:

- Directs the Department of Children and Families (DCF) to approve at least one credentialing entity for the voluntary certification of recovery residences by December 1, 2015;
- Limits the requirement to conduct level 2 background screening to owners, directors, and chief financial officers and to deny a recovery residence's application if any owner, director, or chief financial officer has been found guilty of, regardless of adjudication to any offense listed in s. 435.04(2), F.S. unless the DCF has issued an exemption under s. 397.4872, F.S.;
- Directs the credentialing entity to establish application, examination, and certification fees not to exceed \$225 and an annual certification renewal fee not to exceed \$100;
- Provides for the immediate removal a certified recovery residence administrator who is arrested or found guilty of certain offenses and provides notification requirements, timeframe within which to hire a new administrator, and revocation of certificate for failure to follow requirements;
- Provides criteria for a certified recovery residence administrator to qualify a recovery residence for referrals from licensed service providers and allows the administrator to act as a qualifying agent under certain parameters; and
- Clarifies that exemptions from disqualifying offenses for staff or administrators cannot be granted under any circumstances for certain types of offenses.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (7) and (32) of section
397.311, Florida Statutes, are amended, present subsections (4)
and (5), present subsections (6) through (28), and present
subsections (29) through (39) are renumbered as subsections (7)
and (8), subsections (10) through (32), and subsections (35)
through (45), respectively, new subsections (4), (5), (6), (9),



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11 (33), and (34) are added to that section, to read:

12 397.311 Definitions.—As used in this chapter, except part
13 VIII, the term:

14 (4) "Certificate of compliance" means a certificate that is
15 issued by a credentialing entity to a recovery residence or a
16 recovery residence administrator.

17 (5) "Certified recovery residence" means a recovery
18 residence that holds a valid certificate of compliance and is
19 actively managed by a certified recovery residence
20 administrator.

21 (6) "Certified recovery residence administrator" means a
22 recovery residence administrator who holds a valid certificate
23 of compliance.

24 (9) "Credentialing entity" means a nonprofit organization
25 that develops and administers professional, facility, or
26 organization certification programs according to applicable
27 nationally recognized certification or psychometric standards.

28 (11) ~~(7)~~ "Director" means the chief administrative or
29 executive officer of a service provider or recovery residence.

30 (33) "Recovery residence" means a residential dwelling
31 unit, or other form of group housing, which is offered or
32 advertised through any means, including oral, written,
33 electronic, or printed means, by any person or entity as a
34 residence that provides a peer-supported, alcohol-free, and
35 drug-free living environment.

36 (34) "Recovery residence administrator" means the person
37 responsible for the overall management of the recovery
38 residence, including, but not limited to, the supervision of
39 residents and staff employed by, or volunteering for, the



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40 residence.

41 (38)~~(32)~~ "Service component" or "component" means a
42 discrete operational entity within a service provider which is
43 subject to licensing as defined by rule. Service components
44 include prevention, intervention, and clinical treatment
45 described in subsection (22) ~~(18)~~.

46 Section 2. Section 397.487, Florida Statutes, is created to
47 read:

48 397.487 Voluntary certification of recovery residences.—

49 (1) The Legislature finds that a person suffering from
50 addiction has a higher success rate of achieving long-lasting
51 sobriety when given the opportunity to build a stronger
52 foundation by living in a recovery residence after completing
53 treatment. The Legislature further finds that this state and its
54 subdivisions have a legitimate state interest in protecting
55 these persons, who represent a vulnerable consumer population in
56 need of adequate housing. It is the intent of the Legislature to
57 protect persons who reside in a recovery residence.

58 (2) The department shall approve at least one credentialing
59 entity by December 1, 2015, for the purpose of developing and
60 administering a voluntary certification program for recovery
61 residences. The approved credentialing entity shall:

62 (a) Establish recovery residence certification
63 requirements.

64 (b) Establish procedures to:

65 1. Administer the application, certification,
66 recertification, and disciplinary processes.

67 2. Monitor and inspect a recovery residence and its staff
68 to ensure compliance with certification requirements.



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- 69 3. Interview and evaluate residents, employees, and
70 volunteer staff on their knowledge and application of
71 certification requirements.
- 72 (c) Provide training for owners, managers, and staff.
73 (d) Develop a code of ethics.
- 74 (e) Establish application, inspection, and annual
75 certification renewal fees. The application fee may not exceed
76 \$100. Any onsite inspection fee shall reflect actual costs for
77 inspections. The annual certification renewal fee may not exceed
78 \$100.
- 79 (3) A credentialing entity shall require the recovery
80 residence to submit the following documents with the completed
81 application and fee:
- 82 (a) A policy and procedures manual containing:
83 1. Job descriptions for all staff positions.
84 2. Drug-testing procedures and requirements.
85 3. A prohibition on the premises against alcohol, illegal
86 drugs, and the use of prescribed medications by an individual
87 other than the individual for whom the medication is prescribed.
- 88 4. Policies to support a resident's recovery efforts.
89 5. A good neighbor policy to address neighborhood concerns
90 and complaints.
- 91 (b) Rules for residents.
92 (c) Copies of all forms provided to residents.
93 (d) Intake procedures.
94 (e) Sexual Offender/Predator Registry Compliance Policy
95 (f) Relapse policy.
96 (g) Fee schedule.
97 (h) Refund policy.



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98 (i) Eviction procedures and policy.

99 (j) Code of ethics.

100 (k) Proof of insurance.

101 (l) Proof of background screening.

102 (m) Proof of satisfactory fire, safety, and health
103 inspections.

104 (4) A certified recovery residence must be actively managed
105 by a certified recovery residence administrator. All
106 applications for certification must include the name of the
107 certified recovery residence administrator who will be actively
108 managing the applicant recovery residence.

109 (5) Upon receiving a completed application and fee, a
110 credentialing entity shall conduct an onsite inspection of the
111 recovery residence.

112 (6) All owners, directors, and chief financial officers of
113 an applicant recovery residence are subject to level 2
114 background screening as provided under chapter 435. A recovery
115 residence is ineligible for certification, and a credentialing
116 entity shall deny a recovery residence's application if any
117 owner, director, or chief financial officer has been found
118 guilty of, regardless of adjudication, or has entered a plea of
119 nolo contendere or guilty to any offense listed in s. 435.04(2),
120 unless the department has issued an exemption under s. 397.4872.
121 In accordance with s. 435.04, the department shall notify the
122 credentialing agency of an owner's, director's or chief
123 financial officer's eligibility based on the results of a
124 background screening.

125 (7) A credentialing entity shall issue a certificate of
126 compliance upon approval of the recovery residence's application



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127 and inspection. The certification shall automatically terminate
128 1 year after issuance if not renewed.

129 (8) Onsite followup monitoring of any certified recovery
130 residence may be conducted by the credentialing entity to
131 determine continuing compliance with certification requirements.
132 The credentialing entity shall inspect each certified recovery
133 residence at least annually to ensure compliance.

134 (a) A credentialing entity may suspend or revoke a
135 certificate of compliance if the recovery residence is not in
136 compliance with any provision of this section or has failed to
137 remedy any deficiency identified by the credentialing entity
138 within the time period specified.

139 (b) A certified recovery residence must notify the
140 credentialing entity within 3 business days of the removal of
141 the recovery residence's certified recovery residence
142 administrator due to termination, resignation or any other
143 reason. The recovery residence shall have 30 days to retain a
144 certified recovery residence administrator. The credentialing
145 entity shall revoke the certificate of compliance of any
146 recovery residence that fails to meet these requirements.

147 (c) If any owner, director, or chief financial officer of a
148 certified recovery residence is arrested or found guilty of,
149 regardless of adjudication, or has entered a plea of nolo
150 contendere or guilty to any offense listed in s. 435.04(2),
151 while acting in that capacity, the certified recovery residence
152 shall immediately remove the person from that position and shall
153 notify the credentialing entity within 3 business days after
154 such removal. The credentialing entity shall revoke the
155 certificate of compliance of any recovery residence that fails



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156 to meet these requirements.

157 (d) A credentialing entity shall revoke a recovery
158 residence's certificate of compliance if the recovery residence
159 provides false or misleading information to the credentialing
160 entity at any time.

161 (9) A person may not advertise to the public, in any way or
162 by any medium whatsoever, any recovery residence as a "certified
163 recovery residence" unless such recovery residence has first
164 secured a certificate of compliance under this section. A person
165 who violates this subsection commits a misdemeanor of the first
166 degree, punishable as provided in s. 775.082 or s. 775.083.

167 Section 3. Section 397.4871, Florida Statutes, is created
168 to read:

169 397.4871 Recovery residence administrator certification.-

170 (1) It is the intent of the Legislature that a recovery
171 residence administrator voluntarily earn and maintain
172 certification from a credentialing entity approved by the
173 Department of Children and Families. The Legislature further
174 intends that certification ensure that an administrator has the
175 competencies necessary to appropriately respond to the needs of
176 residents, to maintain residence standards, and to meet
177 residence certification requirements.

178 (2) The department shall approve at least one credentialing
179 entity by December 1, 2015, for the purpose of developing and
180 administering a voluntary credentialing program for
181 administrators. The department shall approve any credentialing
182 entity that the department endorses pursuant to s. 397.321(16)
183 if the credentialing entity also meets the requirements of this
184 section. The approved credentialing entity shall:



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185 (a) Establish recovery residence administrator core
186 competencies, certification requirements, testing instruments,
187 and recertification requirements according to applicable
188 nationally recognized certification and psychometric standards.

189 (b) Establish a process to administer the certification
190 application, award, and maintenance processes.

191 (c) Develop and administer:

192 1. A code of ethics and disciplinary process.

193 2. Biennial continuing education requirements and annual
194 certification renewal requirements.

195 3. An education provider program to approve training
196 entities that are qualified to provide precertification training
197 to applicants and continuing education opportunities to
198 certified persons.

199 (3) A credentialing entity shall establish a certification
200 program that:

201 (a) Is established according to applicable nationally
202 recognized certification and psychometric standards.

203 (b) Is directly related to the core competencies.

204 (c) Establishes minimum requirements in each of the
205 following categories:

206 1. Training.

207 2. On-the-job work experience.

208 3. Supervision.

209 4. Testing.

210 5. Biennial continuing education.

211 (d) Requires adherence to a code of ethics and provides for
212 a disciplinary process that applies to certified persons.

213 (e) Approves qualified training entities that provide



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214 precertification training to applicants and continuing education
215 to certified recovery residence administrators. To avoid a
216 conflict of interest, a credentialing entity or its affiliate
217 may not deliver training to an applicant or continuing education
218 to a certificateholder.

219 (4) A credentialing entity shall establish application,
220 examination, and certification fees and an annual certification
221 renewal fee. The application, examination, and certification
222 fees may not exceed \$225. The annual certification renewal fee
223 may not exceed \$100.

224 (5) All applicants are subject to level 2 background
225 screening as provided under chapter 435. An applicant is
226 ineligible, and a credentialing entity shall deny the
227 application if the applicant has been found guilty of,
228 regardless of adjudication, or has entered a plea of nolo
229 contendere or guilty to any offense listed in s. 435.04(2),
230 unless the department has issued an exemption under s. 397.4872.
231 In accordance with s. 435.04, the department shall notify the
232 credentialing agency of the applicant's eligibility based on the
233 results of a background screening.

234 (6) The credentialing entity shall issue a certificate of
235 compliance upon approval of a person's application. The
236 certification shall automatically terminate 1 year after
237 issuance if not renewed.

238 (a) A credentialing entity may suspend or revoke the
239 recovery residence administrator's certificate of compliance if
240 the recovery residence administrator fails to adhere to the
241 continuing education requirements.

242 (b) If a certified recovery residence administrator of a



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243 recovery residence is arrested or found guilty of, regardless of
244 adjudication, or has entered a plea of nolo contendere or guilty
245 to any offense listed in s. 435.04(2), the recovery residence
246 shall immediately remove the recovery residence administrator
247 from that position and shall notify the credentialing entity
248 within 3 business days after such removal. The recovery
249 residence shall have 30 days to retain a certified recovery
250 residence administrator. The credentialing entity shall revoke
251 the certificate of compliance of any recovery residence which
252 fails to meet these requirements.

253 (c) A credentialing entity shall revoke a recovery
254 residence administrator's certificate of compliance if the
255 recovery residence administrator provides false or misleading
256 information to the credentialing entity at any time.

257 (7) A person may not advertise himself or herself to the
258 public, in any way or by any medium whatsoever, as a "certified
259 recovery residence administrator" unless he or she has first
260 secured a certificate of compliance under this section. A person
261 who violates this subsection commits a misdemeanor of the first
262 degree, punishable as provided in s. 775.082 or s. 775.083.

263 (8) A certified recovery residence administrator may not
264 actively manage more than one recovery residence at any given
265 time.

266 Section 4. Section 397.4872, Florida Statutes, is created
267 to read:

268 397.4872 Exemption from disqualification; publication.—

269 (1) Individual exemptions from staff disqualification or
270 administrator ineligibility may be requested if a recovery
271 residence deems the decision will benefit the program. Requests



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272 for exemptions shall be submitted in writing to the department
273 within 20 days of the denial by the credentialing entity and
274 must include a justification for the exemption.

275 (2) The department may exempt a person from ss. 397.487(6)
276 and 397.4871(5) if it has been at least 3 years since the person
277 has completed or been lawfully released from confinement,
278 supervision, or sanction for the disqualifying offense. An
279 exemption from the disqualifying offenses may not be given under
280 any circumstances for any person who is a:

281 (a) Sexual predator pursuant to s. 775.21;

282 (b) Career offender pursuant to s. 775.261; or

283 (c) Sexual offender pursuant to s. 943.0435, unless the
284 requirement to register as a sexual offender has been removed
285 pursuant to s. 943.04354.

286 (3) By April 1, 2016, each credentialing entity shall
287 submit a list to the department of all recovery residences and
288 recovery residence administrators certified by the credentialing
289 entity which hold a valid certificate of compliance. Thereafter,
290 the credentialing entity must notify the department within 3
291 business days after a new recovery residence or recovery
292 residence administrator is certified or a recovery residence's
293 or recovery residence administrator's certificate expires or is
294 terminated. The department shall publish on its website a list
295 of all recovery residences that hold a valid certificate of
296 compliance. The department shall also publish on its website a
297 list of all recovery residence administrators that hold a valid
298 certificate of compliance. A recovery residence or recovery
299 residence administrator shall be excluded from the list upon
300 written request to the department by the listed individual or



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301 entity.

302 Section 5. Subsections (1) and (5) of section 397.407,
303 Florida Statutes, are amended, and subsection (11) is added to
304 that section, to read:

305 397.407 Licensure process; fees.—

306 (1) The department shall establish by rule the licensure
307 process to include fees and categories of licenses. The rule
308 must prescribe a fee range that is based, at least in part, on
309 the number and complexity of programs listed in s. 397.311(22)
310 ~~397.311(18)~~ which are operated by a licensee. The fees from the
311 licensure of service components are sufficient to cover at least
312 50 percent of the costs of regulating the service components.
313 The department shall specify by rule a fee range for public and
314 privately funded licensed service providers. Fees for privately
315 funded licensed service providers must exceed the fees for
316 publicly funded licensed service providers. During adoption of
317 the rule governing the licensure process and fees, the
318 department shall carefully consider the potential adverse impact
319 on small, not-for-profit service providers.

320 (5) The department may issue probationary, regular, and
321 interim licenses. After adopting the rule governing the
322 licensure process and fees, the department shall issue one
323 license for each service component that is operated by a service
324 provider and defined in rule pursuant to s. 397.311(22)
325 ~~397.311(18)~~. The license is valid only for the specific service
326 components listed for each specific location identified on the
327 license. The licensed service provider shall apply for a new
328 license at least 60 days before the addition of any service
329 components or 30 days before the relocation of any of its



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330 service sites. Provision of service components or delivery of
331 services at a location not identified on the license may be
332 considered an unlicensed operation that authorizes the
333 department to seek an injunction against operation as provided
334 in s. 397.401, in addition to other sanctions authorized by s.
335 397.415. Probationary and regular licenses may be issued only
336 after all required information has been submitted. A license may
337 not be transferred. As used in this subsection, the term
338 "transfer" includes, but is not limited to, the transfer of a
339 majority of the ownership interest in the licensed entity or
340 transfer of responsibilities under the license to another entity
341 by contractual arrangement.

342 (11) Effective July 1, 2016, a service provider licensed
343 under this part may not refer a current or discharged patient to
344 a recovery residence unless the recovery residence holds a valid
345 certificate of compliance as provided in s. 397.487 and is
346 actively managed by a certified recovery residence administrator
347 as provided in s. 397.4871, or is owned and operated by a
348 licensed service provider or a licensed service provider's
349 wholly owned subsidiary. For purposes of this subsection, the
350 term "refer" means to inform a patient by any means about the
351 name, address, or other details of the recovery residence.
352 However, this subsection does not require a licensed service
353 provider to refer any patient to a recovery residence.

354 Section 6. Paragraph (e) of subsection (5) of section
355 212.055, Florida Statutes, is amended to read:

356 212.055 Discretionary sales surtaxes; legislative intent;
357 authorization and use of proceeds.—It is the legislative intent
358 that any authorization for imposition of a discretionary sales



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359 surtax shall be published in the Florida Statutes as a
360 subsection of this section, irrespective of the duration of the
361 levy. Each enactment shall specify the types of counties
362 authorized to levy; the rate or rates which may be imposed; the
363 maximum length of time the surtax may be imposed, if any; the
364 procedure which must be followed to secure voter approval, if
365 required; the purpose for which the proceeds may be expended;
366 and such other requirements as the Legislature may provide.
367 Taxable transactions and administrative procedures shall be as
368 provided in s. 212.054.

369 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
370 s. 125.011(1) may levy the surtax authorized in this subsection
371 pursuant to an ordinance either approved by extraordinary vote
372 of the county commission or conditioned to take effect only upon
373 approval by a majority vote of the electors of the county voting
374 in a referendum. In a county as defined in s. 125.011(1), for
375 the purposes of this subsection, "county public general
376 hospital" means a general hospital as defined in s. 395.002
377 which is owned, operated, maintained, or governed by the county
378 or its agency, authority, or public health trust.

379 (e) A governing board, agency, or authority shall be
380 chartered by the county commission upon this act becoming law.
381 The governing board, agency, or authority shall adopt and
382 implement a health care plan for indigent health care services.
383 The governing board, agency, or authority shall consist of no
384 more than seven and no fewer than five members appointed by the
385 county commission. The members of the governing board, agency,
386 or authority shall be at least 18 years of age and residents of
387 the county. No member may be employed by or affiliated with a



388 health care provider or the public health trust, agency, or
389 authority responsible for the county public general hospital.
390 The following community organizations shall each appoint a
391 representative to a nominating committee: the South Florida
392 Hospital and Healthcare Association, the Miami-Dade County
393 Public Health Trust, the Dade County Medical Association, the
394 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
395 County. This committee shall nominate between 10 and 14 county
396 citizens for the governing board, agency, or authority. The
397 slate shall be presented to the county commission and the county
398 commission shall confirm the top five to seven nominees,
399 depending on the size of the governing board. Until such time as
400 the governing board, agency, or authority is created, the funds
401 provided for in subparagraph (d)2. shall be placed in a
402 restricted account set aside from other county funds and not
403 disbursed by the county for any other purpose.

404 1. The plan shall divide the county into a minimum of four
405 and maximum of six service areas, with no more than one
406 participant hospital per service area. The county public general
407 hospital shall be designated as the provider for one of the
408 service areas. Services shall be provided through participants'
409 primary acute care facilities.

410 2. The plan and subsequent amendments to it shall fund a
411 defined range of health care services for both indigent persons
412 and the medically poor, including primary care, preventive care,
413 hospital emergency room care, and hospital care necessary to
414 stabilize the patient. For the purposes of this section,
415 "stabilization" means stabilization as defined in s. 397.311(41)
416 ~~397.311(35)~~. Where consistent with these objectives, the plan



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417 may include services rendered by physicians, clinics, community
418 hospitals, and alternative delivery sites, as well as at least
419 one regional referral hospital per service area. The plan shall
420 provide that agreements negotiated between the governing board,
421 agency, or authority and providers shall recognize hospitals
422 that render a disproportionate share of indigent care, provide
423 other incentives to promote the delivery of charity care to draw
424 down federal funds where appropriate, and require cost
425 containment, including, but not limited to, case management.
426 From the funds specified in subparagraphs (d)1. and 2. for
427 indigent health care services, service providers shall receive
428 reimbursement at a Medicaid rate to be determined by the
429 governing board, agency, or authority created pursuant to this
430 paragraph for the initial emergency room visit, and a per-member
431 per-month fee or capitation for those members enrolled in their
432 service area, as compensation for the services rendered
433 following the initial emergency visit. Except for provisions of
434 emergency services, upon determination of eligibility,
435 enrollment shall be deemed to have occurred at the time services
436 were rendered. The provisions for specific reimbursement of
437 emergency services shall be repealed on July 1, 2001, unless
438 otherwise reenacted by the Legislature. The capitation amount or
439 rate shall be determined prior to program implementation by an
440 independent actuarial consultant. In no event shall such
441 reimbursement rates exceed the Medicaid rate. The plan must also
442 provide that any hospitals owned and operated by government
443 entities on or after the effective date of this act must, as a
444 condition of receiving funds under this subsection, afford
445 public access equal to that provided under s. 286.011 as to any



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446 meeting of the governing board, agency, or authority the subject
447 of which is budgeting resources for the retention of charity
448 care, as that term is defined in the rules of the Agency for
449 Health Care Administration. The plan shall also include
450 innovative health care programs that provide cost-effective
451 alternatives to traditional methods of service and delivery
452 funding.

453 3. The plan's benefits shall be made available to all
454 county residents currently eligible to receive health care
455 services as indigents or medically poor as defined in paragraph
456 (4) (d).

457 4. Eligible residents who participate in the health care
458 plan shall receive coverage for a period of 12 months or the
459 period extending from the time of enrollment to the end of the
460 current fiscal year, per enrollment period, whichever is less.

461 5. At the end of each fiscal year, the governing board,
462 agency, or authority shall prepare an audit that reviews the
463 budget of the plan, delivery of services, and quality of
464 services, and makes recommendations to increase the plan's
465 efficiency. The audit shall take into account participant
466 hospital satisfaction with the plan and assess the amount of
467 poststabilization patient transfers requested, and accepted or
468 denied, by the county public general hospital.

469 Section 7. Subsection (6) of section 394.9085, Florida
470 Statutes, is amended to read:

471 394.9085 Behavioral provider liability.—

472 (6) For purposes of this section, the terms "detoxification
473 services," "addictions receiving facility," and "receiving
474 facility" have the same meanings as those provided in ss.



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475 397.311(22)(a)4. ~~397.311(18)(a)4.~~, 397.311(22)(a)1.

476 ~~397.311(18)(a)1.~~, and 394.455(26), respectively.

477 Section 8. Subsection (8) of section 397.405, Florida
478 Statutes, is amended to read:

479 397.405 Exemptions from licensure.—The following are exempt
480 from the licensing provisions of this chapter:

481 (8) A legally cognizable church or nonprofit religious
482 organization or denomination providing substance abuse services,
483 including prevention services, which are solely religious,
484 spiritual, or ecclesiastical in nature. A church or nonprofit
485 religious organization or denomination providing any of the
486 licensed service components itemized under s. 397.311(22)
487 ~~397.311(18)~~ is not exempt from substance abuse licensure but
488 retains its exemption with respect to all services which are
489 solely religious, spiritual, or ecclesiastical in nature.

490
491 The exemptions from licensure in this section do not apply to
492 any service provider that receives an appropriation, grant, or
493 contract from the state to operate as a service provider as
494 defined in this chapter or to any substance abuse program
495 regulated pursuant to s. 397.406. Furthermore, this chapter may
496 not be construed to limit the practice of a physician or
497 physician assistant licensed under chapter 458 or chapter 459, a
498 psychologist licensed under chapter 490, a psychotherapist
499 licensed under chapter 491, or an advanced registered nurse
500 practitioner licensed under part I of chapter 464, who provides
501 substance abuse treatment, so long as the physician, physician
502 assistant, psychologist, psychotherapist, or advanced registered
503 nurse practitioner does not represent to the public that he or



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504 she is a licensed service provider and does not provide services
505 to individuals pursuant to part V of this chapter. Failure to
506 comply with any requirement necessary to maintain an exempt
507 status under this section is a misdemeanor of the first degree,
508 punishable as provided in s. 775.082 or s. 775.083.

509 Section 9. Section 397.416, Florida Statutes, is amended to
510 read:

511 397.416 Substance abuse treatment services; qualified
512 professional.—Notwithstanding any other provision of law, a
513 person who was certified through a certification process
514 recognized by the former Department of Health and Rehabilitative
515 Services before January 1, 1995, may perform the duties of a
516 qualified professional with respect to substance abuse treatment
517 services as defined in this chapter, and need not meet the
518 certification requirements contained in s. 397.311(30)
519 ~~397.311(26)~~.

520 Section 10. Paragraphs (d) and (g) of subsection (1) of
521 section 440.102, Florida Statutes, are amended to read:

522 440.102 Drug-free workplace program requirements.—The
523 following provisions apply to a drug-free workplace program
524 implemented pursuant to law or to rules adopted by the Agency
525 for Health Care Administration:

526 (1) DEFINITIONS.—Except where the context otherwise
527 requires, as used in this act:

528 (d) "Drug rehabilitation program" means a service provider,
529 established pursuant to s. 397.311(39) ~~397.311(33)~~, that
530 provides confidential, timely, and expert identification,
531 assessment, and resolution of employee drug abuse.

532 (g) "Employee assistance program" means an established



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533 program capable of providing expert assessment of employee
534 personal concerns; confidential and timely identification
535 services with regard to employee drug abuse; referrals of
536 employees for appropriate diagnosis, treatment, and assistance;
537 and followup services for employees who participate in the
538 program or require monitoring after returning to work. If, in
539 addition to the above activities, an employee assistance program
540 provides diagnostic and treatment services, these services shall
541 in all cases be provided by service providers pursuant to s.
542 397.311(39) ~~397.311(33)~~.

543 Section 11. This act shall take effect July 1, 2015.

544
545 ===== T I T L E A M E N D M E N T =====

546 And the title is amended as follows:

547 Delete everything before the enacting clause
548 and insert:

549 A bill to be entitled
550 An act relating to substance abuse services; amending
551 s. 397.311, F.S.; providing definitions; conforming a
552 cross-reference; creating s. 397.487, F.S.; providing
553 legislative findings and intent; requiring the
554 Department of Children and Families to create a
555 voluntary certification program for recovery
556 residences; directing the department to approve at
557 least one credentialing entity by a specified date to
558 develop and administer the certification program;
559 requiring an approved credentialing entity to
560 establish procedures for certifying recovery
561 residences that meet certain qualifications; requiring



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562 an approved credentialing entity to establish certain
563 fees; requiring a credentialing entity to conduct
564 onsite inspections of a recovery residence; requiring
565 background screening of owners, directors, and chief
566 financial officers of a recovery residence; providing
567 for denial, suspension, or revocation of
568 certification; requiring a certified recovery
569 residence to notify the credentialing entity within a
570 certain time of the removal of the recovery
571 residence's certified recovery residence
572 administrator; providing a criminal penalty for
573 falsely advertising a recovery residence as a
574 "certified recovery residence"; creating s. 397.4871,
575 F.S.; providing legislative intent; requiring the
576 department to create a voluntary certification program
577 for recovery residence administrators; directing the
578 department to approve at least one credentialing
579 entity by a specified date to develop and administer
580 the certification program; requiring an approved
581 credentialing entity to establish a process for
582 certifying recovery residence administrators who meet
583 certain qualifications; requiring a certifies recovery
584 residence to be actively managed by a certified
585 recovery residence administrator; requiring certain
586 applications to include specified information;
587 requiring an approved credentialing entity to
588 establish certain fees; requiring background screening
589 of applicants for recovery residence administrator
590 certification; requiring the department to notify the



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591 credentiaing agency of an applicant's eligibility
592 based on the background screening results; providing
593 for denial, suspension, or revocation of
594 certification; requiring a certified recovery
595 residence to notify the credentialing entity within a
596 certain time of the removal providing a criminal
597 penalty for falsely advertising oneself as a
598 "certified recovery residence administrator";
599 prohibiting a certified recovery residence
600 administrator from actively managing more than once
601 recovery residence at the same time; creating s.
602 397.4872, F.S.; providing exemptions from
603 disqualifying offenses; requiring credentialing
604 entities to provide the department with a list of all
605 certified recovery residences and recovery residence
606 administrators by a date certain; requiring the
607 department to publish the list on its website;
608 allowing recovery residences and recovery residence
609 administrators to be excluded from the list upon
610 written request to the department; amending s.
611 397.407, F.S.; conforming cross-references; providing
612 conditions for a licensed service provider to refer
613 patients to a certified recovery residence or a
614 recovery residence owned and operated by the licensed
615 service provider; defining the term "refer"; amending
616 ss. 212.055, 394.9085, 397.405, 397.416, and 440.102,
617 F.S.; conforming cross-references; providing an
618 effective date.



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LEGISLATIVE ACTION

Senate

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House

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

1 **Senate Substitute for Amendment (604168) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Subsections (4) and (5), subsections (6) through
7 (28), and subsections (29) through (39) of section 397.311,
8 Florida Statutes, are renumbered as subsections (7) and (8),
9 subsections (10) through (32), and subsections (35) through
10 (45), respectively, present subsections (7) and (32) are



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11 amended, and new subsections (4), (5), (6), (9), (33), and (34)
12 are added to that section, to read:

13 397.311 Definitions.—As used in this chapter, except part
14 VIII, the term:

15 (4) "Certificate of compliance" means a certificate that is
16 issued by a credentialing entity to a recovery residence or a
17 recovery residence administrator.

18 (5) "Certified recovery residence" means a recovery
19 residence that holds a valid certificate of compliance and is
20 actively managed by a certified recovery residence
21 administrator.

22 (6) "Certified recovery residence administrator" means a
23 recovery residence administrator who holds a valid certificate
24 of compliance.

25 (9) "Credentialing entity" means a nonprofit organization
26 that develops and administers professional, facility, or
27 organization certification programs according to applicable
28 nationally recognized certification or psychometric standards.

29 (11) ~~(7)~~ "Director" means the chief administrative or
30 executive officer of a service provider or recovery residence.

31 (33) "Recovery residence" means a residential dwelling
32 unit, or other form of group housing, that is offered or
33 advertised through any means, including oral, written,
34 electronic, or printed means, by any person or entity as a
35 residence that provides a peer-supported, alcohol-free, and
36 drug-free living environment.

37 (34) "Recovery residence administrator" means the person
38 responsible for overall management of the recovery residence,
39 including, but not limited to, the supervision of residents and



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40 staff employed by, or volunteering for, the residence.

41 (38) ~~(32)~~ "Service component" or "component" means a
42 discrete operational entity within a service provider which is
43 subject to licensing as defined by rule. Service components
44 include prevention, intervention, and clinical treatment
45 described in subsection (22) ~~(18)~~.

46 Section 2. Section 397.487, Florida Statutes, is created to
47 read:

48 397.487 Voluntary certification of recovery residences.—

49 (1) The Legislature finds that a person suffering from
50 addiction has a higher success rate of achieving long-lasting
51 sobriety when given the opportunity to build a stronger
52 foundation by living in a recovery residence after completing
53 treatment. The Legislature further finds that this state and its
54 subdivisions have a legitimate state interest in protecting
55 these persons, who represent a vulnerable consumer population in
56 need of adequate housing. It is the intent of the Legislature to
57 protect persons who reside in a recovery residence.

58 (2) The department shall approve at least one credentialing
59 entity by December 1, 2015, for the purpose of developing and
60 administering a voluntary certification program for recovery
61 residences. The approved credentialing entity shall:

62 (a) Establish recovery residence certification
63 requirements.

64 (b) Establish procedures to:

65 1. Administer the application, certification,
66 recertification, and disciplinary processes.

67 2. Monitor and inspect a recovery residence and its staff
68 to ensure compliance with certification requirements.



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- 69 3. Interview and evaluate residents, employees, and
70 volunteer staff on their knowledge and application of
71 certification requirements.
- 72 (c) Provide training for owners, managers, and staff.
73 (d) Develop a code of ethics.
- 74 (e) Establish application, inspection, and annual
75 certification renewal fees. The application fee may not exceed
76 \$100. Any onsite inspection fee shall reflect actual costs for
77 inspections. The annual certification renewal fee may not exceed
78 \$100.
- 79 (3) A credentialing entity shall require the recovery
80 residence to submit the following documents with the completed
81 application and fee:
- 82 (a) A policy and procedures manual containing:
83 1. Job descriptions for all staff positions.
84 2. Drug-testing procedures and requirements.
85 3. A prohibition on the premises against alcohol, illegal
86 drugs, and the use of prescribed medications by an individual
87 other than the individual for whom the medication is prescribed.
88 4. Policies to support a resident's recovery efforts.
89 5. A good neighbor policy to address neighborhood concerns
90 and complaints.
- 91 (b) Rules for residents.
92 (c) Copies of all forms provided to residents.
93 (d) Intake procedures.
94 (e) Sexual Offender/Predator Registry Compliance Policy
95 (f) Relapse policy.
96 (g) Fee schedule.
97 (h) Refund policy.



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98 (i) Eviction procedures and policy.

99 (j) Code of ethics.

100 (k) Proof of insurance.

101 (l) Proof of background screening.

102 (m) Proof of satisfactory fire, safety, and health
103 inspections.

104 (4) A certified recovery residence must be actively managed
105 by a certified recovery residence administrator. All
106 applications for certification must include the name of the
107 certified recovery residence administrator who will be actively
108 managing the applicant recovery residence.

109 (5) Upon receiving a complete application, a credentialing
110 entity shall conduct an onsite inspection of the recovery
111 residence.

112 (6) All owners, directors, and chief financial officers of
113 an applicant recovery residence are subject to level 2
114 background screening as provided under chapter 435. A recovery
115 residence is ineligible for certification, and a credentialing
116 entity shall deny a recovery residence's application, if any
117 owner, director, or chief financial officer has been found
118 guilty of, or has entered a plea of guilty or nolo contendere
119 to, regardless of adjudication, any offense listed in s.

120 435.04(2) unless the department has issued an exemption under s.
121 397.4872. In accordance with s. 435.04, the department shall
122 notify the credentialing agency of an owner's, director's or
123 chief financial officer's eligibility based on the results of a
124 background screening.

125 (7) A credentialing entity shall issue a certificate of
126 compliance upon approval of the recovery residence's application



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127 and inspection. The certification shall automatically terminate
128 1 year after issuance if not renewed.

129 (8) Onsite followup monitoring of a certified recovery
130 residence may be conducted by the credentialing entity to
131 determine continuing compliance with certification requirements.
132 The credentialing entity shall inspect each certified recovery
133 residence at least annually to ensure compliance.

134 (a) A credentialing entity may suspend or revoke a
135 certification if the recovery residence is not in compliance
136 with any provision of this section or has failed to remedy any
137 deficiency identified by the credentialing entity within the
138 time period specified.

139 (b) A certified recovery residence must notify the
140 credentialing entity within 3 business days of the removal of
141 the recovery residence's certified recovery residence
142 administrator due to termination, resignation or any other
143 reason. The recovery residence shall have 30 days to retain a
144 certified recovery residence administrator. The credentialing
145 entity shall revoke the certificate of compliance of any
146 recovery residence that fails to meet these requirements.

147 (c) If any owner, director, or chief financial officer of a
148 certified recovery residence is arrested for or found guilty of,
149 or enters a plea of guilty or nolo contendere to, regardless of
150 adjudication, any offense listed in s. 435.04(2) while acting in
151 that capacity, the certified recovery residence shall
152 immediately remove the person from that position and shall
153 notify the credentialing entity within 3 business days after
154 such removal. The credentialing entity shall revoke the
155 certificate of compliance of a recovery residence that fails to



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156 meet these requirements.

157 (d) A credentialing entity shall revoke a recovery
158 residence's certificate of compliance if the recovery residence
159 provides false or misleading information to the credentialing
160 entity at any time.

161 (9) A person may not advertise to the public, in any way or
162 by any medium whatsoever, any recovery residence as a "certified
163 recovery residence" unless such recovery residence has first
164 secured a certificate of compliance under this section. A person
165 who violates this subsection commits a misdemeanor of the first
166 degree, punishable as provided in s. 775.082 or s. 775.083.

167 Section 3. Section 397.4871, Florida Statutes, is created
168 to read:

169 397.4871 Recovery residence administrator certification.-

170 (1) It is the intent of the Legislature that a recovery
171 residence administrator voluntarily earn and maintain
172 certification from a credentialing entity approved by the
173 Department of Children and Families. The Legislature further
174 intends that certification ensure that an administrator has the
175 competencies necessary to appropriately respond to the needs of
176 residents, to maintain residence standards, and to meet
177 residence certification requirements.

178 (2) The department shall approve at least one credentialing
179 entity by December 1, 2015, for the purpose of developing and
180 administering a voluntary credentialing program for
181 administrators. The department shall approve any credentialing
182 entity that the department endorses pursuant to s. 397.321(16)
183 if the credentialing entity also meets the requirements of this
184 section. The approved credentialing entity shall:



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185 (a) Establish recovery residence administrator core
186 competencies, certification requirements, testing instruments,
187 and recertification requirements.

188 (b) Establish a process to administer the certification
189 application, award, and maintenance processes.

190 (c) Develop and administer:

191 1. A code of ethics and disciplinary process.

192 2. Biennial continuing education requirements and annual
193 certification renewal requirements.

194 3. An education provider program to approve training
195 entities that are qualified to provide precertification training
196 to applicants and continuing education opportunities to
197 certified persons.

198 (3) A credentialing entity shall establish a certification
199 program that:

200 (a) Is directly related to the core competencies.

201 (b) Establishes minimum requirements in each of the
202 following categories:

203 1. Training.

204 2. On-the-job work experience.

205 3. Supervision.

206 4. Testing.

207 5. Biennial continuing education.

208 (c) Requires adherence to a code of ethics and provides for
209 a disciplinary process that applies to certified persons.

210 (d) Approves qualified training entities that provide
211 precertification training to applicants and continuing education
212 to certified recovery residence administrators. To avoid a
213 conflict of interest, a credentialing entity or its affiliate



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214 may not deliver training to an applicant or continuing education
215 to a certificateholder.

216 (4) A credentialing entity shall establish application,
217 examination, and certification fees and an annual certification
218 renewal fee. The application, examination, and certification fee
219 may not exceed \$225. The annual certification renewal fee may
220 not exceed \$100.

221 (5) All applicants are subject to level 2 background
222 screening as provided under chapter 435. An applicant is
223 ineligible, and a credentialing entity shall deny the
224 application, if the applicant has been found guilty of, or has
225 entered a plea of guilty or nolo contendere to, regardless of
226 adjudication, any offense listed in s. 435.04(2) unless the
227 department has issued an exemption under s. 397.4872. In
228 accordance with s. 435.04, the department shall notify the
229 credentialing agency of the applicant's eligibility based on the
230 results of a background screening.

231 (6) The credentialing entity shall issue a certificate of
232 compliance upon approval of a person's application. The
233 certification shall automatically terminate 1 year after
234 issuance if not renewed.

235 (a) A credentialing entity may suspend or revoke the
236 recovery residence administrator's certificate of compliance if
237 the recovery residence administrator fails to adhere to the
238 continuing education requirements.

239 (b) If a certified recovery residence administrator of a
240 recovery residence is arrested for or found guilty of, or enters
241 a plea of guilty or nolo contendere to, regardless of
242 adjudication, any offense listed in s. 435.04(2) while acting in



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243 that capacity, the recovery residence shall immediately remove
244 the person from that position and shall notify the credentialing
245 entity within 3 business days after such removal. The recovery
246 residence shall have 30 days to retain a certified recovery
247 residence administrator. The credentialing entity shall revoke
248 the certificate of compliance of any recovery residence that
249 fails to meet these requirements.

250 (c) A credentialing entity shall revoke a recovery
251 residence administrator's certificate of compliance if the
252 recovery residence administrator provides false or misleading
253 information to the credentialing entity at any time.

254 (7) A person may not advertise himself or herself to the
255 public, in any way or by any medium whatsoever, as a "certified
256 recovery residence administrator" unless he or she has first
257 secured a certificate of compliance under this section. A person
258 who violates this subsection commits a misdemeanor of the first
259 degree, punishable as provided in s. 775.082 or s. 775.083.

260 (8) A certified recovery residence administrator may not
261 actively manage more than one recovery residence at any given
262 time.

263 Section 4. Section 397.4872, Florida Statutes, is created
264 to read:

265 397.4872 Exemption from disqualification; publication.-

266 (1) Individual exemptions to staff disqualification or
267 administrator ineligibility may be requested if a recovery
268 residence deems the decision will benefit the program. Requests
269 for exemptions shall be submitted in writing to the department
270 within 20 days of the denial by the credentialing entity and
271 must include a justification for the exemption.



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272 (2) The department may exempt a person from ss. 397.487
273 (6) and 397.4871(5) if it has been at least 3 years since the
274 person has completed or been lawfully released from confinement,
275 supervision, or sanction for the disqualifying offense. An
276 exemption from the disqualifying offenses may not be given under
277 any circumstances for any person who is a:

278 (a) Sexual predator pursuant to s. 775.21;

279 (b) Career offender pursuant to s. 775.261; or

280 (c) Sexual offender pursuant to s. 943.0435, unless the
281 requirement to register as a sexual offender has been removed
282 pursuant to s. 943.04354.

283 (3) By April 1, 2016, each credentialing entity shall
284 submit a list to the department of all recovery residences and
285 recovery residence administrators certified by the credentialing
286 entity that hold a valid certificate of compliance. Thereafter,
287 the credentialing entity must notify the department within 3
288 business days after a new recovery residence or recovery
289 residence administrator is certified or a recovery residence or
290 recovery residence administrator's certificate expires or is
291 terminated. The department shall publish on its website a list
292 of all recovery residences that hold a valid certificate of
293 compliance. The department shall also publish on its website a
294 list of all recovery residence administrators who hold a valid
295 certificate of compliance. A recovery residence or recovery
296 residence administrator shall be excluded from the list upon
297 written request to the department by the listed individual or
298 entity.

299 Section 5. Subsections (1) and (5) of section 397.407,
300 Florida Statutes, are amended, and subsection (11) is added to



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301 that section, to read:

302 397.407 Licensure process; fees.—

303 (1) The department shall establish by rule the licensure
304 process to include fees and categories of licenses. The rule
305 must prescribe a fee range that is based, at least in part, on
306 the number and complexity of programs listed in s. 397.311(22)
307 ~~397.311(18)~~ which are operated by a licensee. The fees from the
308 licensure of service components are sufficient to cover at least
309 50 percent of the costs of regulating the service components.
310 The department shall specify by rule a fee range for public and
311 privately funded licensed service providers. Fees for privately
312 funded licensed service providers must exceed the fees for
313 publicly funded licensed service providers. During adoption of
314 the rule governing the licensure process and fees, the
315 department shall carefully consider the potential adverse impact
316 on small, not-for-profit service providers.

317 (5) The department may issue probationary, regular, and
318 interim licenses. After adopting the rule governing the
319 licensure process and fees, the department shall issue one
320 license for each service component that is operated by a service
321 provider and defined in rule pursuant to s. 397.311(22)
322 ~~397.311(18)~~. The license is valid only for the specific service
323 components listed for each specific location identified on the
324 license. The licensed service provider shall apply for a new
325 license at least 60 days before the addition of any service
326 components or 30 days before the relocation of any of its
327 service sites. Provision of service components or delivery of
328 services at a location not identified on the license may be
329 considered an unlicensed operation that authorizes the



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330 department to seek an injunction against operation as provided
331 in s. 397.401, in addition to other sanctions authorized by s.
332 397.415. Probationary and regular licenses may be issued only
333 after all required information has been submitted. A license may
334 not be transferred. As used in this subsection, the term
335 "transfer" includes, but is not limited to, the transfer of a
336 majority of the ownership interest in the licensed entity or
337 transfer of responsibilities under the license to another entity
338 by contractual arrangement.

339 (11) Effective July 1, 2016, a service provider licensed
340 under this part may not refer a current or discharged patient to
341 a recovery residence unless the recovery residence holds a valid
342 certificate of compliance as provided in s. 397.487, and is
343 actively managed by a certified recovery residence administrator
344 as provided in s. 397.4871, or is owned and operated by a
345 licensed service provider or a licensed service provider's
346 wholly owned subsidiary. For purposes of this subsection, the
347 term "refer" means to inform a patient by any means about the
348 name, address, or other details of the recovery residence.
349 However, this subsection does not require a licensed service
350 provider to refer any patient to a recovery residence.

351 Section 6. Paragraph (e) of subsection (5) of section
352 212.055, Florida Statutes, is amended to read:

353 212.055 Discretionary sales surtaxes; legislative intent;
354 authorization and use of proceeds.—It is the legislative intent
355 that any authorization for imposition of a discretionary sales
356 surtax shall be published in the Florida Statutes as a
357 subsection of this section, irrespective of the duration of the
358 levy. Each enactment shall specify the types of counties



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359 authorized to levy; the rate or rates which may be imposed; the
360 maximum length of time the surtax may be imposed, if any; the
361 procedure which must be followed to secure voter approval, if
362 required; the purpose for which the proceeds may be expended;
363 and such other requirements as the Legislature may provide.
364 Taxable transactions and administrative procedures shall be as
365 provided in s. 212.054.

366 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
367 s. 125.011(1) may levy the surtax authorized in this subsection
368 pursuant to an ordinance either approved by extraordinary vote
369 of the county commission or conditioned to take effect only upon
370 approval by a majority vote of the electors of the county voting
371 in a referendum. In a county as defined in s. 125.011(1), for
372 the purposes of this subsection, “county public general
373 hospital” means a general hospital as defined in s. 395.002
374 which is owned, operated, maintained, or governed by the county
375 or its agency, authority, or public health trust.

376 (e) A governing board, agency, or authority shall be
377 chartered by the county commission upon this act becoming law.
378 The governing board, agency, or authority shall adopt and
379 implement a health care plan for indigent health care services.
380 The governing board, agency, or authority shall consist of no
381 more than seven and no fewer than five members appointed by the
382 county commission. The members of the governing board, agency,
383 or authority shall be at least 18 years of age and residents of
384 the county. No member may be employed by or affiliated with a
385 health care provider or the public health trust, agency, or
386 authority responsible for the county public general hospital.
387 The following community organizations shall each appoint a



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388 representative to a nominating committee: the South Florida
389 Hospital and Healthcare Association, the Miami-Dade County
390 Public Health Trust, the Dade County Medical Association, the
391 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
392 County. This committee shall nominate between 10 and 14 county
393 citizens for the governing board, agency, or authority. The
394 slate shall be presented to the county commission and the county
395 commission shall confirm the top five to seven nominees,
396 depending on the size of the governing board. Until such time as
397 the governing board, agency, or authority is created, the funds
398 provided for in subparagraph (d)2. shall be placed in a
399 restricted account set aside from other county funds and not
400 disbursed by the county for any other purpose.

401 1. The plan shall divide the county into a minimum of four
402 and maximum of six service areas, with no more than one
403 participant hospital per service area. The county public general
404 hospital shall be designated as the provider for one of the
405 service areas. Services shall be provided through participants'
406 primary acute care facilities.

407 2. The plan and subsequent amendments to it shall fund a
408 defined range of health care services for both indigent persons
409 and the medically poor, including primary care, preventive care,
410 hospital emergency room care, and hospital care necessary to
411 stabilize the patient. For the purposes of this section,
412 "stabilization" means stabilization as defined in s. 397.311(41)
413 ~~397.311(35)~~. Where consistent with these objectives, the plan
414 may include services rendered by physicians, clinics, community
415 hospitals, and alternative delivery sites, as well as at least
416 one regional referral hospital per service area. The plan shall



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417 provide that agreements negotiated between the governing board,
418 agency, or authority and providers shall recognize hospitals
419 that render a disproportionate share of indigent care, provide
420 other incentives to promote the delivery of charity care to draw
421 down federal funds where appropriate, and require cost
422 containment, including, but not limited to, case management.
423 From the funds specified in subparagraphs (d)1. and 2. for
424 indigent health care services, service providers shall receive
425 reimbursement at a Medicaid rate to be determined by the
426 governing board, agency, or authority created pursuant to this
427 paragraph for the initial emergency room visit, and a per-member
428 per-month fee or capitation for those members enrolled in their
429 service area, as compensation for the services rendered
430 following the initial emergency visit. Except for provisions of
431 emergency services, upon determination of eligibility,
432 enrollment shall be deemed to have occurred at the time services
433 were rendered. The provisions for specific reimbursement of
434 emergency services shall be repealed on July 1, 2001, unless
435 otherwise reenacted by the Legislature. The capitation amount or
436 rate shall be determined prior to program implementation by an
437 independent actuarial consultant. In no event shall such
438 reimbursement rates exceed the Medicaid rate. The plan must also
439 provide that any hospitals owned and operated by government
440 entities on or after the effective date of this act must, as a
441 condition of receiving funds under this subsection, afford
442 public access equal to that provided under s. 286.011 as to any
443 meeting of the governing board, agency, or authority the subject
444 of which is budgeting resources for the retention of charity
445 care, as that term is defined in the rules of the Agency for



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446 Health Care Administration. The plan shall also include
447 innovative health care programs that provide cost-effective
448 alternatives to traditional methods of service and delivery
449 funding.

450 3. The plan's benefits shall be made available to all
451 county residents currently eligible to receive health care
452 services as indigents or medically poor as defined in paragraph
453 (4) (d).

454 4. Eligible residents who participate in the health care
455 plan shall receive coverage for a period of 12 months or the
456 period extending from the time of enrollment to the end of the
457 current fiscal year, per enrollment period, whichever is less.

458 5. At the end of each fiscal year, the governing board,
459 agency, or authority shall prepare an audit that reviews the
460 budget of the plan, delivery of services, and quality of
461 services, and makes recommendations to increase the plan's
462 efficiency. The audit shall take into account participant
463 hospital satisfaction with the plan and assess the amount of
464 poststabilization patient transfers requested, and accepted or
465 denied, by the county public general hospital.

466 Section 7. Subsection (6) of section 394.9085, Florida
467 Statutes, is amended to read:

468 394.9085 Behavioral provider liability.—

469 (6) For purposes of this section, the terms "detoxification
470 services," "addictions receiving facility," and "receiving
471 facility" have the same meanings as those provided in ss.

472 397.311(22)(a)4. ~~397.311(18)(a)4.~~, 397.311(22)(a)1.

473 ~~397.311(18)(a)1.~~, and 394.455(26), respectively.

474 Section 8. Subsection (8) of section 397.405, Florida



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475 Statutes, is amended to read:

476 397.405 Exemptions from licensure.—The following are exempt
477 from the licensing provisions of this chapter:

478 (8) A legally cognizable church or nonprofit religious
479 organization or denomination providing substance abuse services,
480 including prevention services, which are solely religious,
481 spiritual, or ecclesiastical in nature. A church or nonprofit
482 religious organization or denomination providing any of the
483 licensed service components itemized under s. 397.311(22)
484 ~~397.311(18)~~ is not exempt from substance abuse licensure but
485 retains its exemption with respect to all services which are
486 solely religious, spiritual, or ecclesiastical in nature.

487
488 The exemptions from licensure in this section do not apply to
489 any service provider that receives an appropriation, grant, or
490 contract from the state to operate as a service provider as
491 defined in this chapter or to any substance abuse program
492 regulated pursuant to s. 397.406. Furthermore, this chapter may
493 not be construed to limit the practice of a physician or
494 physician assistant licensed under chapter 458 or chapter 459, a
495 psychologist licensed under chapter 490, a psychotherapist
496 licensed under chapter 491, or an advanced registered nurse
497 practitioner licensed under part I of chapter 464, who provides
498 substance abuse treatment, so long as the physician, physician
499 assistant, psychologist, psychotherapist, or advanced registered
500 nurse practitioner does not represent to the public that he or
501 she is a licensed service provider and does not provide services
502 to individuals pursuant to part V of this chapter. Failure to
503 comply with any requirement necessary to maintain an exempt



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504 status under this section is a misdemeanor of the first degree,
505 punishable as provided in s. 775.082 or s. 775.083.

506 Section 9. Section 397.416, Florida Statutes, is amended to
507 read:

508 397.416 Substance abuse treatment services; qualified
509 professional.—Notwithstanding any other provision of law, a
510 person who was certified through a certification process
511 recognized by the former Department of Health and Rehabilitative
512 Services before January 1, 1995, may perform the duties of a
513 qualified professional with respect to substance abuse treatment
514 services as defined in this chapter, and need not meet the
515 certification requirements contained in s. 397.311(30)
516 ~~397.311(26)~~.

517 Section 10. Paragraphs (d) and (g) of subsection (1) of
518 section 440.102, Florida Statutes, are amended to read:

519 440.102 Drug-free workplace program requirements.—The
520 following provisions apply to a drug-free workplace program
521 implemented pursuant to law or to rules adopted by the Agency
522 for Health Care Administration:

523 (1) DEFINITIONS.—Except where the context otherwise
524 requires, as used in this act:

525 (d) "Drug rehabilitation program" means a service provider,
526 established pursuant to s. 397.311(39) ~~397.311(33)~~, that
527 provides confidential, timely, and expert identification,
528 assessment, and resolution of employee drug abuse.

529 (g) "Employee assistance program" means an established
530 program capable of providing expert assessment of employee
531 personal concerns; confidential and timely identification
532 services with regard to employee drug abuse; referrals of



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533 employees for appropriate diagnosis, treatment, and assistance;
534 and followup services for employees who participate in the
535 program or require monitoring after returning to work. If, in
536 addition to the above activities, an employee assistance program
537 provides diagnostic and treatment services, these services shall
538 in all cases be provided by service providers pursuant to s.
539 397.311(39) ~~397.311(33)~~.

540 Section 11. This act shall take effect July 1, 2015.

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

542 And the title is amended as follows:

543 Delete everything before the enacting clause
544 and insert:

545 A bill to be entitled

546 An act relating to substance abuse services; amending
547 s. 397.311, F.S.; providing definitions; conforming a
548 cross-reference; creating s. 397.487, F.S.; providing
549 legislative findings and intent; requiring the
550 Department of Children and Families to create a
551 voluntary certification program for recovery
552 residences; requiring the department to approve at
553 least one credentialing entity by a specified date to
554 develop and administer the certification program;
555 requiring an approved credentialing entity to
556 establish procedures for certifying recovery
557 residences that meet certain qualifications; requiring
558 an approved credentialing entity to establish certain
559 fees; requiring a credentialing entity to conduct
560 onsite inspections of a recovery residence; requiring
561 background screening of owners, directors, and chief



562 financial officers of a recovery residence; providing
563 for denial, suspension, or revocation of
564 certification; requiring a certified recovery
565 residence to notify the credentialing entity within a
566 certain time of the removal of the recovery
567 residence's certified recovery residence
568 administrator; providing a criminal penalty for
569 falsely advertising a recovery residence as a
570 "certified recovery residence"; creating s. 397.4871,
571 F.S.; providing legislative intent; requiring the
572 department to create a voluntary certification program
573 for recovery residence administrators; directing the
574 department to approve at least one credentialing
575 entity by a specified date to develop and administer
576 the certification program; requiring an approved
577 credentialing entity to establish a process for
578 certifying recovery residence administrators who meet
579 certain qualifications; requiring a certifies recovery
580 residence to be actively managed by a certified
581 recovery residence administrator; requiring certain
582 applications to include specified information;
583 requiring an approved credentialing entity to
584 establish certain fees; requiring background screening
585 of applicants for recovery residence administrator
586 certification; requiring the department to notify the
587 credentialing agency of an applicant's eligibility
588 based on the background screening results; providing
589 for denial, suspension, or revocation of
590 certification; requiring a certified recovery



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591 residence to notify the credentialing entity within a
592 certain time of the removal providing a criminal
593 penalty for falsely advertising oneself as a
594 "certified recovery residence administrator";
595 prohibiting a certified recovery residence
596 administrator from actively managing more than once
597 recovery residence at the same time; creating s.
598 397.4872, F.S.; providing exemptions from
599 disqualifying offenses; requiring credentialing
600 entities to provide the department with a list of all
601 certified recovery residences and recovery residence
602 administrators by a date certain; requiring the
603 department to publish the list on its website;
604 allowing recovery residences and recovery residence
605 administrators to be excluded from the list upon
606 written request to the department; amending s.
607 397.407, F.S.; conforming cross-references; providing
608 conditions for a licensed service provider to refer
609 patients to a certified recovery residence or a
610 recovery residence owned and operated by the licensed
611 service provider; defining the term "refer"; amending
612 ss. 212.055, 394.9085, 397.405, 397.416, and 440.102,
613 F.S.; conforming cross-references; providing an
614 effective date.

By the Committee on Children, Families, and Elder Affairs; and
Senator Clemens

586-01708-15

2015326c1

1 A bill to be entitled
2 An act relating to substance abuse services; amending
3 s. 397.311, F.S.; providing definitions; conforming a
4 cross-reference; creating s. 397.487, F.S.; providing
5 legislative findings and intent; requiring the
6 Department of Children and Families to create a
7 voluntary certification program for recovery
8 residences; directing the department to approve at
9 least one credentialing entity by a specified date to
10 develop and administer the certification program;
11 requiring an approved credentialing entity to
12 establish procedures for certifying recovery
13 residences that meet certain qualifications; requiring
14 an approved credentialing entity to establish certain
15 fees; requiring a credentialing entity to conduct
16 onsite inspections of a recovery residence; requiring
17 background screening of owners, directors, and chief
18 financial officers of a recovery residence; providing
19 for denial, suspension, or revocation of
20 certification; providing a criminal penalty for
21 falsely advertising a recovery residence as a
22 "certified recovery residence"; creating s. 397.4871,
23 F.S.; providing legislative intent; requiring the
24 department to create a voluntary certification program
25 for recovery residence administrators; directing the
26 department to approve at least one credentialing
27 entity by a specified date to develop and administer
28 the certification program; requiring an approved
29 credentialing entity to establish a process for

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

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30 certifying recovery residence administrators who meet
31 certain qualifications; requiring an approved
32 credentialing entity to establish certain fees;
33 requiring background screening of applicants for
34 recovery residence administrator certification;
35 providing for denial, suspension, or revocation of
36 certification; providing a criminal penalty for
37 falsely advertising oneself as a "certified recovery
38 residence administrator"; creating s. 397.4872, F.S.;
39 providing exemptions from disqualifying offenses;
40 requiring credentialing entities to provide the
41 department with a list of all certified recovery
42 residences and recovery residence administrators by a
43 date certain; requiring the department to publish the
44 list on its website; allowing recovery residences and
45 recovery residence administrators to be excluded from
46 the list upon written request to the department;
47 amending s. 397.407, F.S.; conforming cross-
48 references; providing conditions for a licensed
49 service provider to refer patients to a certified
50 recovery residence or a recovery residence owned and
51 operated by the licensed service provider; defining
52 the term "refer"; amending ss. 212.055, 394.9085,
53 397.405, 397.416, and 440.102, F.S.; conforming cross-
54 references; providing an effective date.

56 Be It Enacted by the Legislature of the State of Florida:
57

58 Section 1. Present subsections (7) and (32) of section

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

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59 397.311, Florida Statutes, are amended, present subsections (4)
60 and (5), present subsections (6) through (28), and present
61 subsections (29) through (39) are renumbered as subsections (7)
62 and (8), subsections (10) through (32), and subsections (35)
63 through (45), respectively, new subsections (4), (5), (6), (9),
64 (33), and (34) are added to that section, to read:

65 397.311 Definitions.—As used in this chapter, except part
66 VIII, the term:

67 (4) "Certificate of compliance" means a certificate that is
68 issued by a credentialing entity to a recovery residence or a
69 recovery residence administrator.

70 (5) "Certified recovery residence" means a recovery
71 residence that holds a valid certificate of compliance or that
72 is actively managed by a certified recovery residence
73 administrator.

74 (6) "Certified recovery residence administrator" means a
75 recovery residence administrator who holds a valid certificate
76 of compliance.

77 (9) "Credentialing entity" means a nonprofit organization
78 that develops and administers professional, facility, or
79 organization certification programs according to applicable
80 nationally recognized certification or psychometric standards.

81 (11)(7) "Director" means the chief administrative or
82 executive officer of a service provider or recovery residence.

83 (33) "Recovery residence" means a residential dwelling
84 unit, or other form of group housing, which is offered or
85 advertised through any means, including oral, written,
86 electronic, or printed means, by any person or entity as a
87 residence that provides a peer-supported, alcohol-free, and

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88 drug-free living environment.

89 (34) "Recovery residence administrator" means the person
90 responsible for the overall management of the recovery
91 residence, including, but not limited to, the supervision of
92 residents and staff employed by, or volunteering for, the
93 residence.

94 (38)(32) "Service component" or "component" means a
95 discrete operational entity within a service provider which is
96 subject to licensing as defined by rule. Service components
97 include prevention, intervention, and clinical treatment
98 described in subsection (22) (18).

99 Section 2. Section 397.487, Florida Statutes, is created to
100 read:

101 397.487 Voluntary certification of recovery residences.—

102 (1) The Legislature finds that a person suffering from
103 addiction has a higher success rate of achieving long-lasting
104 sobriety when given the opportunity to build a stronger
105 foundation by living in a recovery residence after completing
106 treatment. The Legislature further finds that this state and its
107 subdivisions have a legitimate state interest in protecting
108 these persons, who represent a vulnerable consumer population in
109 need of adequate housing. It is the intent of the Legislature to
110 protect persons who reside in a recovery residence.

111 (2) The department shall approve at least one credentialing
112 entity by December 1, 2015, for the purpose of developing and
113 administering a voluntary certification program for recovery
114 residences. The approved credentialing entity shall:

115 (a) Establish recovery residence certification
116 requirements.

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- 117 (b) Establish procedures to:
 118 1. Administer the application, certification,
 119 recertification, and disciplinary processes.
 120 2. Monitor and inspect a recovery residence and its staff
 121 to ensure compliance with certification requirements.
 122 3. Interview and evaluate residents, employees, and
 123 volunteer staff on their knowledge and application of
 124 certification requirements.
 125 (c) Provide training for owners, managers, and staff.
 126 (d) Develop a code of ethics.
 127 (e) Establish application, inspection, and annual
 128 certification renewal fees. The application fee may not exceed
 129 \$100. Any onsite inspection fee shall reflect actual costs for
 130 inspections. The annual certification renewal fee may not exceed
 131 \$100.
 132 (3) A credentialing entity shall require the recovery
 133 residence to submit the following documents with the completed
 134 application and fee:
 135 (a) A policy and procedures manual containing:
 136 1. Job descriptions for all staff positions.
 137 2. Drug-testing procedures and requirements.
 138 3. A prohibition on the premises against alcohol, illegal
 139 drugs, and the use of prescribed medications by an individual
 140 other than the individual for whom the medication is prescribed.
 141 4. Policies to support a resident's recovery efforts.
 142 5. A good neighbor policy to address neighborhood concerns
 143 and complaints.
 144 (b) Rules for residents.
 145 (c) Copies of all forms provided to residents.

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- 146 (d) Intake procedures.
 147 (e) Relapse policy.
 148 (f) Fee schedule.
 149 (g) Refund policy.
 150 (h) Eviction procedures and policy.
 151 (i) Code of ethics.
 152 (j) Proof of insurance.
 153 (k) Proof of background screening.
 154 (l) Proof of satisfactory fire, safety, and health
 155 inspections.
 156 (4) Upon receiving a completed application and fee, a
 157 credentialing entity shall conduct an onsite inspection of the
 158 recovery residence.
 159 (5) All owners, directors, and chief financial officers of
 160 an applicant recovery residence are subject to level 2
 161 background screening as provided under chapter 435. The
 162 department shall notify the credentialing entity of the results
 163 of the background screenings. A credentialing entity shall deny
 164 a recovery residence's application if any owner, director, or
 165 chief financial officer has been found guilty of, regardless of
 166 adjudication, or has entered a plea of nolo contendere or guilty
 167 to any offense listed in s. 435.04(2), unless the department has
 168 issued an exemption under s. 397.4872.
 169 (6) A credentialing entity shall issue a certificate of
 170 compliance upon approval of the recovery residence's application
 171 and inspection. The certification shall automatically terminate
 172 1 year after issuance if not renewed.
 173 (7) Onsite followup monitoring of any certified recovery
 174 residence may be conducted by the credentialing entity to

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175 determine continuing compliance with certification requirements.
 176 The credentialing entity shall inspect each certified recovery
 177 residence at least annually to ensure compliance.

178 (a) A credentialing entity may suspend or revoke a
 179 certificate of compliance if the recovery residence is not in
 180 compliance with any provision of this section or has failed to
 181 remedy any deficiency identified by the credentialing entity
 182 within the time period specified.

183 (b) If any owner, director, or chief financial officer of a
 184 certified recovery residence is arrested or found guilty of,
 185 regardless of adjudication, or has entered a plea of nolo
 186 contendere or guilty to any offense listed in s. 435.04(2),
 187 while acting in that capacity, the certified recovery residence
 188 shall immediately remove the person from that position and shall
 189 notify the credentialing entity within 3 business days after
 190 such removal. The credentialing entity shall revoke the
 191 certificate of compliance of any recovery residence that fails
 192 to meet these requirements.

193 (c) A credentialing entity shall revoke a recovery
 194 residence's certificate of compliance if the recovery residence
 195 provides false or misleading information to the credentialing
 196 entity at any time.

197 (8) A person may not advertise to the public, in any way or
 198 by any medium whatsoever, any recovery residence as a "certified
 199 recovery residence" unless such recovery residence has first
 200 secured a certificate of compliance under this section. A person
 201 who violates this subsection commits a misdemeanor of the first
 202 degree, punishable as provided in s. 775.082 or s. 775.083.

203 Section 3. Section 397.4871, Florida Statutes, is created

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204 to read:

205 397.4871 Recovery residence administrator certification.—

206 (1) It is the intent of the Legislature that a recovery
 207 residence administrator voluntarily earn and maintain
 208 certification from a credentialing entity approved by the
 209 Department of Children and Families. The Legislature further
 210 intends that certification ensure that an administrator has the
 211 competencies necessary to appropriately respond to the needs of
 212 residents, to maintain residence standards, and to meet
 213 residence certification requirements.

214 (2) The department shall approve at least one credentialing
 215 entity by December 1, 2015, for the purpose of developing and
 216 administering a voluntary credentialing program for
 217 administrators. The department shall approve any credentialing
 218 entity that the department endorses pursuant to s. 397.321(16)
 219 if the credentialing entity also meets the requirements of this
 220 section. The approved credentialing entity shall:

221 (a) Establish recovery residence administrator core
 222 competencies, certification requirements, testing instruments,
 223 and recertification requirements according to nationally
 224 recognized certification and psychometric standards.

225 (b) Establish a process to administer the certification
 226 application, award, and maintenance processes.

227 (c) Develop and administer:

228 1. A code of ethics and disciplinary process.

229 2. Biennial continuing education requirements and annual
 230 certification renewal requirements.

231 3. An education provider program to approve training
 232 entities that are qualified to provide precertification training

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233 to applicants and continuing education opportunities to
 234 certified persons.
 235 (3) A credentialing entity shall establish a certification
 236 program that:
 237 (a) Is established according to nationally recognized
 238 certification and psychometric standards.
 239 (b) Is directly related to the core competencies.
 240 (c) Establishes minimum requirements in each of the
 241 following categories:
 242 1. Training.
 243 2. On-the-job work experience.
 244 3. Supervision.
 245 4. Testing.
 246 5. Biennial continuing education.
 247 (d) Requires adherence to a code of ethics and provides for
 248 a disciplinary process that applies to certified persons.
 249 (e) Approves qualified training entities that provide
 250 precertification training to applicants and continuing education
 251 to certified recovery residence administrators. To avoid a
 252 conflict of interest, a credentialing entity or its affiliate
 253 may not deliver training to an applicant or continuing education
 254 to a certificateholder.
 255 (4) A credentialing entity shall establish application,
 256 examination, and certification fees and an annual certification
 257 renewal fee. The application, examination, and certification
 258 fees may not exceed \$225. The annual certification renewal fee
 259 may not exceed \$100.
 260 (5) All applicants are subject to level 2 background
 261 screening as provided under chapter 435. The department shall

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262 notify the credentialing entity of the results of the background
 263 screenings. A credentialing entity shall deny a person's
 264 application if the applicant has been found guilty of,
 265 regardless of adjudication, or has entered a plea of nolo
 266 contendere or guilty to any offense listed in s. 435.04(2),
 267 unless the department has issued an exemption under s. 397.4872.
 268 (6) The credentialing entity shall issue a certificate of
 269 compliance upon approval of a person's application. The
 270 certification shall automatically terminate 1 year after
 271 issuance if not renewed.
 272 (a) A credentialing entity may suspend or revoke the
 273 recovery residence administrator's certificate of compliance if
 274 the recovery residence administrator fails to adhere to the
 275 continuing education requirements.
 276 (b) If a certified recovery residence administrator of a
 277 recovery residence is arrested or found guilty of, regardless of
 278 adjudication, or has entered a plea of nolo contendere or guilty
 279 to any offense listed in s. 435.04(2), the recovery residence
 280 shall immediately remove the recovery residence administrator
 281 from that position and shall notify the credentialing entity
 282 within 3 business days after such removal. The recovery
 283 residence shall have 30 days to retain a certified recovery
 284 residence administrator. The credentialing entity shall revoke
 285 the certificate of compliance of any recovery residence which
 286 fails to meet these requirements.
 287 (c) A credentialing entity shall revoke a recovery
 288 residence administrator's certificate of compliance if the
 289 recovery residence administrator provides false or misleading
 290 information to the credentialing entity at any time.

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291 (7) A person may not advertise himself or herself to the
 292 public, in any way or by any medium whatsoever, as a "certified
 293 recovery residence administrator" unless he or she has first
 294 secured a certificate of compliance under this section. A person
 295 who violates this subsection commits a misdemeanor of the first
 296 degree, punishable as provided in s. 775.082 or s. 775.083.

297 (8) A certified recovery residence administrator may
 298 qualify a recovery residence for referrals under s. 397.407(11)
 299 if the certified recovery residence administrator:

300 (a) Registers with the credentialing entity the recovery
 301 residence he or she intends to qualify. The registration shall
 302 include:

303 1. The name and address of the recovery residence,
 304 including the fictitious name, if any, under which the recovery
 305 residence is doing business.

306 2. The name of the owners and any officers of the recovery
 307 residence.

308 (b) Submits an affidavit attesting that he or she is
 309 actively managing the recovery residence and that he or she is
 310 not utilizing his or her recovery residence administrator's
 311 certificate of compliance to qualify any additional recovery
 312 residences under this subsection.

313 (9) A certified recovery residence administrator must
 314 notify the credentialing entity within 3 business days after the
 315 termination of the certified recovery residence administrator's
 316 qualification of the recovery residence due to resignation or
 317 any other reason.

318 (10) A certified recovery residence administrator may act
 319 as a qualifying agent for only one recovery residence at any

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320 given time.

321 Section 4. Section 397.4872, Florida Statutes, is created
 322 to read:

323 397.4872 Exemption from disqualification; publication.—

324 (1) Individual exemptions from staff disqualification or
 325 administrator ineligibility may be requested if a recovery
 326 residence deems the decision will benefit the program. Requests
 327 for exemptions shall be submitted in writing to the department
 328 and include a justification for the exemption.

329 (2) The department may exempt a person from ss. 397.487(5)
 330 and 397.4871(5) if it has been at least 3 years since the person
 331 has completed or been lawfully released from confinement,
 332 supervision, or sanction for the disqualifying offense. An
 333 exemption from the disqualifying offenses may not be given under
 334 any circumstances for any person who is a:

335 (a) Sexual predator pursuant to s. 775.21;

336 (b) Career offender pursuant to s. 775.261; or

337 (c) Sexual offender pursuant to s. 943.0435, unless the
 338 requirement to register as a sexual offender has been removed
 339 pursuant to s. 943.04354.

340 (3) By April 1, 2016, a credentialing entity shall submit a
 341 list to the department of all recovery residences and recovery
 342 residence administrators certified by the credentialing entity
 343 which hold a valid certificate of compliance. Thereafter, the
 344 credentialing entity must notify the department within 3
 345 business days after a new recovery residence or recovery
 346 residence administrator is certified or a recovery residence's
 347 or recovery residence administrator's certificate expires or is
 348 terminated. The department shall publish on its website a list

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349 of all recovery residences that hold a valid certificate of
 350 compliance or that have been qualified pursuant to s.
 351 397.4871(10). The department shall also publish on its website a
 352 list of all recovery residence administrators that hold a valid
 353 certificate of compliance. A recovery residence or recovery
 354 residence administrator shall be excluded from the list if the
 355 recovery residence administrator submits a written request to
 356 the department.

357 Section 5. Subsections (1) and (5) of section 397.407,
 358 Florida Statutes, are amended, and subsection (11) is added to
 359 that section, to read:

360 397.407 Licensure process; fees.—

361 (1) The department shall establish by rule the licensure
 362 process to include fees and categories of licenses. The rule
 363 must prescribe a fee range that is based, at least in part, on
 364 the number and complexity of programs listed in s. 397.311(22)
 365 ~~397.311(18)~~ which are operated by a licensee. The fees from the
 366 licensure of service components are sufficient to cover at least
 367 50 percent of the costs of regulating the service components.
 368 The department shall specify by rule a fee range for public and
 369 privately funded licensed service providers. Fees for privately
 370 funded licensed service providers must exceed the fees for
 371 publicly funded licensed service providers. During adoption of
 372 the rule governing the licensure process and fees, the
 373 department shall carefully consider the potential adverse impact
 374 on small, not-for-profit service providers.

375 (5) The department may issue probationary, regular, and
 376 interim licenses. After adopting the rule governing the
 377 licensure process and fees, the department shall issue one

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378 license for each service component that is operated by a service
 379 provider and defined in rule pursuant to s. 397.311(22)
 380 ~~397.311(18)~~. The license is valid only for the specific service
 381 components listed for each specific location identified on the
 382 license. The licensed service provider shall apply for a new
 383 license at least 60 days before the addition of any service
 384 components or 30 days before the relocation of any of its
 385 service sites. Provision of service components or delivery of
 386 services at a location not identified on the license may be
 387 considered an unlicensed operation that authorizes the
 388 department to seek an injunction against operation as provided
 389 in s. 397.401, in addition to other sanctions authorized by s.
 390 397.415. Probationary and regular licenses may be issued only
 391 after all required information has been submitted. A license may
 392 not be transferred. As used in this subsection, the term
 393 "transfer" includes, but is not limited to, the transfer of a
 394 majority of the ownership interest in the licensed entity or
 395 transfer of responsibilities under the license to another entity
 396 by contractual arrangement.

397 (11) Effective July 1, 2016, a service provider licensed
 398 under this part may not refer a current or discharged patient to
 399 a recovery residence unless the recovery residence holds a valid
 400 certificate of compliance as provided in s. 397.487 or is
 401 actively managed by a certified recovery residence administrator
 402 as provided in s. 397.4871, or both, or is owned and operated by
 403 a licensed service provider or a licensed service provider's
 404 wholly owned subsidiary. For purposes of this subsection, the
 405 term "refer" means to inform a patient by any means about the
 406 name, address, or other details of the recovery residence.

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407 However, this subsection does not require a licensed service
 408 provider to refer any patient to a recovery residence.

409 Section 6. Paragraph (e) of subsection (5) of section
 410 212.055, Florida Statutes, is amended to read:

411 212.055 Discretionary sales surtaxes; legislative intent;
 412 authorization and use of proceeds.—It is the legislative intent
 413 that any authorization for imposition of a discretionary sales
 414 surtax shall be published in the Florida Statutes as a
 415 subsection of this section, irrespective of the duration of the
 416 levy. Each enactment shall specify the types of counties
 417 authorized to levy; the rate or rates which may be imposed; the
 418 maximum length of time the surtax may be imposed, if any; the
 419 procedure which must be followed to secure voter approval, if
 420 required; the purpose for which the proceeds may be expended;
 421 and such other requirements as the Legislature may provide.
 422 Taxable transactions and administrative procedures shall be as
 423 provided in s. 212.054.

424 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
 425 s. 125.011(1) may levy the surtax authorized in this subsection
 426 pursuant to an ordinance either approved by extraordinary vote
 427 of the county commission or conditioned to take effect only upon
 428 approval by a majority vote of the electors of the county voting
 429 in a referendum. In a county as defined in s. 125.011(1), for
 430 the purposes of this subsection, "county public general
 431 hospital" means a general hospital as defined in s. 395.002
 432 which is owned, operated, maintained, or governed by the county
 433 or its agency, authority, or public health trust.

434 (e) A governing board, agency, or authority shall be
 435 chartered by the county commission upon this act becoming law.

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436 The governing board, agency, or authority shall adopt and
 437 implement a health care plan for indigent health care services.
 438 The governing board, agency, or authority shall consist of no
 439 more than seven and no fewer than five members appointed by the
 440 county commission. The members of the governing board, agency,
 441 or authority shall be at least 18 years of age and residents of
 442 the county. No member may be employed by or affiliated with a
 443 health care provider or the public health trust, agency, or
 444 authority responsible for the county public general hospital.
 445 The following community organizations shall each appoint a
 446 representative to a nominating committee: the South Florida
 447 Hospital and Healthcare Association, the Miami-Dade County
 448 Public Health Trust, the Dade County Medical Association, the
 449 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
 450 County. This committee shall nominate between 10 and 14 county
 451 citizens for the governing board, agency, or authority. The
 452 slate shall be presented to the county commission and the county
 453 commission shall confirm the top five to seven nominees,
 454 depending on the size of the governing board. Until such time as
 455 the governing board, agency, or authority is created, the funds
 456 provided for in subparagraph (d)2. shall be placed in a
 457 restricted account set aside from other county funds and not
 458 disbursed by the county for any other purpose.

459 1. The plan shall divide the county into a minimum of four
 460 and maximum of six service areas, with no more than one
 461 participant hospital per service area. The county public general
 462 hospital shall be designated as the provider for one of the
 463 service areas. Services shall be provided through participants'
 464 primary acute care facilities.

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465 2. The plan and subsequent amendments to it shall fund a
 466 defined range of health care services for both indigent persons
 467 and the medically poor, including primary care, preventive care,
 468 hospital emergency room care, and hospital care necessary to
 469 stabilize the patient. For the purposes of this section,
 470 "stabilization" means stabilization as defined in s. 397.311(41)
 471 ~~397.311(35)~~. Where consistent with these objectives, the plan
 472 may include services rendered by physicians, clinics, community
 473 hospitals, and alternative delivery sites, as well as at least
 474 one regional referral hospital per service area. The plan shall
 475 provide that agreements negotiated between the governing board,
 476 agency, or authority and providers shall recognize hospitals
 477 that render a disproportionate share of indigent care, provide
 478 other incentives to promote the delivery of charity care to draw
 479 down federal funds where appropriate, and require cost
 480 containment, including, but not limited to, case management.
 481 From the funds specified in subparagraphs (d)1. and 2. for
 482 indigent health care services, service providers shall receive
 483 reimbursement at a Medicaid rate to be determined by the
 484 governing board, agency, or authority created pursuant to this
 485 paragraph for the initial emergency room visit, and a per-member
 486 per-month fee or capitation for those members enrolled in their
 487 service area, as compensation for the services rendered
 488 following the initial emergency visit. Except for provisions of
 489 emergency services, upon determination of eligibility,
 490 enrollment shall be deemed to have occurred at the time services
 491 were rendered. The provisions for specific reimbursement of
 492 emergency services shall be repealed on July 1, 2001, unless
 493 otherwise reenacted by the Legislature. The capitation amount or

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494 rate shall be determined prior to program implementation by an
 495 independent actuarial consultant. In no event shall such
 496 reimbursement rates exceed the Medicaid rate. The plan must also
 497 provide that any hospitals owned and operated by government
 498 entities on or after the effective date of this act must, as a
 499 condition of receiving funds under this subsection, afford
 500 public access equal to that provided under s. 286.011 as to any
 501 meeting of the governing board, agency, or authority the subject
 502 of which is budgeting resources for the retention of charity
 503 care, as that term is defined in the rules of the Agency for
 504 Health Care Administration. The plan shall also include
 505 innovative health care programs that provide cost-effective
 506 alternatives to traditional methods of service and delivery
 507 funding.

508 3. The plan's benefits shall be made available to all
 509 county residents currently eligible to receive health care
 510 services as indigents or medically poor as defined in paragraph
 511 (4) (d).

512 4. Eligible residents who participate in the health care
 513 plan shall receive coverage for a period of 12 months or the
 514 period extending from the time of enrollment to the end of the
 515 current fiscal year, per enrollment period, whichever is less.

516 5. At the end of each fiscal year, the governing board,
 517 agency, or authority shall prepare an audit that reviews the
 518 budget of the plan, delivery of services, and quality of
 519 services, and makes recommendations to increase the plan's
 520 efficiency. The audit shall take into account participant
 521 hospital satisfaction with the plan and assess the amount of
 522 poststabilization patient transfers requested, and accepted or

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523 denied, by the county public general hospital.

524 Section 7. Subsection (6) of section 394.9085, Florida
525 Statutes, is amended to read:

526 394.9085 Behavioral provider liability.—

527 (6) For purposes of this section, the terms “detoxification
528 services,” “addictions receiving facility,” and “receiving
529 facility” have the same meanings as those provided in ss.

530 397.311(22)(a)4. ~~397.311(18)(a)4.~~, 397.311(22)(a)1.

531 ~~397.311(18)(a)1.~~, and 394.455(26), respectively.

532 Section 8. Subsection (8) of section 397.405, Florida
533 Statutes, is amended to read:

534 397.405 Exemptions from licensure.—The following are exempt
535 from the licensing provisions of this chapter:

536 (8) A legally cognizable church or nonprofit religious
537 organization or denomination providing substance abuse services,
538 including prevention services, which are solely religious,
539 spiritual, or ecclesiastical in nature. A church or nonprofit
540 religious organization or denomination providing any of the
541 licensed service components itemized under s. 397.311(22)
542 ~~397.311(18)~~ is not exempt from substance abuse licensure but
543 retains its exemption with respect to all services which are
544 solely religious, spiritual, or ecclesiastical in nature.

545

546 The exemptions from licensure in this section do not apply to
547 any service provider that receives an appropriation, grant, or
548 contract from the state to operate as a service provider as
549 defined in this chapter or to any substance abuse program
550 regulated pursuant to s. 397.406. Furthermore, this chapter may
551 not be construed to limit the practice of a physician or

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552 physician assistant licensed under chapter 458 or chapter 459, a
553 psychologist licensed under chapter 490, a psychotherapist
554 licensed under chapter 491, or an advanced registered nurse
555 practitioner licensed under part I of chapter 464, who provides
556 substance abuse treatment, so long as the physician, physician
557 assistant, psychologist, psychotherapist, or advanced registered
558 nurse practitioner does not represent to the public that he or
559 she is a licensed service provider and does not provide services
560 to individuals pursuant to part V of this chapter. Failure to
561 comply with any requirement necessary to maintain an exempt
562 status under this section is a misdemeanor of the first degree,
563 punishable as provided in s. 775.082 or s. 775.083.

564 Section 9. Section 397.416, Florida Statutes, is amended to
565 read:

566 397.416 Substance abuse treatment services; qualified
567 professional.—Notwithstanding any other provision of law, a
568 person who was certified through a certification process
569 recognized by the former Department of Health and Rehabilitative
570 Services before January 1, 1995, may perform the duties of a
571 qualified professional with respect to substance abuse treatment
572 services as defined in this chapter, and need not meet the
573 certification requirements contained in s. 397.311(30)
574 ~~397.311(26)~~.

575 Section 10. Paragraphs (d) and (g) of subsection (1) of
576 section 440.102, Florida Statutes, are amended to read:

577 440.102 Drug-free workplace program requirements.—The
578 following provisions apply to a drug-free workplace program
579 implemented pursuant to law or to rules adopted by the Agency
580 for Health Care Administration:

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581 (1) DEFINITIONS.--Except where the context otherwise
582 requires, as used in this act:

583 (d) "Drug rehabilitation program" means a service provider,
584 established pursuant to s. 397.311(39) ~~397.311(33)~~, that
585 provides confidential, timely, and expert identification,
586 assessment, and resolution of employee drug abuse.

587 (g) "Employee assistance program" means an established
588 program capable of providing expert assessment of employee
589 personal concerns; confidential and timely identification
590 services with regard to employee drug abuse; referrals of
591 employees for appropriate diagnosis, treatment, and assistance;
592 and followup services for employees who participate in the
593 program or require monitoring after returning to work. If, in
594 addition to the above activities, an employee assistance program
595 provides diagnostic and treatment services, these services shall
596 in all cases be provided by service providers pursuant to s.
597 397.311(39) ~~397.311(33)~~.

598 Section 11. This act shall take effect July 1, 2015.

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 7018

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: State Ombudsman Program

DATE: March 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Crosier	Hendon		CF SPB 7018 as introduced
1.	Brown	Pigott	AHS	Pre-meeting
2.			AP	

I. Summary:

SB 7018 revises the operating structure and internal procedures of the State Long-Term Care Ombudsman Program (LTCOP), housed in the Department of Elder Affairs (DOEA), to reflect current practices, maximize operational and program efficiencies, and conform to the federal Older Americans Act. The bill revises the appointment process for three at-large positions to the State Long-Term Care Council whereby the appointments are no longer made by the Governor but by the Secretary of the DOEA.

The bill has no fiscal impact.

The bill has an effective date of July 1, 2015.

II. Present Situation:

Older Americans Act

The federal Older Americans Act (OAA) was enacted in 1965 to assist elders to lead independent, meaningful, and dignified lives in their own communities rather than in more costly residential or nursing home settings. OAA programs are administered through area agencies on aging under the Florida Department of Elder Affairs (DOEA). To be eligible for OAA programs, individuals must be 60 years of age or older. Spouses and disabled adults younger than 60 years of age may receive services in certain circumstances. Preference is given to elders with the greatest economic or social needs, particularly low-income minority individuals; however, no means testing is allowed. The OAA was most recently reauthorized in 2006 to supply funding for several nutritional programs and in-home and supportive services for elders.

Long-Term Care Ombudsman Program

Florida's Long-Term Care Ombudsman Program (LTCOP) was created in 1975 as a result of the OAA. The OAA grants a special set of residents' rights to individuals who live in long-term care facilities such as nursing homes, assisted living facilities, and adult family care homes.

In Florida, a long-term care ombudsman is a volunteer who helps improve the lives of persons who live in long-term care settings by investigating and resolving their complaints against the facility. The LTCOP includes more than 300 volunteers who advocate for persons who reside in long-term care settings.

The LTCOP is administratively housed within the DOEA. The LTCOP seeks to discover, investigate, and determine the presence of conditions which constitute a threat to the rights, health, safety, or welfare of the residents of long-term care facilities. The LTCOP accomplishes these tasks by conducting investigations of complaints filed by or on behalf of residents and by conducting annual administrative assessments of such facilities. An administrative assessment is a resident-centered, unannounced review of conditions in a facility which have an impact on the rights, health, safety, and welfare of residents with the purpose of noting needed improvements and making recommendations to enhance the quality of life for residents.

The LTCOP has no enforcement or regulatory oversight authority for long-term care facilities. The Agency for Health Care Administration (AHCA) has the responsibility for licensing long-term care facilities. Ombudsmen, after completing specified statutory requirements, are certified as independent advocates, working solely on behalf of residents to mediate disputes between residents and long-term care facilities on an informal basis. The LTCOP provides residents with the opportunity to develop personal and confidential relationships with the ombudsmen to create an environment that allows a resident to candidly voice complaints. If a complaint is verified by an ombudsman indicating facility conditions that could violate the facility's licensure or be viewed as criminal activity, the LTCOP refers the issue to the AHCA, Adult Protective Services within the Department of Children and Families (DCF), the Attorney General's Office, or other agencies as appropriate.¹

In August 2011, the U.S. Department of Health and Human Services' Administration on Aging issued its Compliance Review of the State of Florida Long-Term Ombudsman Program² The review identified the State of Florida's policies and practices regarding the designation of local ombudsmen, legislative advocacy, and information dissemination as out of compliance with the OAA. Statutory changes are necessary to bring state law into conformity with federal law.

III. Effect of Proposed Changes:

Section 1 amends s. 400.0060, F.S., to revise and create definitions of terms used in the ombudsman statute. Definitions for "long-term care facility," and "ombudsman" are updated.

¹ Department of Elder Affairs, *Senate Bill 508 Fiscal Analysis* (Dec. 31, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

² Administration on Aging, Department of Health and Human Services, *Compliance Review of the State of Florida Long-Term Care Ombudsman Program* (August 30, 2011)(on file with the Senate Committee on Children, Families, and Elder Affairs).

The term “representative of the State Long Term Care Ombudsman Program” is defined to include the state ombudsman, employees, and certified ombudsmen. The term “state ombudsman” is defined as the person appointed by the secretary of DOEA to administer the ombudsman program. The term “resident” is revised to include persons over 18 years of age who reside in a long-term care facility. The term “district” refers to geographical areas in the state designated by the state ombudsman. The bill specifies that each district may have more than one local unit of ombudsmen.

Section 2 amends s. 400.0061, F.S., which provides legislative findings and intent, to conform existing text to newly-defined terms.

Section 3 amends s. 400.0063, F.S., which establishes the office of state ombudsman, to conform existing text to newly-defined terms.

Section 4 amends s. 400.0065, F.S., relating to duties of the Long-Term Care Ombudsman Program, to give the state long-term care ombudsman the final authority to make and rescind appointments of individuals serving as ombudsmen; to update the list of individuals to whom the state ombudsman must submit the annual ombudsman program report; and to revise terminology to conform to new definitions.

Section 5 amends s. 400.0067, F.S., relating to the State Long-Term Care Ombudsman Council, to update terminology. Currently, appointments to the three at-large positions on the council are made by the Governor. Under the bill, each local council in a district must select an ombudsman to serve as a representative to the state council. The state ombudsman will submit the names to the Secretary of the DOEA, who will make the appointments to the three at-large positions on the state council.

Section 6 amends 400.0069, F.S., relating to districts and local ombudsman councils. The state ombudsman will designate districts and each district will designate a local council. The bill provides for development of family councils within facilities; clarifies that ombudsmen, upon good cause shown and with their approval, may serve in a different district; and clarifies the application, background screening, and training requirements needed to become a certified ombudsman. The bill also requires each district to convene a public meeting every quarter or as needed. The bill provides that ombudsmen identify, investigate, and resolve complaints made by or on behalf of residents relating to actions or omissions by providers of long-term care services, other public agencies, guardians, or representative payees which may adversely affect the health, safety, welfare, or rights of a resident.

Section 7 amends s. 400.0070, F.S., relating to ombudsman conflicts of interest, to conform to newly-defined terms.

Section 8 amends s. 400.0071, F.S., relating to investigations and resolution of complaints concerning the health, safety, welfare and rights of residents. The bill removes references to the administrative assessment process from the complaint process.

Section 9 amends s. 400.0073, F.S., relating to complaint investigations, access to long-term care facilities by ombudsmen, reporting procedures in the event access is denied to the facility or a resident, and conforms to newly-defined terms.

Section 10 amends s. 400.0074, F.S., to provide an on-site administrative assessment at least annually which must be resident-centered and must focus on the rights, health, safety, and welfare of the residents. The assessment must not impose an unreasonable burden on the long-term care facility. The bill moves the rulemaking authority from s. 400.072, F.S., and conforms to newly-defined terms.

Section 11 amends s. 400.0075, F.S., relating to complaint resolutions and the notification process in the event of imminent danger to the health, safety, welfare or rights of a resident, to conform to newly-defined terms and to clarify complaint reporting procedures.

Section 12 revises s. 400.0078, F.S., relating to access to the ombudsmen, to add email as a way to make complaints. The bill also requires long-term care facilities to notify all residents and their families upon being admitted to the facility that retaliation against residents making complaints to the ombudsman is prohibited by law.

Section 13 amends s. 400.0079, F.S., relating to immunity for persons making complaints, to conform to newly-defined terms.

Section 14 amends s. 400.0081, F.S., relating to ombudsman access to long-term care facilities, including access to medical and social records of a resident as necessary to resolve a complaint. This bill also provides conformity to newly-defined terms and deletes the limitation that ombudsmen have access to residents only for investigating a complaint.

Section 15 amends s. 400.0083, F.S., relating to interference with the ombudsman, to make technical and conforming changes.

Section 16 amends s. 400.0087, F.S., relating to oversight of the ombudsman program by the DOEA, to make technical and conforming changes.

Section 17 amends 400.0089, F.S., relating to information on ombudsman complaints, to make technical and conforming changes.

Section 18 amends s. 400.0091, F.S., relating to ombudsman training, to clarify training requirements and to make conforming changes.

Sections 19 through 40 amend ss. 20.41, 400.021, 400.022, 400.0255, 400.162, 400.19, 400.23, 400.235, 415.102, 415.1034, 415.104, 415.1055, 415.106, 145.107, 429.02, 429.19, 429.26, 429.28, 429.34, 429.35, 429.67, 429.85, F.S., to conform to newly-defined terms and to make technical changes.

Section 41 provides an effective date of July 1, 2015.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.41, 400.0060, 400.0061, 400.0063, 400.0065, 400.0067, 400.0069, 400.0070, 400.0071, 400.0073, 400.0074, 400.0075, 400.0078, 400.0079, 400.0081, 400.0083, 400.0087, 400.0089, 400.0091, 400.021, 400.022, 400.0255, 400.162, 400.19, 400.191, 400.23, 400.235, 415.102, 415.1034, 415.104, 415.1055, 415.106, 415.107, 429.02, 429.19, 429.26, 429.28, 429.34, 429.35, 429.67, and 429.85.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing the 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.



172204

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete lines 442 - 443

and insert:

(c) Each district shall convene a public meeting at least
quarterly.

By the Committee on Children, Families, and Elder Affairs

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1 A bill to be entitled
 2 An act relating to the state ombudsman program;
 3 amending s. 400.0060, F.S.; revising and defining
 4 terms; amending s. 400.0061, F.S.; revising
 5 legislative intent with respect to citizen ombudsmen;
 6 deleting references to ombudsman councils and
 7 transferring their responsibilities to representatives
 8 of the Office of State Long-Term Care Ombudsman;
 9 amending s. 400.0063, F.S.; revising duties of the
 10 office; amending s. 400.0065, F.S.; revising the
 11 purpose of the office; revising the duties and
 12 authority of the state ombudsman; requiring the state
 13 ombudsman to submit an annual report to the Governor,
 14 the Legislature, and specified agencies and entities;
 15 amending s. 400.0067, F.S.; revising duties and
 16 membership of the State Long-Term Care Ombudsman
 17 Council; amending s. 400.0069, F.S.; requiring the
 18 state ombudsman to designate and direct program
 19 districts; requiring each district to conduct
 20 quarterly public meetings; providing duties of
 21 representatives of the office in the districts;
 22 revising the appointments of and qualifications for
 23 district ombudsmen; prohibiting certain individuals
 24 from serving as ombudsmen; amending s. 400.0070, F.S.;
 25 providing conditions under which a representative of
 26 the office could be found to have a conflict of
 27 interest; requiring the Department of Elderly Affairs,
 28 in consultation with the state ombudsman, to define by
 29 rule what constitutes a conflict of interest; amending

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

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30 s. 400.0071, F.S.; requiring the Department of Elderly
 31 Affairs to consult with the state ombudsman to adopt
 32 rules pertaining to complaint procedures; amending s.
 33 400.0073, F.S.; providing procedures for investigation
 34 of complaints; amending s. 400.0074, F.S.; revising
 35 procedures for conducting onsite administrative
 36 assessments; authorizing the department to adopt
 37 rules; amending s. 400.0075, F.S.; revising complaint
 38 notification and resolution procedures; amending s.
 39 400.0078, F.S.; providing for a resident or
 40 representative of a resident to receive additional
 41 information regarding resident rights; amending s.
 42 400.0079, F.S.; providing immunity from liability for
 43 a representative of the office under certain
 44 circumstances; amending s. 400.0081, F.S.; requiring
 45 long-term care facilities to provide representatives
 46 of the office with access to facilities, residents,
 47 and records for certain purposes; amending s.
 48 400.0083, F.S.; conforming provisions to changes made
 49 by the act; amending s. 400.0087, F.S.; providing for
 50 the office to coordinate ombudsman services with
 51 Disability Rights Florida; amending s. 400.0089, F.S.;
 52 conforming provisions to changes made by the act;
 53 amending s. 400.0091, F.S.; revising training
 54 requirements for representatives of the office and
 55 ombudsmen; amending ss. 20.41, 400.021, 400.022,
 56 400.0255, 400.162, 400.19, 400.191, and 400.23, F.S.;
 57 conforming provisions to changes made by the act;
 58 amending s. 400.235, F.S.; conforming provisions to

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

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59 changes made by the act; revising the additional
60 criteria for recognition as a Gold Seal Program
61 facility; amending ss. 415.102, 415.1034, 415.104,
62 415.1055, 415.106, 415.107, 429.02, 429.19, 429.26,
63 429.28, 429.34, 429.35, 429.67, and 429.85, F.S.;

64 conforming provisions to changes made by the act;
65 providing an effective date.

66
67 Be It Enacted by the Legislature of the State of Florida:

68
69 Section 1. Section 400.0060, Florida Statutes, is amended
70 to read:

71 400.0060 Definitions.—When used in this part, unless the
72 context clearly dictates otherwise, the term:

73 (1) “Administrative assessment” means a review of
74 conditions in a long-term care facility which impact the rights,
75 health, safety, and welfare of residents with the purpose of
76 noting needed improvement and making recommendations to enhance
77 the quality of life for residents.

78 (2) “Agency” means the Agency for Health Care
79 Administration.

80 (3) “Department” means the Department of Elderly Affairs.

81 (4) “District” means a geographical area designated by the
82 state ombudsman in which individuals certified as ombudsmen
83 carry out the duties of the State Long-Term Care Ombudsman
84 Program. A district may have one or more local councils.

85 (5)-(4) “Local council” means a local long-term care
86 ombudsman council designated by the ombudsman pursuant to s.
87 400.0069. Local councils are also known as district long-term

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88 care ombudsman councils or district councils.

89 (6)-(5) “Long-term care facility” means a nursing home
90 facility, assisted living facility, adult family-care home,
91 board and care facility, or any other similar residential adult
92 care facility.

93 (7)-(6) “Office” means the Office of the State Long-Term
94 Care Ombudsman Program created by s. 400.0063.

95 (8)-(7) “Ombudsman” means an individual who has been
96 certified by the state ombudsman as meeting the requirements of
97 ss. 400.0069, 400.0070, and 400.0091 the individual appointed by
98 the Secretary of Elderly Affairs to head the Office of State
99 Long Term Care Ombudsman.

100 (9) “Representative of the State Long-Term Care Ombudsman
101 Program” means the state ombudsman, an employee of the state or
102 district office certified as an ombudsman or an individual
103 certified as an ombudsman serving on the state or a local
104 council.

105 (10)-(8) “Resident” means an individual 18 ~~60~~ years of age
106 or older who resides in a long-term care facility.

107 (11)-(9) “Secretary” means the Secretary of Elderly Affairs.

108 (12)-(10) “State council” means the State Long-Term Care
109 Ombudsman Council created by s. 400.0067.

110 (13) “State ombudsman” means the State Long-Term Care
111 Ombudsman, who is the individual appointed by the Secretary of
112 Elderly Affairs to head the State Long-Term Care Ombudsman
113 Program.

114 (14) “State ombudsman program” means the State Long-Term
115 Care Ombudsman Program operating under the direction of the
116 State Long Term Care Ombudsman.

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117 Section 2. Section 400.0061, Florida Statutes, is amended
118 to read:

119 400.0061 Legislative findings and intent; long-term care
120 facilities.—

121 (1) The Legislature finds that conditions in long-term care
122 facilities in this state are such that the rights, health,
123 safety, and welfare of residents are not fully ensured by rules
124 of the Department of Elderly Affairs or the Agency for Health
125 Care Administration or by the good faith of owners or operators
126 of long-term care facilities. Furthermore, there is a need for a
127 formal mechanism whereby a long-term care facility resident, a
128 representative of a long-term care facility resident, or any
129 other concerned citizen may make a complaint against the
130 facility or its employees, or against other persons who are in a
131 position to restrict, interfere with, or threaten the rights,
132 health, safety, or welfare of a long-term care facility
133 resident. The Legislature finds that concerned citizens are
134 often more effective advocates for the rights of others than
135 governmental agencies. The Legislature further finds that in
136 order to be eligible to receive an allotment of funds authorized
137 and appropriated under the federal Older Americans Act, the
138 state must establish and operate an Office of State Long-Term
139 Care Ombudsman, to be headed by the State Long-Term Care
140 Ombudsman, and carry out a long-term care ombudsman program.

141 (2) It is the intent of the Legislature, therefore, to use
142 ~~utilize~~ voluntary citizen ombudsman councils under the
143 leadership of the State Long-Term Care Ombudsman ~~ombudsman~~, and,
144 through them, to operate a state an ombudsman program, which
145 shall, without interference by any executive agency, undertake

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146 to discover, investigate, and determine the presence of
147 conditions or individuals that which constitute a threat to the
148 rights, health, safety, or welfare of the residents of long-term
149 care facilities. To ensure that the effectiveness and efficiency
150 of such investigations are not impeded by advance notice or
151 delay, the Legislature intends that the representatives of the
152 State Long-Term Care Ombudsman Program ~~ombudsman and ombudsman~~
153 ~~councils and their designated representatives~~ not be required to
154 obtain warrants in order to enter into or conduct investigations
155 or onsite administrative assessments of long-term care
156 facilities. It is the further intent of the Legislature that the
157 environment in long-term care facilities be conducive to the
158 dignity and independence of residents and that investigations by
159 representatives of the State Long-Term Care Ombudsman Program
160 ~~ombudsman councils~~ shall further the enforcement of laws, rules,
161 and regulations that safeguard the health, safety, and welfare
162 of residents.

163 Section 3. Section 400.0063, Florida Statutes, is amended
164 to read:

165 400.0063 Establishment of the ~~Office of~~ State Long-Term
166 Care Ombudsman Program; designation of ombudsman and legal
167 advocate.—

168 (1) There is created ~~the an Office of~~ State Long-Term Care
169 Ombudsman Program in the Department of Elderly Affairs.

170 (2) (a) The ~~Office of~~ State Long-Term Care Ombudsman Program
171 shall be headed by the State Long-Term Care Ombudsman, who shall
172 serve on a full-time basis and shall personally, or through
173 representatives of the program office, carry out ~~its the~~
174 purposes and functions ~~of the office~~ in accordance with state

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175 and federal law.

176 (b) The state ombudsman shall be appointed by and shall
177 serve at the pleasure of the Secretary of Elderly Affairs. The
178 secretary shall appoint a person who has expertise and
179 experience in the fields of long-term care and advocacy to serve
180 as state ombudsman.

181 (3) (a) There is created in the office the position of legal
182 advocate, who shall be selected by and serve at the pleasure of
183 the state ombudsman and shall be a member in good standing of
184 The Florida Bar.

185 (b) The duties of the legal advocate shall include, but not
186 be limited to:

187 1. Assisting the state ombudsman in carrying out the duties
188 of the office with respect to the abuse, neglect, exploitation
189 or violation of rights of residents of long-term care
190 facilities.

191 2. Assisting the representatives of the State Long-Term
192 Care Ombudsman Program ~~state and local councils~~ in carrying out
193 their responsibilities under this part.

194 3. Pursuing administrative, legal, and other appropriate
195 remedies on behalf of residents.

196 4. Serving as legal counsel to the representatives of the
197 State Long-Term Care Ombudsman Program in state and local
198 councils, or individual members thereof, against whom any suit
199 or other legal action that is initiated in connection with the
200 performance of the official duties of the representatives of the
201 State Long-Term Care Ombudsman Program ~~councils or an individual~~
202 ~~member~~.

203 Section 4. Section 400.0065, Florida Statutes, is amended

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204 to read:

205 400.0065 State Long-Term Care Ombudsman Program; duties and
206 responsibilities.-

207 (1) The purpose of the ~~Office of~~ State Long-Term Care
208 Ombudsman Program ~~is shall be~~ to:

209 (a) Identify, investigate, and resolve complaints made by
210 or on behalf of residents of long-term care facilities relating
211 to actions or omissions by providers or representatives of
212 providers of long-term care services, other public or private
213 agencies, guardians, or representative payees that may adversely
214 affect the health, safety, welfare, or rights of the residents.

215 (b) Provide services that assist in protecting the health,
216 safety, welfare, and rights of residents.

217 (c) Inform residents, their representatives, and other
218 citizens about obtaining the services of the State Long-Term
219 Care Ombudsman Program and its representatives.

220 (d) Ensure that residents have regular and timely access to
221 the services provided through the State Long-Term Care Program
222 ~~office~~ and that residents and complainants receive timely
223 responses from representatives of the State Long-Term Care
224 Program ~~office~~ to their complaints.

225 (e) Represent the interests of residents before
226 governmental agencies and seek administrative, legal, and other
227 remedies to protect the health, safety, welfare, and rights of
228 the residents.

229 (f) Administer the state and local councils.

230 (g) Analyze, comment on, and monitor the development and
231 implementation of federal, state, and local laws, rules, and
232 regulations, and other governmental policies and actions, that

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233 pertain to the health, safety, welfare, and rights of the
 234 residents, with respect to the adequacy of long-term care
 235 facilities and services in the state, and recommend any changes
 236 in such laws, rules, regulations, policies, and actions as the
 237 office determines to be appropriate and necessary.

238 (h) Provide technical support for the development of
 239 resident and family councils to protect the well-being and
 240 rights of residents.

241 (2) The State Long-Term Care Ombudsman has ~~shall have~~ the
 242 duty and authority to:

243 (a) Establish and coordinate districts and local councils
 244 throughout the state.

245 (b) Perform the duties specified in state and federal law,
 246 rules, and regulations.

247 (c) Within the limits of appropriated federal and state
 248 funding, employ such personnel ~~as are~~ necessary to perform
 249 adequately the functions of the office and provide or contract
 250 for legal services to assist the representatives of the State
 251 Long-Term Care Ombudsman Program ~~state and local councils~~ in the
 252 performance of their duties. Staff positions established for the
 253 purpose of coordinating the activities of each local council and
 254 assisting its members may be filled by the ombudsman after
 255 approval by the secretary. Notwithstanding any other provision
 256 of this part, upon certification by the ombudsman that the staff
 257 member hired to fill any such position has completed the initial
 258 training required under s. 400.0091, such person shall be
 259 considered a representative of the State Long-Term Care
 260 Ombudsman Program for purposes of this part.

261 (d) Contract for services necessary to carry out the

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262 activities of the office.

263 (e) Apply for, receive, and accept grants, gifts, or other
 264 payments, including, but not limited to, real property, personal
 265 property, and services from a governmental entity or other
 266 public or private entity or person, and make arrangements for
 267 the use of such grants, gifts, or payments.

268 (f) Coordinate, to the greatest extent possible, state and
 269 local ombudsman services with the protection and advocacy
 270 systems for individuals with developmental disabilities and
 271 mental illnesses and with legal assistance programs for the poor
 272 through adoption of memoranda of understanding and other means.

273 ~~(g) Enter into a cooperative agreement with the Statewide~~
 274 ~~Advocacy Council for the purpose of coordinating and avoiding~~
 275 ~~duplication of advocacy services provided to residents.~~

276 (g)(h) Enter into a cooperative agreement with the Medicaid
 277 Fraud Division as prescribed under s. 731(e)(2)(B) of the Older
 278 Americans Act.

279 (h)(i) Prepare an annual report describing the activities
 280 carried out by the office, the state council, the districts and
 281 the local councils in the year for which the report is prepared.
 282 The state ombudsman shall submit the report to the secretary,
 283 the United States Assistant Secretary for Aging, the Governor,
 284 the President of the Senate, the Speaker of the House of
 285 Representatives, the Secretary of Children and Families, and the
 286 Secretary of the Agency for Health Care Administration at least
 287 30 days before the convening of the regular session of the
 288 Legislature. ~~The secretary shall in turn submit the report to~~
 289 ~~the United States Assistant Secretary for Aging, the Governor,~~
 290 ~~the President of the Senate, the Speaker of the House of~~

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291 ~~Representatives, the Secretary of Children and Families, and the~~
 292 ~~Secretary of Health Care Administration.~~ The report must shall,
 293 at a minimum:

294 1. Contain and analyze data collected concerning complaints
 295 about and conditions in long-term care facilities and the
 296 disposition of such complaints.

297 2. Evaluate the problems experienced by residents.

298 3. Analyze the successes of the State Long-Term Care
 299 Ombudsman Program ~~ombudsman program~~ during the preceding year,
 300 including an assessment of how successfully the program has
 301 carried out its responsibilities under the Older Americans Act.

302 4. Provide recommendations for policy, regulatory, and
 303 statutory changes designed to solve identified problems; resolve
 304 residents' complaints; improve residents' lives and quality of
 305 care; protect residents' rights, health, safety, and welfare;
 306 and remove any barriers to the optimal operation of the State
 307 Long-Term Care Ombudsman Program.

308 5. Contain recommendations from the State Long-Term Care
 309 Ombudsman Council regarding program functions and activities and
 310 recommendations for policy, regulatory, and statutory changes
 311 designed to protect residents' rights, health, safety, and
 312 welfare.

313 6. Contain any relevant recommendations from the
 314 representatives of the State Long-Term Care Ombudsman Program
 315 ~~local councils~~ regarding program functions and activities.

316 Section 5. Section 400.0067, Florida Statutes, is amended
 317 to read:

318 400.0067 State Long-Term Care Ombudsman Council; duties;
 319 membership.-

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320 (1) There is created within the ~~Office of~~ State Long-Term
 321 Care Ombudsman Program, the State Long-Term Care Ombudsman
 322 Council.

323 (2) The State Long-Term Care Ombudsman Council shall:

324 (a) Serve as an advisory body to assist the state ombudsman
 325 in reaching a consensus among districts and local councils on
 326 issues affecting residents and impacting the optimal operation
 327 of the program.

328 (b) Serve as an appellate body in receiving from the
 329 districts or local councils complaints not resolved at the
 330 district or local level. Any individual member or members of the
 331 state council may enter any long-term care facility involved in
 332 an appeal, pursuant to the conditions specified in s.
 333 400.0074(2).

334 (c) Assist the ombudsman to discover, investigate, and
 335 determine the existence of abuse or neglect in any long-term
 336 care facility, and work with the adult protective services
 337 program as required in ss. 415.101-415.113.

338 (d) Assist the ombudsman in eliciting, receiving,
 339 responding to, and resolving complaints made by or on behalf of
 340 residents.

341 (e) Elicit and coordinate state, district, local, and
 342 voluntary organizational assistance for the purpose of improving
 343 the care received by residents.

344 (f) Assist the state ombudsman in preparing the annual
 345 report described in s. 400.0065.

346 (3) The State Long-Term Care Ombudsman Council consists
 347 ~~shall be composed~~ of one active certified ombudsman from each
 348 local council in a district member elected by each local council

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349 plus three at-large members ~~appointed by the Governor.~~

350 (a) Each local council in a district must select ~~shall~~
 351 ~~elect by majority vote a representative of its choice to serve~~
 352 ~~from among the council members to represent the interests of the~~
 353 ~~local council~~ on the state council. ~~A local council chair may~~
 354 ~~not serve as the representative of the local council on the~~
 355 ~~state council.~~

356 (b)1. The state ombudsman secretary, ~~after consulting with~~
 357 ~~the ombudsman~~, shall submit to the secretary Governor a list of
 358 individuals ~~persons~~ recommended for appointment to the at-large
 359 positions on the state council. The list may ~~shall~~ not include
 360 the name of any individual person who is currently serving in a
 361 district on a local council.

362 2. The secretary Governor shall appoint three at-large
 363 members chosen from the list.

364 3. ~~If the Governor does not appoint an at-large member to~~
 365 ~~fill a vacant position within 60 days after the list is~~
 366 ~~submitted, the secretary, after consulting with the ombudsman,~~
 367 ~~shall appoint an at-large member to fill that vacant position.~~

368 (4) (a) ~~(e)~~1. ~~All~~ state council members shall serve 3-year
 369 terms.

370 2. A member of the state council may not serve more than
 371 two consecutive terms.

372 3. A local council may recommend replacement ~~removal~~ of its
 373 selected ~~elected~~ representative from the state council ~~by a~~
 374 ~~majority vote~~. If the council votes to replace ~~remove~~ its
 375 representative, the local council chair shall immediately notify
 376 the state ombudsman. ~~The secretary shall advise the Governor of~~
 377 ~~the local council's vote upon receiving notice from the~~

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378 ~~ombudsman.~~

379 4. The position of any member missing three state council
 380 meetings within a 1-year period without cause may be declared
 381 vacant by the state ombudsman. The findings of the state
 382 ombudsman regarding cause shall be final and binding.

383 ~~(b)5-~~ Any vacancy on the state council shall be filled in
 384 the same manner as the original appointment.

385 ~~(c)(d)1.~~ The state council shall elect a chair to serve for
 386 a term of 1 year. A chair may not serve more than two
 387 consecutive terms.

388 2. The chair shall select a vice chair from among the
 389 members. The vice chair shall preside over the state council in
 390 the absence of the chair.

391 3. The chair may create additional executive positions as
 392 necessary to carry out the duties of the state council. Any
 393 person appointed to an executive position shall serve at the
 394 pleasure of the chair, and his or her term shall expire on the
 395 same day as the term of the chair.

396 4. A chair may be immediately removed from office before
 397 ~~prior to~~ the expiration of his or her term by a vote of two-
 398 thirds of all state council members present at any meeting at
 399 which a quorum is present. If a chair is removed from office
 400 before ~~prior to~~ the expiration of his or her term, a replacement
 401 chair shall be chosen during the same meeting in the same manner
 402 as described in this paragraph, and the term of the replacement
 403 chair shall begin immediately. The replacement chair shall serve
 404 for the remainder of the term and is eligible to serve two
 405 subsequent consecutive terms.

406 ~~(d)(e)1.~~ The state council shall meet upon the call of the

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407 chair or upon the call of the state ombudsman. The state council
408 shall meet at least quarterly but may meet more frequently as
409 needed.

410 2. A quorum shall be considered present if more than 50
411 percent of all active state council members are in attendance at
412 the same meeting.

413 3. The state council may not vote on or otherwise make any
414 decisions resulting in a recommendation that will directly
415 impact the state council, the district, or any local council,
416 outside of a publicly noticed meeting at which a quorum is
417 present.

418 (e)(f) Members ~~may not shall~~ receive ~~no~~ compensation for
419 attendance at state council meetings but shall, with approval
420 from the state ombudsman, be reimbursed for per diem and travel
421 expenses as provided in s. 112.061.

422 Section 6. Section 400.0069, Florida Statutes, is amended
423 to read:

424 400.0069 Long-term care ombudsman districts; local long-
425 term care ombudsman councils; duties; appointment membership.-

426 (1) (a) The state ombudsman shall designate districts and
427 each district shall designate local long-term care ombudsman
428 councils to carry out the duties of the State Long-Term Care
429 Ombudsman Program within local communities. Each district local
430 council shall function under the direction of the state
431 ombudsman.

432 (b) The state ombudsman shall ensure that there is at least
433 one employee of the department certified as a long-term care
434 ombudsman and a least one local council operating in each
435 district of the department's planning and service areas. The

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436 state ombudsman may create additional local councils as
437 necessary to ensure that residents throughout the state have
438 adequate access to State Long-Term Care Ombudsman Program
439 services. ~~The ombudsman, after approval from the secretary,~~
440 ~~shall designate the jurisdictional boundaries of each local~~
441 ~~council.~~

442 (c) Each district shall convene a public meeting every
443 quarter or as needed.

444 (2) The duties of the representatives of the State Long-
445 Term Care Ombudsman Program local councils are to:

446 (a) Provide services to assist in ~~Serve as a third-party~~
447 ~~mechanism for~~ protecting the health, safety, welfare, and civil
448 and human rights of residents.

449 (b) Discover, investigate, and determine the existence of
450 abuse, ~~or~~ neglect, or exploitation in any long-term care
451 facility and to use the procedures provided for in ss. 415.101-
452 415.113 when applicable.

453 (c) Identify Elicit, receive, investigate, ~~respond to,~~ and
454 resolve complaints made by or on behalf of residents relating to
455 actions or omissions by providers of long-term care services,
456 other public agencies, guardians, or representative payees which
457 may adversely affect the health, safety, welfare, or rights of
458 residents.

459 (d) Review and, if necessary, comment on all existing or
460 proposed rules, regulations, and other governmental policies and
461 actions relating to long-term care facilities that may
462 potentially have an effect on the rights, health, safety,
463 welfare, and rights welfare of residents.

464 (e) Review personal property and money accounts of

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465 residents who are receiving assistance under the Medicaid
466 program pursuant to an investigation to obtain information
467 regarding a specific complaint ~~or problem~~.

468 (f) Recommend that the state ombudsman and the legal
469 advocate seek administrative, legal, and other remedies to
470 protect the health, safety, welfare, and rights of ~~the~~
471 residents.

472 (g) Provide technical assistance for the development of
473 resident and family councils within long-term care facilities.

474 ~~(h)(g)~~ Carry out other activities that the state ombudsman
475 determines to be appropriate.

476 (3) In order to carry out the duties specified in
477 subsection (2), a representative of the State Long-Term Care
478 Ombudsman Program or a member of a local council is authorized
479 to enter any long-term care facility without notice or first
480 obtaining a warrant; however, subject to the provisions of s.
481 400.0074(2) may apply regarding notice of a followup
482 administrative assessment.

483 (4) Each district and local council shall be composed of
484 ombudsmen members whose primary residences are ~~residence is~~
485 located within the boundaries of the district local council's
486 jurisdiction.

487 (a) Upon good cause shown and with the consent of the
488 ombudsman, the state ombudsman may appoint an ombudsman to
489 another district. The ombudsman shall strive to ensure that each
490 local council include the following persons as members:

491 1. At least one medical or osteopathic physician whose
492 practice includes or has included a substantial number of
493 geriatric patients and who may practice in a long-term care

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494 facility;

495 2. At least one registered nurse who has geriatric
496 experience;

497 3. At least one licensed pharmacist;

498 4. At least one registered dietitian;

499 5. At least six nursing home residents or representative
500 consumer advocates for nursing home residents;

501 6. At least three residents of assisted living facilities
502 or adult family-care homes or three representative consumer
503 advocates for alternative long-term care facility residents;

504 7. At least one attorney; and

505 8. At least one professional social worker.

506 (b) The following individuals may not be appointed as
507 ombudsmen:

508 1. The owner or representative of a long-term care
509 facility.

510 2. A provider or representative of a provider of long-term
511 care service.

512 3. An employee of the agency.

513 4. An employee of the department, except for staff
514 certified as ombudsmen in the district offices.

515 5. An employee of the Department of Children and Families.

516 6. An employee of the Agency for Persons with Disabilities.

517 ~~(b) In no case shall the medical director of a long-term~~
518 ~~care facility or an employee of the agency, the department, the~~
519 ~~Department of Children and Families, or the Agency for Persons~~
520 ~~with Disabilities serve as a member or as an ex-officio member~~
521 ~~of a council.~~

522 (5) (a) To be appointed as an ombudsman, an individual must:

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523 1. Individuals wishing to join a local council shall Submit
 524 an application to the state ombudsman or his or her designee.
 525 ~~The ombudsman shall review the individual's application and~~
 526 ~~advise the secretary of his or her recommendation for approval~~
 527 ~~or disapproval of the candidate's membership on the local~~
 528 ~~council. If the secretary approves of the individual's~~
 529 ~~membership, the individual shall be appointed as a member of the~~
 530 ~~local council.~~

531 2. Successfully complete a level 2 background screening
 532 pursuant to s. 430.0402 and chapter 435.

533 (b) The state ombudsman shall approve or deny the
 534 appointment of the individual as an ombudsman ~~secretary may~~
 535 ~~rescind the ombudsman's approval of a member on a local council~~
 536 ~~at any time. If the state ombudsman secretary rescinds the~~
 537 ~~approval of a member on a local council, the state ombudsman~~
 538 ~~shall ensure that the individual is immediately removed from the~~
 539 ~~local council on which he or she serves and the individual may~~
 540 ~~no longer represent the State Long-Term Care Ombudsman Program~~
 541 ~~until the state ombudsman secretary provides his or her~~
 542 ~~approval.~~

543 (c) Upon appointment as an ombudsman, the individual may
 544 participate in district activities but may not represent the
 545 program or conduct any authorized program duties until the
 546 individual has completed the initial training specified in s.
 547 400.0091(1) and has been certified by the state ombudsman.

548 (d) The state ombudsman may rescind the appointment of an
 549 individual as an ombudsman for good cause shown, such as
 550 development of a conflict of interest, failure to adhere to the
 551 policies and procedures established by the State Long Term Care

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552 Program, or demonstrative inability to carry out the
 553 responsibilities of the State Long Term Care Program. After the
 554 appointment is rescinded, the individual may not conduct any
 555 duties as an ombudsman and may not represent the State Long-Term
 556 Care Ombudsman Program.

557 ~~(e)-(e)~~ A local council may recommend the removal of one or
 558 more of its members by submitting to the state ombudsman a
 559 resolution adopted by a two-thirds vote of the members of the
 560 council stating the name of the member or members recommended
 561 for removal and the reasons for the recommendation. If such a
 562 recommendation is adopted by a local council, the local council
 563 chair or district manager ~~coordinator~~ shall immediately report
 564 the council's recommendation to the state ombudsman. The state
 565 ombudsman shall review the recommendation of the local council
 566 and advise the district manager and local council chair
 567 ~~secretary~~ of his or her decision ~~recommendation~~ regarding
 568 removal of the council member or members.

569 (6) (a) Each local council shall elect a chair for a term of
 570 1 year. There shall be no limitation on the number of terms that
 571 an approved member of a local council may serve as chair.

572 (b) The chair shall select a vice chair from among the
 573 members of the council. The vice chair shall preside over the
 574 council in the absence of the chair.

575 (c) The chair may create additional executive positions as
 576 necessary to carry out the duties of the local council. Any
 577 person appointed to an executive position shall serve at the
 578 pleasure of the chair, and his or her term shall expire on the
 579 same day as the term of the chair.

580 (d) A chair may be immediately removed from office prior to

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581 the expiration of his or her term by a vote of two-thirds of the
 582 members of the local council. If any chair is removed from
 583 office ~~before~~ ~~prior~~ to the expiration of his or her term, a
 584 replacement chair shall be elected during the same meeting, and
 585 the term of the replacement chair shall begin immediately. The
 586 replacement chair shall serve for the remainder of the term of
 587 the person he or she replaced.

588 (7) Each local council shall meet upon the call of its
 589 chair or upon the call of the ombudsman. Each local council
 590 shall meet at least once a month but may meet more frequently if
 591 necessary.

592 (8) An ombudsman may not ~~A member of a local council shall~~
 593 receive ~~no~~ compensation but shall, with approval from the state
 594 ombudsman, be reimbursed for travel expenses ~~both within and~~
 595 ~~outside the jurisdiction of the local council~~ in accordance with
 596 the provisions of s. 112.061.

597 (9) A representative of the State Long-Term Care Ombudsman
 598 Program may ~~The local councils are authorized to~~ call upon
 599 appropriate state agencies ~~of state government~~ for ~~such~~
 600 professional assistance as ~~may be~~ needed in the discharge of his
 601 or her ~~their~~ duties, and ~~such~~. All state agencies shall
 602 cooperate ~~with the local councils~~ in providing requested
 603 information and agency representation ~~at council meetings~~.

604 Section 7. Section 400.0070, Florida Statutes, is amended
 605 to read:

606 400.0070 Conflicts of interest.—

607 (1) A representative of the State Long-Term Care Ombudsman
 608 Program may ~~The ombudsman shall~~ not:

609 (a) Have a direct involvement in the licensing or

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610 certification of, or an ownership or investment interest in, a
 611 long-term care facility or a provider of a long-term care
 612 service.

613 (b) Be employed by, or participate in the management of, a
 614 long-term care facility.

615 (c) Receive, or have a right to receive, directly or
 616 indirectly, remuneration, in cash or in kind, under a
 617 compensation agreement with the owner or operator of a long-term
 618 care facility.

619 (2) Each representative of the State Long-Term Care
 620 Ombudsman Program ~~employee of the office, each state council~~
 621 ~~member, and each local council member~~ shall certify that he or
 622 she does not have a ~~has no~~ conflict of interest.

623 (3) The department, in consultation with the state
 624 ombudsman, shall define by rule:

625 (a) Situations that constitute a ~~person having a~~ conflict
 626 of interest which ~~that~~ could materially affect the objectivity
 627 or capacity of an individual ~~a person~~ to serve as a
 628 representative of the State Long-Term Care Ombudsman Program
 629 while carrying out the purposes of the State Long-Term Care
 630 Program as specified in this part ~~on an ombudsman council, or as~~
 631 ~~an employee of the office, while carrying out the purposes of~~
 632 ~~the State Long-Term Care Ombudsman Program as specified in this~~
 633 ~~part~~.

634 (b) The procedure by which an individual ~~a person~~ listed in
 635 subsection (2) must ~~shall~~ certify that he or she does not have a
 636 ~~has no~~ conflict of interest.

637 Section 8. Section 400.0071, Florida Statutes, is amended
 638 to read:

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639 400.0071 State Long-Term Care Ombudsman Program complaint
 640 procedures.—The department, in consultation with the state
 641 ombudsman, shall adopt rules implementing state and local
 642 complaint procedures. The rules must include procedures for
 643 receiving, investigating, identifying, and resolving complaints
 644 concerning the health, safety, welfare, and rights of
 645 residents.+

646 ~~(1) Receiving complaints against a long-term care facility~~
 647 ~~or an employee of a long-term care facility.~~

648 ~~(2) Conducting investigations of a long-term care facility~~
 649 ~~or an employee of a long-term care facility subsequent to~~
 650 ~~receiving a complaint.~~

651 ~~(3) Conducting onsite administrative assessments of long-~~
 652 ~~term care facilities.~~

653 Section 9. Section 400.0073, Florida Statutes, is amended
 654 to read:

655 400.0073 State and local ombudsman council investigations.—

656 (1) A representative of the State Long-Term Care Ombudsman
 657 Program local council shall identify and investigate, within a
 658 reasonable time after a complaint is made, by or on behalf any
 659 complaint of a resident relating to actions or omissions by
 660 providers or representatives of providers of long-term care
 661 services, other public agencies, guardians, or representative
 662 payees which may adversely affect the health, safety, welfare,
 663 or rights of residents., ~~a representative of a resident, or any~~
 664 ~~other credible source based on an action or omission by an~~
 665 ~~administrator, an employee, or a representative of a long-term~~
 666 ~~care facility which might be:~~

667 (a) ~~Contrary to law;~~

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668 ~~(b) Unreasonable, unfair, oppressive, or unnecessarily~~
 669 ~~discriminatory, even though in accordance with law;~~

670 ~~(c) Based on a mistake of fact;~~

671 ~~(d) Based on improper or irrelevant grounds;~~

672 ~~(e) Unaccompanied by an adequate statement of reasons;~~

673 ~~(f) Performed in an inefficient manner; or~~

674 ~~(g) Otherwise adversely affecting the health, safety,~~
 675 ~~welfare, or rights of a resident.~~

676 ~~(2) In an investigation, both the state and local councils~~
 677 ~~have the authority to hold public hearings.~~

678 (2)(3) Subsequent to an appeal from a local council, the
 679 state council may investigate any complaint received by the
 680 local council involving a long-term care facility or a resident.

681 (3)(4) If a representative of the State Long-Term Care
 682 Ombudsman Program ~~the ombudsman or any state or local council~~
 683 ~~member~~ is not allowed to enter a long-term care facility, the
 684 administrator of the facility shall be considered to have
 685 interfered with a representative of the State Long-Term Care
 686 Ombudsman Program office, the state council, or the local
 687 council in the performance of official duties as described in s.
 688 400.0083(1) and to have violated ~~committed a violation of~~ this
 689 part. The representative of the State Long-Term Care Ombudsman
 690 Program ombudsman shall report a facility's refusal to allow
 691 entry to the state ombudsman or his or her designee, who shall
 692 report the incident to the agency, and the agency shall record
 693 the report and take it into consideration when determining
 694 actions allowable under s. 400.102, s. 400.121, s. 429.14, s.
 695 429.19, s. 429.69, or s. 429.71.

696 Section 10. Section 400.0074, Florida Statutes, is amended

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697 to read:

698 400.0074 Local ombudsman council onsite administrative
699 assessments.-

700 (1) A representative of the State Long-Term Care Ombudsman
701 Program shall ~~In addition to any specific investigation~~
702 ~~conducted pursuant to a complaint, the local council shall~~
703 ~~conduct, at least annually, an onsite administrative assessment~~
704 ~~of each nursing home, assisted living facility, and adult~~
705 ~~family-care home within its jurisdiction. This administrative~~
706 ~~assessment must be resident-centered and must shall focus on~~
707 ~~factors affecting the rights, health, safety, and welfare of the~~
708 ~~residents. Each local council is encouraged to conduct a similar~~
709 ~~onsite administrative assessment of each additional long-term~~
710 ~~care facility within its jurisdiction.~~

711 (2) An onsite administrative assessment conducted by a
712 local council shall be subject to the following conditions:

713 (a) To the extent possible and reasonable, the
714 administrative assessment may ~~assessments shall~~ not duplicate
715 ~~the efforts of the agency surveys and inspections of long-term~~
716 ~~care facilities conducted by state agencies under part II of~~
717 ~~this chapter and parts I and II of chapter 429.~~

718 (b) An administrative assessment shall be conducted at a
719 time and for a duration necessary to produce the information
720 required to complete the assessment ~~carry out the duties of the~~
721 ~~local council.~~

722 (c) Advance notice of an administrative assessment may not
723 be provided to a long-term care facility, except that notice of
724 followup assessments on specific problems may be provided.

725 (d) A representative of the State Long-Term Care Ombudsman

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726 ~~Program local council member physically~~ present for the
727 administrative assessment must shall identify himself or herself
728 ~~to the administrator and cite the specific statutory authority~~
729 ~~for his or her assessment of the facility or his or her~~
730 ~~designee.~~

731 (e) An administrative assessment may not unreasonably
732 interfere with the programs and activities of residents.

733 (f) A representative of the State Long-Term Care Ombudsman
734 ~~Program local council member~~ may not enter a single-family
735 residential unit within a long-term care facility during an
736 administrative assessment without the permission of the resident
737 or the representative of the resident.

738 (g) An administrative assessment must be conducted in a
739 manner that does not impose an ~~will impose no~~ unreasonable
740 burden on a long-term care facility.

741 (3) Regardless of jurisdiction, the state ombudsman may
742 authorize a state or local council member to assist another
743 local council to perform the administrative assessments
744 described in this section.

745 (4) An onsite administrative assessment may not be
746 accomplished by forcible entry. However, if a representative of
747 the State Long-Term Care Ombudsman Program ~~the ombudsman or a~~
748 ~~state or local council member~~ is not allowed to enter a long-
749 term care facility, the administrator of the facility shall be
750 considered to have interfered with a representative of the State
751 Long-Term Care Ombudsman Program office, the state council, or
752 ~~the local council~~ in the performance of official duties as
753 described in s. 400.0083(1) and to have committed a violation of
754 this part. The representative of the State Long-Term Care

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755 Ombudsman Program ~~ombudsman~~ shall report the refusal by a
756 facility to allow entry to the state ombudsman or his or her
757 designee, who shall report the incident to the agency, and the
758 agency shall record the report and take it into consideration
759 when determining actions allowable under s. 400.102, s. 400.121,
760 s. 429.14, s. 429.19, s. 429.69, or s. 429.71.

761 (5) The department, in consultation with the state
762 ombudsman, may adopt rules implementing procedures for
763 conducting onsite administrative assessments of long-term care
764 facilities.

765 Section 11. Section 400.0075, Florida Statutes, is amended
766 to read:

767 400.0075 Complaint notification and resolution procedures.-

768 (1) (a) Any complaint ~~or problem~~ verified by a
769 representative of the State Long-Term Care Ombudsman Program an
770 ombudsman council as a result of an investigation which is
771 determined by the local council to require remedial action may
772 or onsite administrative assessment, which complaint or problem
773 is determined to require remedial action by the local council,
774 shall be identified and brought to the attention of the long-
775 term care facility administrator subject to the confidentiality
776 provisions of s. 400.0077 in writing. Upon receipt of the
777 information such document, the administrator, with the
778 concurrence of the representative of the State Long-Term Care
779 Ombudsman Program local council chair, shall establish target
780 dates for taking appropriate remedial action. If, by the target
781 date, the remedial action is not completed or forthcoming, the
782 representative of the State Long-Term Care Ombudsman Program may
783 extend the target date if there is reason to believe such action

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784 would facilitate the resolution of the complaint, or the
785 representative of the State Long-Term Care Ombudsman Program may
786 refer the complaint to the district manager who may refer the
787 complaint to the state council. local council chair may, after
788 obtaining approval from the ombudsman and a majority of the
789 members of the local council:

790 1. Extend the target date if the chair has reason to
791 believe such action would facilitate the resolution of the
792 complaint.

793 2. In accordance with s. 400.0077, publicize the complaint,
794 the recommendations of the council, and the response of the
795 long term care facility.

796 3. Refer the complaint to the state council.

797 (b) If the representative of the State Long-Term Care
798 Ombudsman Program determines local council chair believes that
799 the health, safety, welfare, or rights of a the resident are in
800 imminent danger, the representative of the State Long-Term Care
801 Ombudsman Program must immediately the chair shall notify the
802 district manager and local council chair. ombudsman or legal
803 advocate, who, The district manager or local council chair,
804 after verifying that such imminent danger exists, must notify
805 the appropriate state agencies, including law enforcement
806 agencies, the state ombudsman, and the legal advocate to ensure
807 the protection of shall seek immediate legal or administrative
808 remedies to protect the resident.

809 (c) If the state ombudsman or legal advocate has reason to
810 believe that the long-term care facility or an employee of the
811 facility has committed a criminal act, the state ombudsman or
812 legal advocate shall provide the local law enforcement agency

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813 with the relevant information to initiate an investigation of
814 the case.

815 (2) ~~(a)~~ Upon referral from a district or local council, the
816 state ombudsman or his or her designee ~~council~~ shall assume the
817 responsibility for the disposition of the complaint. If a long-
818 term care facility fails to take action to resolve or remedy the
819 ~~on a complaint by the state council~~, the state ombudsman ~~council~~
820 may, ~~after obtaining approval from the ombudsman and a majority~~
821 ~~of the state council members~~:

822 (a)1- In accordance with s. 400.0077, publicize the
823 complaint, the recommendations of the local or state council,
824 and the response of the long-term care facility.

825 (b)2- Recommend to the department and the agency a series
826 of facility reviews pursuant to s. 400.19, s. 429.34, or s.
827 429.67 to ensure correction and nonrecurrence of the conditions
828 that ~~gave~~ give rise to the complaint ~~complaints~~ against the a
829 long-term care facility.

830 (c)3- Recommend to the department and the agency that the
831 long-term care facility no longer receive payments under any
832 state assistance program, including Medicaid.

833 (d)4- Recommend to the department and the agency that
834 procedures be initiated for action against ~~revocation of~~ the
835 long-term care facility's license in accordance with chapter
836 120.

837 ~~(b) If the state council chair believes that the health,~~
838 ~~safety, welfare, or rights of the resident are in imminent~~
839 ~~danger, the chair shall notify the ombudsman or legal advocate,~~
840 ~~who, after verifying that such imminent danger exists, shall~~
841 ~~seek immediate legal or administrative remedies to protect the~~

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842 ~~resident.~~

843 (3)(e) If the state ombudsman, after consultation with the
844 legal advocate, has reason to believe that the long-term care
845 facility or an employee of the facility has committed a criminal
846 act, the state ombudsman shall provide the local law enforcement
847 agency with the relevant information to initiate an
848 investigation of the case.

849 Section 12. Section 400.0078, Florida Statutes, is amended
850 to read:

851 400.0078 Citizen access to State Long-Term Care Ombudsman
852 Program services.-

853 (1) The office shall establish a statewide toll-free
854 telephone number and e-mail address for receiving complaints
855 concerning matters adversely affecting the health, safety,
856 welfare, or rights of residents.

857 (2) ~~Every resident or representative of a resident shall~~
858 ~~receive~~, Upon admission to a long-term care facility, each
859 resident or representative of a resident must receive
860 information regarding:

861 (a) The purpose of the State Long-Term Care Ombudsman
862 Program;i

863 (b) The statewide toll-free telephone number and e-mail
864 address for receiving complaints;i ~~and~~

865 (c) Information that retaliatory action cannot be taken
866 against a resident for presenting grievances or for exercising
867 any other resident rights.

868 (d) Other relevant information regarding how to contact
869 representatives of the State Long Term Care Ombudsman Program
870 the program.

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871 Residents or their representatives must be furnished additional
872 copies of this information upon request.

874 Section 13. Section 400.0079, Florida Statutes, is amended
875 to read:

876 400.0079 Immunity.—

877 (1) Any person making a complaint pursuant to this part who
878 does so in good faith shall be immune from any liability, civil
879 or criminal, that otherwise might be incurred or imposed as a
880 direct or indirect result of making the complaint.

881 (2) Representatives of the State Long-Term Care Ombudsman
882 Program are ~~The ombudsman or any person authorized by the~~
883 ~~ombudsman to act on behalf of the office, as well as all members~~
884 ~~of the state and local councils, shall be immune from any~~
885 ~~liability, civil or criminal, that otherwise might be incurred~~
886 ~~or imposed during the good faith performance of official duties.~~

887 Section 14. Section 400.0081, Florida Statutes, is amended
888 to read:

889 400.0081 Access to facilities, residents, and records.—

890 (1) A long-term care facility shall provide representatives
891 of the State Long-Term Care Program with the office, the state
892 ~~council and its members, and the local councils and their~~
893 ~~members~~ access to:

894 (a) ~~Any portion of~~ The long-term care facility and its
895 residents ~~any resident as necessary to investigate or resolve a~~
896 ~~complaint.~~

897 (b) Where appropriate, medical and social records of a
898 resident for review ~~as necessary to investigate or resolve a~~
899 ~~complaint,~~ if:

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900 1. The representative of the State Long-Term Care Ombudsman
901 Program office ~~has~~ the permission of the resident or the legal
902 representative of the resident; or

903 2. The resident is unable to consent to the review and does
904 not have a ~~has no~~ legal representative.

905 (c) Medical and social records of a ~~the~~ resident as
906 necessary to investigate ~~or resolve~~ a complaint, if:

907 1. A legal representative or guardian of the resident
908 refuses to give permission;

909 2. The representative of the State Long-Term Care Ombudsman
910 Program office ~~has~~ reasonable cause to believe that the legal
911 representative or guardian is not acting in the best interests
912 of the resident; and

913 3. The representative of the State Long-Term Care Ombudsman
914 Program ~~state or local council member~~ obtains the approval of
915 the state ombudsman.

916 (d) Access to ~~The~~ administrative records, policies, and
917 documents to which residents or the general public have access.

918 (e) Upon request, copies of all licensing and certification
919 records maintained by the state with respect to a long-term care
920 facility.

921 (2) The department, in consultation with the state
922 ombudsman ~~and the state council,~~ may adopt rules to establish
923 procedures to ensure access to facilities, residents, and
924 records as described in this section.

925 Section 15. Section 400.0083, Florida Statutes, is amended
926 to read:

927 400.0083 Interference; retaliation; penalties.—

928 (1) A ~~It shall be unlawful for any person,~~ long-term care

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929 facility, or other entity ~~may not~~ ~~to~~ willfully interfere with a
 930 representative of the State Long-Term Care Ombudsman Program
 931 ~~office, the state council, or a local council~~ in the performance
 932 of official duties.

933 (2) ~~A~~ ~~it shall be unlawful for any~~ person, long-term care
 934 facility, or other entity ~~may not~~ ~~to~~ knowingly or willfully take
 935 action or retaliate against any resident, employee, or other
 936 person for filing a complaint with, providing information to, or
 937 otherwise cooperating with any representative of the State Long
 938 Term-Care Ombudsman Program ~~office, the state council, or a~~
 939 ~~local council~~.

940 (3) ~~A~~ Any person, long-term care facility, (3) or other entity
 941 that violates this section:

942 (a) ~~Is~~ ~~shall be~~ liable for damages and equitable relief as
 943 determined by law.

944 (b) Commits a misdemeanor of the second degree, punishable
 945 as provided in s. 775.083.

946 Section 16. Section 400.0087, Florida Statutes, is amended
 947 to read:

948 400.0087 Department oversight; funding.—

949 (1) The department shall meet the costs associated with the
 950 State Long-Term Care Ombudsman Program from funds appropriated
 951 to it.

952 (a) The department shall include the costs associated with
 953 support of the State Long-Term Care Ombudsman Program when
 954 developing its budget requests for consideration by the Governor
 955 and submittal to the Legislature.

956 (b) The department may divert from the federal ombudsman
 957 appropriation an amount equal to the department's administrative

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958 cost ratio to cover the costs associated with administering the
 959 State Long-Term Care Ombudsman Program. The remaining allotment
 960 from the Older Americans Act program shall be expended on direct
 961 ombudsman activities.

962 (2) The department shall monitor the State Long-Term Care
 963 Ombudsman Program ~~office~~, the state council, and the local
 964 councils to ensure that each is carrying out the duties
 965 delegated to it by state and federal law.

966 (3) The department is responsible for ensuring that the
 967 State Long-Term Care Ombudsman Program ~~office~~:

968 (a) Has the objectivity and independence required to
 969 qualify it for funding under the federal Older Americans Act.

970 (b) Provides information to public and private agencies,
 971 legislators, and others.

972 (c) Provides appropriate training to representatives of the
 973 State Long-Term Care Ombudsman Office ~~or of the state or local~~
 974 ~~councils~~.

975 (d) Coordinates ombudsman services with Disability Rights
 976 Florida, the Advocacy Center for Persons with Disabilities and
 977 with providers of legal services to residents of long-term care
 978 facilities in compliance with state and federal laws.

979 (4) The department shall also:

980 (a) Receive and disburse state and federal funds for
 981 purposes that the state ombudsman has formulated in accordance
 982 with the Older Americans Act.

983 (b) Whenever necessary, act as liaison between agencies and
 984 branches of the federal and state governments and the State
 985 Long-Term Care Ombudsman Program.

986 Section 17. Section 400.0089, Florida Statutes, is amended

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987 to read:

988 400.0089 Complaint data reports.—The State Long-Term Care
 989 Ombudsman Program office shall maintain a statewide uniform
 990 reporting system to collect and analyze data relating to
 991 complaints and conditions in long-term care facilities and to
 992 residents for the purpose of identifying and resolving
 993 ~~complaints significant problems. The office shall publish~~
 994 ~~quarterly and make readily available~~ Information pertaining to
 995 the number and types of complaints received by the State Long-
 996 Term Care Ombudsman Program shall be published quarterly and
 997 made readily available and shall include such information in the
 998 annual report required under s. 400.0065.

999 Section 18. Section 400.0091, Florida Statutes, is amended
 1000 to read:

1001 400.0091 Training.—The state ombudsman shall ensure that
 1002 appropriate training is provided to all representatives of the
 1003 State Long-Term Care Ombudsman Program employees of the office
 1004 ~~and to the members of the state and local councils.~~

1005 (1) All representatives of the State Long-Term Care
 1006 Ombudsman Program state and local council members and employees
 1007 ~~of the office~~ shall be given a minimum of 20 hours of training
 1008 upon employment with the State Long-Term Care Ombudsman Program
 1009 office or appointment as an ombudsman. Ten approval as a state
 1010 ~~or local council member and 10 hours of training in the form of~~
 1011 continuing education is required annually thereafter.

1012 (2) The state ombudsman shall approve the curriculum for
 1013 the initial and continuing education training, which must, at a
 1014 minimum, address:

1015 (a) Resident confidentiality.

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1016 (b) Guardianships and powers of attorney.

1017 (c) Medication administration.

1018 (d) Care and medication of residents with dementia and
 1019 Alzheimer's disease.

1020 (e) Accounting for residents' funds.

1021 (f) Discharge rights and responsibilities.

1022 (g) Cultural sensitivity.

1023 (h) Any other topic related to residency in a long-term
 1024 care facility recommended by the secretary.

1025 (3) An individual ~~No employee, officer, or representative~~
 1026 ~~of the office or of the state or local councils,~~ other than the
 1027 state ombudsman, may not hold himself or herself out as a
 1028 representative of the State Long-Term Care Ombudsman Program or
 1029 conduct any authorized program duty described in this part
 1030 unless the individual person has received the training required
 1031 by this section and has been certified by the state ombudsman as
 1032 qualified to carry out ombudsman activities on behalf of the
 1033 office or the state or local councils.

1034 Section 19. Subsection (4) of section 20.41, Florida
 1035 Statutes, is amended to read:

1036 20.41 Department of Elderly Affairs.—There is created a
 1037 Department of Elderly Affairs.

1038 (4) The department shall administer the State Long-Term
 1039 Care Ombudsman Program Council, created by s. 400.0063 ~~400.0067,~~
 1040 ~~and the local long-term care ombudsman councils, created by s.~~
 1041 ~~400.0069~~ and shall, as required by s. 712 of the federal Older
 1042 Americans Act of 1965, ensure that ~~both~~ the State Long Term Care
 1043 Ombudsman Program operates state and local long-term care
 1044 ~~ombudsman councils operate~~ in compliance with the Older

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1045 Americans Act.

1046 Section 20. Subsections (14) through (19) of section
1047 400.021, Florida Statutes, are amended to read:

1048 400.021 Definitions.—When used in this part, unless the
1049 context otherwise requires, the term:

1050 (14) "Office" has the same meaning as in s. 400.0060.

1051 (15)-(14) "Planning and service area" means the geographic
1052 area in which the Older Americans Act programs are administered
1053 and services are delivered by the Department of Elderly Affairs.

1054 (16) "Representative of the State Long Term Care Ombudsman
1055 Program" has the same meaning as in s. 400.0060.

1056 (17)-(15) "Respite care" means admission to a nursing home
1057 for the purpose of providing a short period of rest or relief or
1058 emergency alternative care for the primary caregiver of an
1059 individual receiving care at home who, without home-based care,
1060 would otherwise require institutional care.

1061 (18)-(16) "Resident care plan" means a written plan
1062 developed, maintained, and reviewed not less than quarterly by a
1063 registered nurse, with participation from other facility staff
1064 and the resident or his or her designee or legal representative,
1065 which includes a comprehensive assessment of the needs of an
1066 individual resident; the type and frequency of services required
1067 to provide the necessary care for the resident to attain or
1068 maintain the highest practicable physical, mental, and
1069 psychosocial well-being; a listing of services provided within
1070 or outside the facility to meet those needs; and an explanation
1071 of service goals.

1072 (19)-(17) "Resident designee" means a person, other than the
1073 owner, administrator, or employee of the facility, designated in

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1074 writing by a resident or a resident's guardian, if the resident
1075 is adjudicated incompetent, to be the resident's representative
1076 for a specific, limited purpose.

1077 (20)-(18) "State Long Term Care Ombudsman Program ~~ombudsman~~
1078 ~~council~~" has the same meaning as in s. 400.0060 ~~means the State~~
1079 ~~Long Term Care Ombudsman Council established pursuant to s.~~
1080 ~~400.0067.~~

1081 (21)-(19) "Therapeutic spa services" means bathing, nail,
1082 and hair care services and other similar services related to
1083 personal hygiene.

1084 Section 21. Paragraph (c) of subsection (1) and subsections
1085 (2), and (3) of section 400.022, Florida Statutes, are amended
1086 to read:

1087 400.022 Residents' rights.—

1088 (1) All licensees of nursing home facilities shall adopt
1089 and make public a statement of the rights and responsibilities
1090 of the residents of such facilities and shall treat such
1091 residents in accordance with the provisions of that statement.
1092 The statement shall assure each resident the following:

1093 (c) Any entity or individual that provides health, social,
1094 legal, or other services to a resident has the right to have
1095 reasonable access to the resident. The resident has the right to
1096 deny or withdraw consent to access at any time by any entity or
1097 individual. Notwithstanding the visiting policy of the facility,
1098 the following individuals must be permitted immediate access to
1099 the resident:

1100 1. Any representative of the federal or state government,
1101 including, but not limited to, representatives of the Department
1102 of Children and Families, the Department of Health, the Agency

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1103 for Health Care Administration, the Office of the Attorney
 1104 General, and the Department of Elderly Affairs; any law
 1105 enforcement officer; any representative of the State Long Term
 1106 Care Ombudsman Program members of the state or local ombudsman
 1107 council; and the resident's individual physician.

1108 2. Subject to the resident's right to deny or withdraw
 1109 consent, immediate family or other relatives of the resident.
 1110

1111 The facility must allow representatives of the State Long-Term
 1112 Care Ombudsman Program Council to examine a resident's clinical
 1113 records with the permission of the resident or the resident's
 1114 legal representative and consistent with state law.

1115 (2) The licensee for each nursing home shall orally inform
 1116 the resident of the resident's rights and provide a copy of the
 1117 statement required by subsection (1) to each resident or the
 1118 resident's legal representative at or before the resident's
 1119 admission to a facility. The licensee shall provide a copy of
 1120 the resident's rights to each staff member of the facility. Each
 1121 such licensee shall prepare a written plan and provide
 1122 appropriate staff training to implement the provisions of this
 1123 section. The written statement of rights must include a
 1124 statement that a resident may file a complaint with the agency
 1125 or state or local ombudsman council. The statement must be in
 1126 boldfaced type and ~~shall~~ include the ~~name, address, and~~
 1127 telephone number and e-mail address of the State Long Term Care
 1128 Ombudsman Program, the numbers of the local ombudsman council
 1129 and the Elder Abuse Hotline operated by the Department of
 1130 Children and Families central abuse hotline where complaints may
 1131 be lodged.

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1132 (3) Any violation of the resident's rights set forth in
 1133 this section constitutes ~~shall constitute~~ grounds for action by
 1134 the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or
 1135 part II of chapter 408. In order to determine whether the
 1136 licensee is adequately protecting residents' rights, the
 1137 licensure inspection of the facility must ~~shall~~ include private
 1138 informal conversations with a sample of residents to discuss
 1139 residents' experiences within the facility with respect to
 1140 rights specified in this section and general compliance with
 1141 standards, and consultation with the State Long-Term Care
 1142 Ombudsman Program ombudsman council in the local planning and
 1143 service area of the Department of Elderly Affairs in which the
 1144 nursing home is located.

1145 Section 22. Subsections (8), (9), and (11) through (14) of
 1146 section 400.0255, Florida Statutes, are amended to read:

1147 400.0255 Resident transfer or discharge; requirements and
 1148 procedures; hearings.-

1149 (8) The notice required by subsection (7) must be in
 1150 writing and must contain all information required by state and
 1151 federal law, rules, or regulations applicable to Medicaid or
 1152 Medicare cases. The agency shall develop a standard document to
 1153 be used by all facilities licensed under this part for purposes
 1154 of notifying residents of a discharge or transfer. Such document
 1155 must include a means for a resident to request the local long-
 1156 term care ombudsman council to review the notice and request
 1157 information about or assistance with initiating a fair hearing
 1158 with the department's Office of Appeals Hearings. In addition to
 1159 any other pertinent information included, the form shall specify
 1160 the reason allowed under federal or state law that the resident

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1161 is being discharged or transferred, with an explanation to
 1162 support this action. Further, the form ~~must shall~~ state the
 1163 effective date of the discharge or transfer and the location to
 1164 which the resident is being discharged or transferred. The form
 1165 ~~must shall~~ clearly describe the resident's appeal rights and the
 1166 procedures for filing an appeal, including the right to request
 1167 the local ombudsman council ~~to~~ review the notice of discharge or
 1168 transfer. A copy of the notice must be placed in the resident's
 1169 clinical record, and a copy must be transmitted to the
 1170 resident's legal guardian or representative and to the local
 1171 ombudsman council within 5 business days after signature by the
 1172 resident or resident designee.

1173 (9) A resident may request that the State Long-Term Care
 1174 Ombudsman Program or local ombudsman council review any notice
 1175 of discharge or transfer given to the resident. When requested
 1176 by a resident to review a notice of discharge or transfer, the
 1177 local ombudsman council shall do so within 7 days after receipt
 1178 of the request. The nursing home administrator, or the
 1179 administrator's designee, must forward the request for review
 1180 contained in the notice to the State Long-Term Care Ombudsman
 1181 Program or local ombudsman council within 24 hours after such
 1182 request is submitted. Failure to forward the request within 24
 1183 hours after the request is submitted shall toll the running of
 1184 the 30-day advance notice period until the request has been
 1185 forwarded.

1186 (11) Notwithstanding paragraph (10) (b), an emergency
 1187 discharge or transfer may be implemented as necessary pursuant
 1188 to state or federal law during the ~~period of~~ time after the
 1189 notice is given and before the time a hearing decision is

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1190 rendered. Notice of an emergency discharge or transfer to the
 1191 resident, the resident's legal guardian or representative, and
 1192 the State Long-Term Care Ombudsman Program or the local
 1193 ombudsman council if requested pursuant to subsection (9) must
 1194 be by telephone or in person. This notice shall be given before
 1195 the transfer, if possible, or as soon thereafter as practicable.
 1196 The State Long-Term Care Ombudsman Program or a local
 1197 ombudsman council conducting a review under this subsection
 1198 shall do so within 24 hours after receipt of the request. The
 1199 resident's file must be documented to show who was contacted,
 1200 whether the contact was by telephone or in person, and the date
 1201 and time of the contact. If the notice is not given in writing,
 1202 written notice meeting the requirements of subsection (8) must
 1203 be given the next working day.

1204 (12) After receipt of any notice required under this
 1205 section, the State Long-Term Care Ombudsman Program or local
 1206 ombudsman council may request a private informal conversation
 1207 with a resident to whom the notice is directed, and, if known, a
 1208 family member or the resident's legal guardian or designee, to
 1209 ensure that the facility is proceeding with the discharge or
 1210 transfer in accordance with ~~the requirements of~~ this section. If
 1211 requested, the State Long-Term Care Ombudsman Program or the
 1212 local ombudsman council shall assist the resident with filing an
 1213 appeal of the proposed discharge or transfer.

1214 (13) The following persons must be present at all hearings
 1215 authorized under this section:

1216 (a) The resident, or the resident's legal representative or
 1217 designee.

1218 (b) The facility administrator, or the facility's legal

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1219 representative or designee.

1220

1221 A representative of the State Long-Term Care Ombudsman Program
1222 or the local long-term care ombudsman council may be present at
1223 all hearings authorized by this section.

1224 (14) In any hearing under this section, the following
1225 information concerning the parties shall be confidential and
1226 exempt from ~~the provisions of~~ s. 119.07(1):

1227 (a) Names and addresses.

1228 (b) Medical services provided.

1229 (c) Social and economic conditions or circumstances.

1230 (d) Evaluation of personal information.

1231 (e) Medical data, including diagnosis and past history of
1232 disease or disability.

1233 (f) Any information received verifying income eligibility
1234 and amount of medical assistance payments. Income information
1235 received from the Social Security Administration or the Internal
1236 Revenue Service must be safeguarded according to the
1237 requirements of the agency that furnished the data.

1238

1239 The exemption created by this subsection does not prohibit
1240 access to such information by the State Long-Term Care Ombudsman
1241 Program or a local long-term care ombudsman council upon
1242 request, by a reviewing court if such information is required to
1243 be part of the record upon subsequent review, or as specified in
1244 s. 24(a), Art. I of the State Constitution.

1245 Section 23. Paragraph (d) of subsection (5) of section
1246 400.162, Florida Statutes, is amended to read:

1247 400.162 Property and personal affairs of residents.-

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1248 (5)

1249

1250 (d) If, at any time during the period for which a license
1251 is issued, a licensee that has not purchased a surety bond or
1252 entered into a self-insurance agreement, as provided in
1253 paragraphs (b) and (c), is requested to provide safekeeping for
1254 the personal funds of a resident, the licensee shall notify the
1255 agency of the request and make application for a surety bond or
1256 for participation in a self-insurance agreement within 7 days
1257 after ~~of~~ the request, exclusive of weekends and holidays. Copies
1258 of the application, along with written documentation of related
1259 correspondence with an insurance agency or group, shall be
1260 maintained by the licensee for review by the agency and the
1261 State ~~Nursing Home and Long-Term Care Facility Ombudsman~~ Program
1262 Council.

1262

Section 24. Subsections (1) and (4) of section 400.19,
1263 Florida Statutes, are amended to read:

1264

400.19 Right of entry and inspection.-

1265

1266 (1) In accordance with part II of chapter 408, the agency
1267 and any of its duly designated officers ~~officer~~ or employees
1268 ~~employee thereof~~ or a representative of ~~member of~~ the State
1269 Long-Term Care Ombudsman Program Council or the local long-term
1270 care ombudsman council shall have the right to enter upon and
1271 into the premises of any facility licensed pursuant to this
1272 part, or any distinct nursing home unit of a hospital licensed
1273 under chapter 395 or any freestanding facility licensed under
1274 chapter 395 which ~~that~~ provides extended care or other long-term
1275 care services, at any reasonable time in order to determine the
1276 state of compliance with ~~the provisions of~~ this part, part II of
chapter 408, and applicable rules in force pursuant thereto. The

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1277 agency shall, within 60 days after receipt of a complaint made
1278 by a resident or resident's representative, complete its
1279 investigation and provide to the complainant its findings and
1280 resolution.

1281 (4) The agency shall conduct unannounced onsite facility
1282 reviews following written verification of licensee noncompliance
1283 in instances in which a representative of the State Long-Term
1284 Care Ombudsman Program or long-term care ombudsman council,
1285 pursuant to ss. 400.0071 and 400.0075, has received a complaint
1286 and has documented deficiencies in resident care or in the
1287 physical plant of the facility that threaten the health, safety,
1288 or security of residents, or when the agency documents through
1289 inspection that conditions in a facility present a direct or
1290 indirect threat to the health, safety, or security of residents.
1291 However, the agency shall conduct unannounced onsite reviews
1292 every 3 months of each facility while the facility has a
1293 conditional license. Deficiencies related to physical plant do
1294 not require followup reviews after the agency has determined
1295 that correction of the deficiency has been accomplished and that
1296 the correction is of the nature that continued compliance can be
1297 reasonably expected.

1298 Section 25. Subsection (6) and paragraph (c) of subsection
1299 (7) of section 400.23, Florida Statutes, are amended to read:
1300 400.23 Rules; evaluation and deficiencies; licensure
1301 status.—

1302 (6) ~~Before~~ ~~Prior to~~ conducting a survey of the facility,
1303 the survey team shall obtain a copy of the local long-term care
1304 ombudsman council report on the facility. Problems noted in the
1305 report shall be incorporated into and followed up through the

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1306 agency's inspection process. This procedure does not preclude
1307 the State Long-Term Care Ombudsman Program or local long-term
1308 care ombudsman council from requesting the agency to conduct a
1309 followup visit to the facility.

1310 (7) The agency shall, at least every 15 months, evaluate
1311 all nursing home facilities and make a determination as to the
1312 degree of compliance by each licensee with the established rules
1313 adopted under this part as a basis for assigning a licensure
1314 status to that facility. The agency shall base its evaluation on
1315 the most recent inspection report, taking into consideration
1316 findings from other official reports, surveys, interviews,
1317 investigations, and inspections. In addition to license
1318 categories authorized under part II of chapter 408, the agency
1319 shall assign a licensure status of standard or conditional to
1320 each nursing home.

1321 (c) In evaluating the overall quality of care and services
1322 and determining whether the facility will receive a conditional
1323 or standard license, the agency shall consider the needs and
1324 limitations of residents in the facility and the results of
1325 interviews and surveys of a representative sampling of
1326 residents, families of residents, representatives of the State
1327 Long-Term Care Ombudsman Program ~~ombudsman council members in~~
1328 ~~the planning and service area in which the facility is located,~~
1329 guardians of residents, and staff of the nursing home facility.

1330 Section 26. Paragraph (a) of subsection (3), paragraph (f)
1331 of subsection (5), and subsection (6) of section 400.235,
1332 Florida Statutes, is amended to read:

1333 400.235 Nursing home quality and licensure status; Gold
1334 Seal Program.—

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1335 (3) (a) The Gold Seal Program shall be developed and
 1336 implemented by the Governor's Panel on Excellence in Long-Term
 1337 Care which shall operate under the authority of the Executive
 1338 Office of the Governor. The panel shall be composed of three
 1339 persons appointed by the Governor, to include a consumer
 1340 advocate for senior citizens and two persons with expertise in
 1341 the fields of quality management, service delivery excellence,
 1342 or public sector accountability; three persons appointed by the
 1343 Secretary of Elderly Affairs, to include an active member of a
 1344 nursing facility family and resident care council and a member
 1345 of the University Consortium on Aging; a representative of the
 1346 State Long-Term Care Ombudsman Program; one person appointed by
 1347 the Florida Life Care Residents Association; one person
 1348 appointed by the State Surgeon General; two persons appointed by
 1349 the Secretary of Health Care Administration; one person
 1350 appointed by the Florida Association of Homes for the Aging; and
 1351 one person appointed by the Florida Health Care Association.
 1352 Vacancies on the panel shall be filled in the same manner as the
 1353 original appointments.

1354 (5) Facilities must meet the following additional criteria
 1355 for recognition as a Gold Seal Program facility:

1356 (f) Evidence ~~that verified an outstanding record regarding~~
 1357 ~~the number and types of substantiated~~ complaints reported to the
 1358 State Long-Term Care Ombudsman Program Council within the 30
 1359 months preceding application for the program.

1360
 1361 A facility assigned a conditional licensure status may not
 1362 qualify for consideration for the Gold Seal Program until after
 1363 it has operated for 30 months with no class I or class II

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1364 deficiencies and has completed a regularly scheduled relicensure
 1365 survey.

1366 (6) The agency, nursing facility industry organizations,
 1367 consumers, State Long-Term Care Ombudsman Program Council, and
 1368 members of the community may recommend to the Governor
 1369 facilities that meet the established criteria for consideration
 1370 for and award of the Gold Seal. The panel shall review nominees
 1371 and make a recommendation to the Governor for final approval and
 1372 award. The decision of the Governor is final and is not subject
 1373 to appeal.

1374 Section 27. Subsections (18) through (28) of section
 1375 415.102, Florida Statutes, are redesignated as subsections (19)
 1376 through and (29), respectively, and a new subsection (18) is
 1377 added to that section, to read:

1378 415.102 Definitions of terms used in ss. 415.101-415.113.-
 1379 As used in ss. 415.101-415.113, the term:

1380 (18) "Office" has the same meaning as in s. 400.0060.

1381 Section 28. Paragraph (a) of subsection (1) of section
 1382 415.1034, Florida Statutes, is amended to read:

1383 415.1034 Mandatory reporting of abuse, neglect, or
 1384 exploitation of vulnerable adults; mandatory reports of death.-

1385 (1) MANDATORY REPORTING.-

1386 (a) Any person, including, but not limited to, any:

1387 1. Physician, osteopathic physician, medical examiner,
 1388 chiropractic physician, nurse, paramedic, emergency medical
 1389 technician, or hospital personnel engaged in the admission,
 1390 examination, care, or treatment of vulnerable adults;

1391 2. Health professional or mental health professional other
 1392 than one listed in subparagraph 1.;

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1393 3. Practitioner who relies solely on spiritual means for
1394 healing;

1395 4. Nursing home staff; assisted living facility staff;
1396 adult day care center staff; adult family-care home staff;
1397 social worker; or other professional adult care, residential, or
1398 institutional staff;

1399 5. State, county, or municipal criminal justice employee or
1400 law enforcement officer;

1401 6. ~~An~~ Employee of the Department of Business and
1402 Professional Regulation conducting inspections of public lodging
1403 establishments under s. 509.032;

1404 7. Florida advocacy council or Disability Rights Florida
1405 member or a representative of the State Long-Term Care Ombudsman
1406 Program ~~long-term care ombudsman council member~~; or

1407 8. Bank, savings and loan, or credit union officer,
1408 trustee, or employee,
1409
1410 who knows, or has reasonable cause to suspect, that a vulnerable
1411 adult has been or is being abused, neglected, or exploited shall
1412 immediately report such knowledge or suspicion to the central
1413 abuse hotline.

1414 Section 29. Subsection (1) of section 415.104, Florida
1415 Statutes, is amended to read:

1416 415.104 Protective investigations of cases of abuse,
1417 neglect, or exploitation of vulnerable adults; transmittal of
1418 records to state attorney.—

1419 (1) The department shall, upon receipt of a report alleging
1420 abuse, neglect, or exploitation of a vulnerable adult, begin
1421 within 24 hours a protective investigation of the facts alleged

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1422 therein. If a caregiver refuses to allow the department to begin
1423 a protective investigation or interferes with the conduct of
1424 such an investigation, the appropriate law enforcement agency
1425 shall be contacted for assistance. If, during the course of the
1426 investigation, the department has reason to believe that the
1427 abuse, neglect, or exploitation is perpetrated by a second
1428 party, the appropriate law enforcement agency and state attorney
1429 shall be orally notified. The department and the law enforcement
1430 agency shall cooperate to allow the criminal investigation to
1431 proceed concurrently with, and not be hindered by, the
1432 protective investigation. The department shall make a
1433 preliminary written report to the law enforcement agencies
1434 within 5 working days after the oral report. The department
1435 shall, within 24 hours after receipt of the report, notify the
1436 appropriate Florida local advocacy council, or the State Long-
1437 Term Care Ombudsman Program ~~long-term care ombudsman council~~,
1438 when appropriate, that an alleged abuse, neglect, or
1439 exploitation perpetrated by a second party has occurred. Notice
1440 to the Florida local advocacy council or the State Long-Term
1441 Care Ombudsman Program ~~long-term care ombudsman council~~ may be
1442 accomplished orally or in writing and shall include the name and
1443 location of the vulnerable adult alleged to have been abused,
1444 neglected, or exploited and the nature of the report.

1445 Section 30. Subsection (8) of section 415.1055, Florida
1446 Statutes, is amended to read:

1447 415.1055 Notification to administrative entities.—

1448 (8) At the conclusion of a protective investigation at a
1449 facility, the department shall notify either the Florida local
1450 advocacy council or the State Long-Term Care Ombudsman Program

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1451 or the long-term care ombudsman council of the results of the
1452 investigation. This notification must be in writing.

1453 Section 31. Subsection (2) of section 415.106, Florida
1454 Statutes, is amended to read:

1455 415.106 Cooperation by the department and criminal justice
1456 and other agencies.—

1457 (2) To ensure coordination, communication, and cooperation
1458 with the investigation of abuse, neglect, or exploitation of
1459 vulnerable adults, the department shall develop and maintain
1460 interprogram agreements or operational procedures among
1461 appropriate departmental programs and the State Long-Term Care
1462 Ombudsman Program Council, the Florida Statewide Advocacy
1463 Council, and other agencies that provide services to vulnerable
1464 adults. These agreements or procedures must cover such subjects
1465 as the appropriate roles and responsibilities of the department
1466 in identifying and responding to reports of abuse, neglect, or
1467 exploitation of vulnerable adults; the provision of services;
1468 and related coordinated activities.

1469 Section 32. Paragraph (g) of subsection (3) of section
1470 415.107, Florida Statutes, is amended to read:

1471 415.107 Confidentiality of reports and records.—

1472 (3) Access to all records, excluding the name of the
1473 reporter which shall be released only as provided in subsection
1474 (6), shall be granted only to the following persons, officials,
1475 and agencies:

1476 (g) Any appropriate official of the Florida advocacy
1477 council, State Long-Term Care Ombudsman Program or long-term
1478 care ombudsman council investigating a report of known or
1479 suspected abuse, neglect, or exploitation of a vulnerable adult.

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1480 Section 33. Present subsections (16) through (26) of
1481 section 429.02, Florida Statutes, are redesignated as
1482 subsections (17) through (27), respectively, present subsections
1483 (11) and (20) are amended, and a new subsection (16) is added to
1484 that section to read:

1485 429.02 Definitions.—When used in this part, the term:

1486 (11) "Extended congregate care" means acts beyond those
1487 authorized in subsection (17) ~~(16)~~ that may be performed
1488 pursuant to part I of chapter 464 by persons licensed thereunder
1489 while carrying out their professional duties, and other
1490 supportive services which may be specified by rule. The purpose
1491 of such services is to enable residents to age in place in a
1492 residential environment despite mental or physical limitations
1493 that might otherwise disqualify them from residency in a
1494 facility licensed under this part.

1495 (16) "Office" has the same meaning as in s. 400.0060.

1496 (17) ~~(16)~~ "Personal services" means direct physical
1497 assistance with or supervision of the activities of daily living
1498 and the self-administration of medication and other similar
1499 services which the department may define by rule. "Personal
1500 services" shall not be construed to mean the provision of
1501 medical, nursing, dental, or mental health services.

1502 (18) ~~(17)~~ "Physical restraint" means a device which
1503 physically limits, restricts, or deprives an individual of
1504 movement or mobility, including, but not limited to, a half-bed
1505 rail, a full-bed rail, a geriatric chair, and a posey restraint.
1506 The term "physical restraint" shall also include any device
1507 which was not specifically manufactured as a restraint but which
1508 has been altered, arranged, or otherwise used for this purpose.

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1509 The term shall not include bandage material used for the purpose
1510 of binding a wound or injury.

1511 ~~(19)-(18)~~ "Relative" means an individual who is the father,
1512 mother, stepfather, stepmother, son, daughter, brother, sister,
1513 grandmother, grandfather, great-grandmother, great-grandfather,
1514 grandson, granddaughter, uncle, aunt, first cousin, nephew,
1515 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
1516 daughter-in-law, brother-in-law, sister-in-law, stepson,
1517 stepdaughter, stepbrother, stepsister, half brother, or half
1518 sister of an owner or administrator.

1519 ~~(20)-(19)~~ "Resident" means a person 18 years of age or
1520 older, residing in and receiving care from a facility.

1521 ~~(21)-(20)~~ "Resident's representative or designee" means a
1522 person other than the owner, or an agent or employee of the
1523 facility, designated in writing by the resident, if legally
1524 competent, to receive notice of changes in the contract executed
1525 pursuant to s. 429.24; to receive notice of and to participate
1526 in meetings between the resident and the facility owner,
1527 administrator, or staff concerning the rights of the resident;
1528 to assist the resident in contacting the State Long-Term Care
1529 Ombudsman Program or local ombudsman council if the resident has
1530 a complaint against the facility; or to bring legal action on
1531 behalf of the resident pursuant to s. 429.29.

1532 ~~(22)-(21)~~ "Service plan" means a written plan, developed and
1533 agreed upon by the resident and, if applicable, the resident's
1534 representative or designee or the resident's surrogate,
1535 guardian, or attorney in fact, if any, and the administrator or
1536 designee representing the facility, which addresses the unique
1537 physical and psychosocial needs, abilities, and personal

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1538 preferences of each resident receiving extended congregate care
1539 services. The plan shall include a brief written description, in
1540 easily understood language, of what services shall be provided,
1541 who shall provide the services, when the services shall be
1542 rendered, and the purposes and benefits of the services.

1543 ~~(23)-(22)~~ "Shared responsibility" means exploring the
1544 options available to a resident within a facility and the risks
1545 involved with each option when making decisions pertaining to
1546 the resident's abilities, preferences, and service needs,
1547 thereby enabling the resident and, if applicable, the resident's
1548 representative or designee, or the resident's surrogate,
1549 guardian, or attorney in fact, and the facility to develop a
1550 service plan which best meets the resident's needs and seeks to
1551 improve the resident's quality of life.

1552 ~~(24)-(23)~~ "Supervision" means reminding residents to engage
1553 in activities of daily living and the self-administration of
1554 medication, and, when necessary, observing or providing verbal
1555 cuing to residents while they perform these activities.

1556 ~~(25)-(24)~~ "Supplemental security income," Title XVI of the
1557 Social Security Act, means a program through which the Federal
1558 Government guarantees a minimum monthly income to every person
1559 who is age 65 or older, or disabled, or blind and meets the
1560 income and asset requirements.

1561 ~~(26)-(25)~~ "Supportive services" means services designed to
1562 encourage and assist aged persons or adults with disabilities to
1563 remain in the least restrictive living environment and to
1564 maintain their independence as long as possible.

1565 ~~(27)-(26)~~ "Twenty-four-hour nursing supervision" means
1566 services that are ordered by a physician for a resident whose

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1567 condition requires the supervision of a physician and continued
 1568 monitoring of vital signs and physical status. Such services
 1569 shall be: medically complex enough to require constant
 1570 supervision, assessment, planning, or intervention by a nurse;
 1571 required to be performed by or under the direct supervision of
 1572 licensed nursing personnel or other professional personnel for
 1573 safe and effective performance; required on a daily basis; and
 1574 consistent with the nature and severity of the resident's
 1575 condition or the disease state or stage.

1576 Section 34. Subsection (9) of section 429.19, Florida
 1577 Statutes, is amended to read:

1578 429.19 Violations; imposition of administrative fines;
 1579 grounds.-

1580 (9) The agency shall develop and disseminate an annual list
 1581 of all facilities sanctioned or fined for violations of state
 1582 standards, the number and class of violations involved, the
 1583 penalties imposed, and the current status of cases. The list
 1584 shall be disseminated, at no charge, to the Department of
 1585 Elderly Affairs, the Department of Health, the Department of
 1586 Children and Families, the Agency for Persons with Disabilities,
 1587 the area agencies on aging, the Florida Statewide Advocacy
 1588 Council, ~~and the State Long-Term Care Ombudsman Program and~~
 1589 state and local ombudsman councils. The Department of Children
 1590 and Families shall disseminate the list to service providers
 1591 under contract to the department who are responsible for
 1592 referring persons to a facility for residency. The agency may
 1593 charge a fee commensurate with the cost of printing and postage
 1594 to other interested parties requesting a copy of this list. This
 1595 information may be provided electronically or through the

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1596 agency's Internet site.

1597 Section 35. Subsection (8) of section 429.26, Florida
 1598 Statutes, is amended to read:

1599 429.26 Appropriateness of placements; examinations of
 1600 residents.-

1601 (8) The Department of Children and Families may require an
 1602 examination for supplemental security income and optional state
 1603 supplementation recipients residing in facilities at any time
 1604 and shall provide the examination whenever a resident's
 1605 condition requires it. Any facility administrator; personnel of
 1606 the agency, the department, or the Department of Children and
 1607 Families; or a representative of the State Long-Term Care
 1608 Ombudsman Program ~~long term care ombudsman council member~~ who
 1609 believes a resident needs to be evaluated shall notify the
 1610 resident's case manager, who shall take appropriate action. A
 1611 report of the examination findings shall be provided to the
 1612 resident's case manager and the facility administrator to help
 1613 the administrator meet his or her responsibilities under
 1614 subsection (1).

1615 Section 36. Subsection (2) and paragraph (b) of subsection
 1616 (3) of section 429.28, Florida Statutes, are amended to read:

1617 429.28 Resident bill of rights.-

1618 (2) The administrator of a facility shall ensure that a
 1619 written notice of the rights, obligations, and prohibitions set
 1620 forth in this part is posted in a prominent place in each
 1621 facility and read or explained to residents who cannot read.
 1622 This notice ~~must~~ shall include the statewide toll-free telephone
 1623 number and e-mail address of the State Long-Term Care Ombudsman
 1624 Program and the telephone number of name, address, and telephone

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1625 ~~numbers~~ of the local ombudsman council and the Elder Abuse
 1626 Hotline operated by the Department of Children and Families
 1627 ~~central abuse hotline~~ and, when applicable, the Advocacy Center
 1628 for Persons with Disabilities, Inc., and the Florida local
 1629 advocacy council, where complaints may be lodged. The facility
 1630 must ensure a resident's access to a telephone to call the State
 1631 Long Term Care Ombudsman Program or local ombudsman council, the
 1632 Elder Abuse Hotline operated by the Department of Children and
 1633 Families central abuse hotline, Advocacy Center for Persons with
 1634 Disabilities, Inc., and the Florida local advocacy council.

(3)

1636 (b) In order to determine whether the facility is
 1637 adequately protecting residents' rights, the biennial survey
 1638 shall include private informal conversations with a sample of
 1639 residents and consultation with the ombudsman council in the
 1640 district planning and service area in which the facility is
 1641 located to discuss residents' experiences within the facility.

1642 Section 37. Section 429.34, Florida Statutes, is amended to
 1643 read:

1644 429.34 Right of entry and inspection.—In addition to the
 1645 requirements of s. 408.811, a ~~any~~ duly designated officer or
 1646 employee of the department, the Department of Children and
 1647 Families, the Medicaid Fraud Control Unit of the Office of the
 1648 Attorney General, the state or local fire marshal, or a
 1649 representative of the State Long-Term Care Ombudsman Program or
 1650 a member of the state or local long-term care ombudsman council
 1651 ~~may shall have the right to~~ enter unannounced upon and into the
 1652 premises of any facility licensed under ~~pursuant to~~ this part in
 1653 order to determine the state of compliance with ~~the provisions~~

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1654 ~~of~~ this part, part II of chapter 408, and applicable rules. Data
 1655 collected by the State Long-Term Care Ombudsman Program, ~~state~~
 1656 ~~or~~ local long-term care ombudsman councils or the state or local
 1657 advocacy councils may be used by the agency in investigations
 1658 involving violations of regulatory standards.

1659 Section 38. Subsection (2) of section 429.35, Florida
 1660 Statutes, is amended to read:

1661 429.35 Maintenance of records; reports.—

1662 (2) Within 60 days after the date of the biennial
 1663 inspection visit required under s. 408.811 or within 30 days
 1664 after the date of any interim visit, the agency shall forward
 1665 the results of the inspection to the local ombudsman council in
 1666 in the district whose planning and service area, as defined in
 1667 ~~part II of chapter 400, where~~ the facility is located; to at
 1668 least one public library or, in the absence of a public library,
 1669 the county seat in the county in which the inspected assisted
 1670 living facility is located; and, when appropriate, to the
 1671 district Adult Services and Mental Health Program Offices.

1672 Section 39. Subsection (6) of section 429.67, Florida
 1673 Statutes, is amended to read:

1674 429.67 Licensure.—

1675 (6) In addition to the requirements of s. 408.811, access
 1676 to a licensed adult family-care home must be provided at
 1677 reasonable times for the appropriate officials of the
 1678 department, the Department of Health, the Department of Children
 1679 and Families, the agency, and the State Fire Marshal, who are
 1680 responsible for the development and maintenance of fire, health,
 1681 sanitary, and safety standards, to inspect the facility to
 1682 assure compliance with these standards. In addition, access to a

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1683 licensed adult family-care home must be provided at reasonable
1684 times to representatives of the State Long Term Care Ombudsman
1685 Program for the local long-term care ombudsman council.

1686 Section 40. Subsection (2) of section 429.85, Florida
1687 Statutes, is amended to read:

1688 429.85 Residents' bill of rights.—

1689 (2) The provider shall ensure that residents and their
1690 legal representatives are made aware of the rights, obligations,
1691 and prohibitions set forth in this part. Residents must also be
1692 given the statewide toll-free telephone number and e-mail
1693 address of the State Long-Term Care Ombudsman Program, the
1694 telephone number names, addresses, and telephone numbers of the
1695 local ombudsman council and the Elder Abuse Hotline operated by
1696 the Department of Children and Families ~~the central abuse~~
1697 ~~hotline~~ where they may lodge complaints.

1698 Section 41. This act shall take effect July 1, 2015.

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/CS/SB 296

INTRODUCER: Governmental Oversight and Accountability Committee; Health Policy Committee; and Senator Garcia and others

SUBJECT: Diabetes Advisory Council

DATE: March 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lloyd</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Peacock</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	<u>Brown</u>	<u>Pigott</u>	<u>AHS</u>	
4.	<u> </u>	<u> </u>	<u>FP</u>	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 296 creates a process for ongoing assessment of the state's diabetes-related activities. The bill directs the Diabetes Advisory Council, in conjunction with the Department of Health (DOH), the Agency for Health Care Administration (AHCA), and the Department of Management Services (DMS), to prepare a report regarding the impact of diabetes on state-funded or operated programs, including Medicaid, the State Group Insurance Program, and public health programs.

The report is due to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 10 of each odd-numbered year.

The bill also modifies the composition of the Diabetes Advisory Council to include one member from at least three of the medical schools in the state and adds a representative of the American Association of Diabetes Educators to the list of possible members.

The bill has an indeterminate fiscal impact.

The bill provides for an effective date of July 1, 2015.

II. Present Situation:

Diabetes is a group of diseases in which the body produces too little insulin,¹ is unable to use insulin efficiently, or both. When diabetes is not controlled, glucose and fats remain in the blood and eventually cause damage to vital organs.

The most common forms of diabetes are:

- **Type 1:** Sometimes known as juvenile diabetes, type 1 is usually first diagnosed in children and adolescents and accounts for about five percent of all diagnosed cases. Type 1 diabetes is an autoimmune disease in which the body's own immune system destroys cells in the pancreas that produce insulin. Type 1 may be caused by genetic, environmental, or other risk factors. At this time, there are no methods to prevent or cure type 1 diabetes, and treatment requires the use of insulin by injection or pump.
- **Type 2:** Sometimes known as adult-onset diabetes, type 2 accounts for about 95 percent of diagnosed diabetes in adults and is usually associated with older age, obesity, lack of physical activity, family history, or a personal history of gestational diabetes. Studies have shown that healthy eating, regular physical activity, and weight loss can prevent or delay the onset of type 2 diabetes or eliminate the symptoms and effects post-onset.
- **Gestational diabetes:** This type of diabetes develops and is diagnosed as a result of pregnancy in 2 to 10 percent of pregnant women. Gestational diabetes can cause health problems during pregnancy for both the child and mother. Children whose mothers have gestational diabetes have an increased risk of developing obesity and type 2 diabetes.²

Complications of diabetes include: heart disease, stroke, high blood pressure (hypertension), blindness and other eye problems, kidney disease, nervous system disease, vascular disorders, and amputations. Death rates for heart disease and the risk of stroke are about two to four times higher among adults with diabetes than among those without diabetes. Diabetes and its potential health consequences can be managed through physical activity, diet, self-management training, and, when necessary, medication.³

People with “pre-diabetes” are at high risk of developing type 2 diabetes, heart disease, and stroke. Their blood glucose levels are higher than normal but not high enough to be classified as diabetes. Although an estimated 33 percent of adults in the United States have pre-diabetes, less than 10 percent of them report having been told they have the condition. Thus, awareness of the risk is low. People with pre-diabetes who lose five to seven percent of their body weight and get at least 150 minutes per week of moderate physical activity can reduce the risk of developing type 2 diabetes by 58 percent.⁴

¹ Insulin is a hormone that allows glucose (sugar) to enter cells and be converted to energy.

² U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Diabetes Report Card*, 1 (2012), available at <http://www.cdc.gov/diabetes/pubs/reportcard.htm> (last visited Jan. 20, 2015).

³ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Diabetes Latest* <http://www.cdc.gov/features/diabetesfactsheet/> (last visited Jan. 20, 2015).

⁴ *Supra* note 2, at 4.

Risk factors for type 2 diabetes include:⁵

- Being over the age of 45;
- Being overweight;
- Having a parent or sibling with type 2 diabetes;
- Having a minority family background;
- Developing gestational diabetes;
- Giving birth to a baby weighing nine pounds or more; and
- Being physically active less than three times per week.

Persons with any of the above risk factors are also at risk of developing pre-diabetes. Individuals with pre-diabetes are five to 15 times more likely to develop type 2 diabetes, heart disease, and stroke.⁶ The Centers for Disease Control estimates that as many as one out of every three American adults has pre-diabetes and half of all Americans aged 65 years and older have pre-diabetes.⁷

Minorities have a higher prevalence of diabetes than whites, and some minorities have higher rates of diabetes-related complications and death. Non-Hispanic black, Hispanic, and American Indian/Alaska Native adults are about twice as likely to have diagnosed diabetes as non-Hispanic white adults.⁸

In 2013, the American Diabetes Association released a report updating its earlier studies (2002, 2007) estimating the economic burden of diagnosed diabetes. In 2012, the total estimated cost of diagnosed diabetes in the United States was \$245 billion, including \$176 billion in direct medical costs and \$69 billion in reduced productivity. This represents a 41 percent increase over the 2007 estimate. The largest components of these costs are hospital inpatient care (43 percent) and medications to treat complications (18 percent). People with diagnosed diabetes incur average medical costs of about \$13,700 per year, of which about \$7,900 is attributed to diabetes. Care for people with diagnosed diabetes accounts for more than one in five dollars spent on health care in the United States, and more than half of that is directly attributable to diabetes. Overall, average medical expenses for a person with diabetes are 2.3 times higher than they are for a person without diabetes.⁹

Diabetes in Florida

Diabetes was the sixth leading cause of death in 2012 in Florida.¹⁰ The prior year, diabetes had been the seventh leading cause of death. As a percent of total deaths in the state, diabetes

⁵ Florida Department of Health, *Diabetes, Warning Signs and Risk Factors* <http://www.floridahealth.gov/diseases-and-conditions/diabetes/warning-signs.html> (last visited Feb. 4, 2015).

⁶ Florida Department of Health, *Prediabetes, What is Prediabetes?*, <http://www.floridahealth.gov/diseases-and-conditions/diabetes/prediabetes.html> (last visited Feb. 4, 2015).

⁷ *Id.*

⁸ *Id.* at 1.

⁹ American Diabetes Association, *Economic Costs of Diabetes in the U.S. in 2012*, *Diabetes Care* 36: 1033 – 1046, 2013, available at, <http://care.diabetesjournals.org/content/36/4/1033.full.pdf+html> (last visited Jan. 20, 2015).

¹⁰ Florida Department of Health, *Florida Mortality Atlas: 2012 Major Causes of Death*, <http://www.floridacharts.com/charts/SpecReport.aspx?RepID=7226&tn=33> (last visited Feb. 4, 2015).

accounted for 2.9 percent of all deaths, and over a three-year period (2011-2013), diabetes had an age-adjusted death rate per 100,000 of 19.6 or 15,317 deaths.¹¹

Florida’s population base also includes large concentrations of groups that have been identified as at risk for diabetes. In 2013, only 35 percent of Floridians were at a healthy weight, with 25 percent identified as obese and the remaining 40 percent classified as overweight.¹² If Floridians follow the current trend, by 2030, almost 60 percent of the population will be obese.¹³

Florida has a number of other demographic characteristics that match the high risk factors, such as:¹⁴

Risk Factor	Florida Population (2013)
Persons Over Age 65	18.7% of population
Black or African American	16.7% of population
Hispanic or Latino	23.6 % of population
Total FL Population:	19,552,860

Diabetes Advisory Council

The Diabetes Advisory Council (council) has been established to guide statewide policy on diabetes prevention, diagnosis, education, care, treatment, impact, and costs.¹⁵ It serves in an advisory capacity to the DOH, other agencies, and the public. The council consists of 26 members appointed by the governor who have experience related to diabetes.¹⁶ Twenty-one of the members are representatives of a broad range of health and public health-related interests. Current law requires the governor to appoint these 21 members based on specific requirements related to employer, education, or professional relationships.¹⁷ The remaining five members are representatives of the general public, at least three of whom are affected by diabetes.¹⁸ The council meets annually with the state surgeon general to make recommendations regarding the public health aspects of the prevention and control of diabetes.¹⁹

¹¹ Florida Department of Health, *Florida Charts: Diabetes Deaths - Three Year Trends* <http://www.floridacharts.com/charts/DataViewer/DeathViewer/DeathViewer.aspx?indNumber=0090> (last visited Feb. 4, 2015).

¹² Florida Department of Health, *Healthy Weight - Healthiest Weight Florida*, <http://www.floridahealth.gov/programs-and-services/prevention/healthy-weight/index.html> (last visited Feb. 4, 2015).

¹³ *Id.*

¹⁴ United States Census Bureau, *State and County Quick Facts: Florida*, <http://quickfacts.census.gov/qfd/states/12000.html> (last visited Feb. 4, 2015).

¹⁵ Ch. 1980-62, Laws of Fla. (reinstating the Diabetes Advisory Council into Chapter 381, F.S., pertaining to health.) The council had previously been located under ch. 241, F.S., relating to education and had been repealed by the 1979 Legislature. *See Florida Legislature - 1980 Summary of General Legislation*, p. 145, <http://www.law.fsu.edu/library/collection/FlSumGenLeg/FlSumGenLeg1980.pdf> (last visited Feb. 12, 2015).

¹⁶ Section 385.203(3), F.S.

¹⁷ Section 385.203(3)(b), F.S.

¹⁸ Section 385.203(3)(a), F.S.

¹⁹ Section 385.203(1)(c), F.S. The 2013 recommendations of the Council are on file with the Senate Health Policy Committee.

Florida Diabetes Prevention and Control

The Bureau of Chronic Disease Prevention and Health Promotion (bureau) within the DOH was established in 1998 to improve individual and community health by preventing and reducing the impact of chronic diseases and disabling conditions, including diabetes. Diabetes-related activities of the bureau include:

- Providing support to the Diabetes Advisory Council and the Florida Alliance for Diabetes Prevention and Care;
- Compiling, analyzing, translating, and distributing diabetes data;
- Increasing access to diabetes self-management education;
- Increasing access to diabetes medical care by advocating for the use of community health workers;
- Preventing diabetes in populations disproportionately affected by diabetes;
- Increasing diagnosis and treatment for pre-diabetes; and
- Managing the Insulin Distribution Program.²⁰

The Office of Minority Health administers the Closing the Gap grant program, which seeks to improve health outcomes and eliminate racial and ethnic health disparities in Florida by providing grants to increase community-based health promotion and disease prevention activities, including diabetes prevention.²¹

Medicaid

Medicaid is a joint program of the federal and state governments that provides health care for low income individuals. Florida's Medicaid program 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 Fiscal Year 2014-2015, are approximately \$23.3 billion.²² The statutory authority for the Medicaid program is contained in ch. 409, F.S.

State Group Insurance Program

Section 110.123, F.S., creates the State Group Insurance Program. As implemented by the DMS, the program offers four types of health plans from which an eligible employee may choose: a standard statewide Preferred Provider Organization (PPO) Plan, a Health Investor PPO Plan, a standard Health Maintenance Organization (HMO) Plan, and a Health Investor HMO Plan. In Fiscal Year 2013-2014, the State Group Insurance Program covered 171,908 members at a cost of \$1.96 billion.²³

²⁰ Florida Department of Health, *Resource Manual for the Florida Department of Health* (Fiscal Year 2012-2013) (on file with the Senate Committee on Health Policy).

²¹ Sections 381.7353 – 381.7356, F.S.

²² Office of Economic and Demographic Research, *Social Services Estimating Conference, Medicaid Caseloads and Expenditures, June 27, July 22, and August 4, 2014, Executive Summary*, <http://edr.state.fl.us/Content/conferences/medicaid/medsummary.pdf> (last visited Jan., 2015).

²³ Florida Department of Management Services, Division of State Group Insurance, *State Employees' Group Health Self-Insurance Trust Fund, Report on the Financial Outlook* (January 14, 2015), <http://edr.state.fl.us/Content/conferences/healthinsurance/HealthInsuranceOutlook.pdf> (last visited February, 27 2015).

III. Effect of Proposed Changes:

The bill directs the Diabetes Advisory Council, in conjunction with the DOH, the AHCA, and the DMS, to submit a report by January 10 in each odd-numbered year to the Governor, the President of the Senate, and the Speaker of the House of Representatives, regarding the impact of diabetes on state-funded or operated programs. Specifically, the report must include:

- Information on the public health consequences and financial impact of diabetes and its complications on the state, including the number of persons covered by Medicaid and the State Group Insurance Program, and the number of persons impacted by state diabetes programs and activities;
- A description and assessment of the effectiveness of diabetes programs and activities implemented by the agencies, the amount and sources of their funding, and the cost savings they achieve;
- A description of the coordination among the agencies of programs, activities, and communications related to diabetes prevention and treatment; and
- A detailed action plan for reducing and controlling the number of new cases of diabetes, including actions to reduce negative impacts, expected outcomes of the plan, and benchmarks.

The Governor's authority to appoint members to the Diabetes Advisory Council is modified to require the Governor to appoint one member each from at least three of the medical schools in the state, not more than 18 members, and not more than one each from specific employer, education, and professional relationships. In addition, the qualifying relationships for members of the council are expanded to include the American Association of Diabetes Educators.

The bill has an effective date of July 1, 2015.

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:

None.

C. Government Sector Impact:

CS/CS/SB 296 will have no fiscal impact on the DOH in its capacity as staff to support to the Diabetes Advisory Council. While the creation of the biennial report may require significant DOH staff time to generate, the DOH reports that such time may be absorbed within existing resources.²⁴

The DMS reports an indeterminate fiscal impact.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 385.203 of the Florida Statutes.

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 February 17, 2015:**

The committee substitute identifies who *may* serve on the Diabetes Advisory Council rather than *must*, and adds a representative of the American Association of Diabetes Educators to the list of possible members.

CS by Governmental Oversight and Accountability on March 4, 2015:

The governor's authority to appoint members to the Diabetes Advisory Council is modified to require the Governor to appoint one member each from at least three of the medical schools in the state, to appoint not more than 18 members, and not more than one each from specific employer, education and professional relationships. In addition, the qualifying relationships for members of the council are expanded to include the American Association of Diabetes Educators.

²⁴ Florida Department of Health, *Senate Bill 296 Analysis* (Jan. 12, 2015) (on file with the Senate Committee on Health Policy).

²⁵ Florida Department of Management Services, *Senate Bill 296 Analysis* (Jan. 9, 2015) (on file with the Senate Committee on Health Policy).

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 the Committees on Governmental Oversight and Accountability;
and Health Policy; and Senators Garcia and Joyner

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1 A bill to be entitled
2 An act relating to the Diabetes Advisory Council;
3 amending s. 385.203, F.S.; requiring the council, in
4 conjunction with the Department of Health, the Agency
5 for Health Care Administration, and the Department of
6 Management Services, to develop plans to manage,
7 treat, and prevent diabetes; requiring a report to the
8 Governor and Legislature; specifying the contents of
9 the report; adjusting the representation of certain
10 areas of specialization or institutions in the
11 membership of the council; adding an organization from
12 which a representative may be selected to serve as a
13 council member; providing an effective date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. Present paragraph (c) of subsection (1) of
18 section 385.203, Florida Statutes, is redesignated as paragraph
19 (d), and a new paragraph (c) is added to that subsection, and
20 present paragraph (b) of subsection (3) of that section is
21 amended and redesignated as paragraph (c), and a new paragraph
22 (b) is added to that subsection, to read:
23 385.203 Diabetes Advisory Council; creation; function;
24 membership.—
25 (1) To guide a statewide comprehensive approach to diabetes
26 prevention, diagnosis, education, care, treatment, impact, and
27 costs thereof, there is created a Diabetes Advisory Council that
28 serves as the advisory unit to the Department of Health, other
29 governmental agencies, professional and other organizations, and

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30 the general public. The council shall:
31 (c) In conjunction with the department, the Agency for
32 Health Care Administration, and the Department of Management
33 Services, by January 10 of each odd-numbered year, submit to the
34 Governor, the President of the Senate, and the Speaker of the
35 House of Representatives a report containing the following
36 information:
37 1. The public health consequences and financial impact on
38 the state of all types of diabetes and resulting health
39 complications, including the number of persons with diabetes
40 covered by Medicaid, the number of persons with diabetes who are
41 insured by the Division of State Group Insurance, and the number
42 of persons with diabetes who are impacted by state agency
43 diabetes programs and activities.
44 2. A description and an assessment of the effectiveness of
45 the diabetes programs and activities implemented by each state
46 agency, the amount and source of funding for such programs and
47 activities, and the cost savings realized as a result of the
48 implementation of such programs and activities.
49 3. A description of the coordination among state agencies
50 of their respective programs, activities, and communications
51 designed to manage, treat, and prevent all types of diabetes.
52 4. The development of and revisions to a detailed action
53 plan for reducing and controlling the number of new cases of
54 diabetes and identification of proposed action steps to reduce
55 the impact of all types of diabetes, identification of expected
56 outcomes if the plan is implemented, and the establishment of
57 benchmarks for preventing and controlling diabetes.
58 (3) The council shall be composed of 26 citizens of the

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59 state who have knowledge of, or work in, the area of diabetes
60 mellitus as follows:

61 (b) One member each from at least three of the medical
62 schools in the state.

63 (c) ~~(b)~~ Not more than 18 members and not more than one each
64 Twenty-one members, who must include one representative from
65 among each of the following areas: nursing with diabetes-
66 educator certification; dietary with diabetes educator
67 certification; podiatry; ophthalmology or optometry; psychology;
68 pharmacy; adult endocrinology; pediatric endocrinology; the
69 American Diabetes Association (ADA); the American Association of
70 Diabetes Educators; the Juvenile Diabetes Foundation ~~(JDF)~~; the
71 Florida Academy of Family Physicians; a community health center;
72 a county health department; an ADA-recognized American Diabetes
73 Association recognized community education program; ~~each medical~~
74 school in the state; an osteopathic medical school; the
75 insurance industry; a Children's Medical Services diabetes
76 regional program; and an employer.

77 Section 2. This act shall take effect July 1, 2015.