

1                                   A bill to be entitled  
2           An act relating to long-term care; providing  
3           legislative findings and intent; creating the  
4           "Long-Term Care Community Diversion Pilot  
5           Project Act"; providing definitions; providing  
6           for evaluation of criteria and procedures for  
7           long-term care through community diversion  
8           pilot projects; providing for design and  
9           implementation of pilot projects; providing for  
10          funding and participant cost-sharing; providing  
11          for selection of pilot project areas; providing  
12          service requirements; providing for quality of  
13          care standards; authorizing contracts for  
14          managed care services; revising  
15          certificate-of-need nursing home bed need  
16          methodology to accommodate pilot project  
17          development; requiring annual reports;  
18          requiring independent evaluation of pilot  
19          projects; specifying responsibilities of the  
20          Department of Elderly Affairs and the Agency  
21          for Health Care Administration; creating the  
22          long-term care interagency advisory council;  
23          providing for appointment of members; providing  
24          council duties; amending s. 400.071, F.S.;  
25          authorizing the agency to consider specified  
26          certificate-of-need review criteria for nursing  
27          homes; providing an effective date.

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29   Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. Legislative findings and intent.--The  
2 Legislature finds that state expenditures for long-term care  
3 services continue to increase at a rapid rate and that Florida  
4 faces increasing pressure in its efforts to meet the long-term  
5 care needs of the public. It is the intent of the Legislature  
6 that the Department of Elderly Affairs, in consultation with  
7 the Agency for Health Care Administration, implement long-term  
8 care community diversion pilot projects to test the  
9 effectiveness of managed care and outcome-based reimbursement  
10 principles when applied to long-term care.

11           Section 2. Short title.--This act may be cited as the  
12 "Long-Term Care Community Diversion Pilot Project Act."

13           Section 3. Definitions.--As used in this act, the  
14 term:

15           (1) "Agency" means the Agency for Health Care  
16 Administration.

17           (2) "Community diversion" means a strategy that places  
18 participants in the most appropriate care settings and  
19 provides comprehensive home and community-based services of  
20 sufficient quantity, type, and duration to prevent or delay  
21 the need for long-term placement in a nursing facility.

22           (3) "Community diversion pilot project" means any  
23 pilot service delivery system that places participants in the  
24 most appropriate care settings and provides comprehensive home  
25 and community-based services of sufficient quantity, type, and  
26 duration to prevent or delay the need for long-term placement  
27 in a nursing facility.

28           (4) "Community diversion pilot project area" means a  
29 geographic area selected by the department where the  
30 department will conduct a community diversion pilot project.

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1           (5) "Department" means the Department of Elderly  
2 Affairs.

3           (6) "Managed care organization" means an entity that  
4 meets the requirements of the Department of Insurance for  
5 operation as a health maintenance organization and meets the  
6 qualifications for participation as a managed care  
7 organization established by the agency and the department.

8           (7) "Participant" means an individual enrolled in a  
9 community diversion pilot project.

10           Section 4. Evaluation of long-term care through the  
11 pilot projects.--

12           (1) The department shall evaluate the Comprehensive  
13 Assessment and Review for Long-Term Care (CARES) Program  
14 processes, procedures, and instruments, and its ability to  
15 predict nursing home placement. The department may revise  
16 these processes, procedures, and instruments as necessary to  
17 increase the number of persons diverted from institutional  
18 placement. Nothing in this section shall be construed to  
19 prevent the department from directing CARES to review and  
20 evaluate nursing home residents. The department shall:

21           (a) Ensure that the CARES process is an effective  
22 predictor of the need for nursing facility care; and

23           (b) Assess the use of CARES as a single entry point  
24 for aging and long-term care services.

25           (2) The department shall develop a capitation  
26 rate-setting method that:

27           (a) Assures sufficient savings from the state Medicaid  
28 nursing home budget category to fund the community diversion  
29 pilot projects; and

1           **(b) Assures that expenditures do not exceed the**  
2 **average nursing home cost in the pilot project area, excluding**  
3 **Medicaid acute care costs and Medicaid cost-sharing.**

4           **(3) The department shall evaluate:**

5           **(a) The standards in existing Medicaid managed care**  
6 **contracts to determine if they are sufficient to assure**  
7 **access, quality, and cost-effectiveness of services for frail**  
8 **elders.**

9           **(b) The cost-effectiveness of the services provided by**  
10 **the pilot projects.**

11           **(c) The impact of nursing home bed growth on state**  
12 **expenditures.**

13           **(d) Methods to encourage competition among long-term**  
14 **care service providers that will improve service quality,**  
15 **price, and participant satisfaction.**

16           **(e) Criteria for selecting the managed care**  
17 **organizations, including, but not limited to, quality**  
18 **assurance processes, grievance procedures, service costs,**  
19 **accessibility, adequacy of provider networks, and**  
20 **administrative costs.**

21           **(f) Criteria for participant eligibility.**

22           **Section 5. Implementation of the long-term care**  
23 **community diversion pilot projects.--**

24           **(1) In designing and implementing the community**  
25 **diversion pilot projects, the department shall work in**  
26 **consultation with the agency.**

27           **(2) The department shall select projects whose design**  
28 **and providers demonstrate capacity to maximize the placement**  
29 **of participants in the least restrictive appropriate care**  
30 **setting.**

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1           (3) The department shall provide to prospective  
2 participants a choice of participating in a community  
3 diversion pilot project or any other appropriate placement  
4 available. To the extent possible, individuals shall be  
5 allowed to choose their care providers.

6           (4) The department shall enroll participants.  
7 Providers shall not directly enroll participants in community  
8 diversion pilot projects.

9           (5) In selecting the pilot project area, the  
10 department shall consider the following factors in the area:

11           (a) The nursing home occupancy level.

12           (b) The number of certificates of need awarded for  
13 nursing home beds for which renovation, expansion, or  
14 construction has not begun.

15           (c) The annual number of additional nursing home beds.

16           (d) The annual number of nursing home admissions.

17           (e) The adequacy of community-based long-term care  
18 service providers.

19           (6) The department may require participants to  
20 contribute to their cost of care in an amount not to exceed  
21 the cost-sharing required of Medicaid-eligible nursing home  
22 residents.

23           (7) Community diversion pilot projects must:

24           (a) Provide services for participants that are of  
25 sufficient quality, quantity, type, and duration to prevent or  
26 delay nursing facility placement.

27           (b) Integrate acute and long-term care services, and  
28 the funding sources for such services, as feasible.

29           (c) Encourage individuals, families, and communities  
30 to plan for their long-term care needs.

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1           (d) Provide skilled and intermediate nursing facility  
2 care for participants who cannot be adequately cared for in  
3 noninstitutional settings.

4           Section 6. Quality of care.--The department, in  
5 consultation with the agency, shall develop quality of care  
6 standards for community diversion pilot projects. Such  
7 standards shall apply to all contractors and subcontractors,  
8 and must include, but are not limited to, outcome measures,  
9 utilization review, grievance and conflict resolution, patient  
10 satisfaction, and care and service standards.

11           Section 7. Contracts.--The department, in consultation  
12 with the agency, shall select and contract with managed care  
13 organizations to provide long-term care within community  
14 diversion pilot project areas.

15           Section 8. Certificate of need.--To ensure that  
16 Medicaid community diversion pilot projects result in a  
17 reduction in the projected average monthly nursing home  
18 caseload, the agency shall, in accordance with the provisions  
19 of s. 408.034(4):

20           (1) Reduce the projected nursing home bed need in each  
21 certificate-of-need batching cycle in the community diversion  
22 pilot project areas.

23           (2) Reduce the conditions imposed on existing nursing  
24 homes or those to be constructed, in accordance with the  
25 number of projected community diversion slots.

26           (3) Adopt rules to reduce the number of beds in  
27 Medicaid-participating nursing homes eligible for Medicaid,  
28 through a Medicaid-selective contracting process or some other  
29 appropriate method.

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1           (4) Determine the feasibility of increasing the  
2 nursing home occupancy threshold used in determining nursing  
3 home bed needs under the certificate-of-need process.

4           Section 9. Reports and evaluations.--

5           (1) Beginning January 1, 1998, and continuing each  
6 January 1 while the community diversion pilot projects are  
7 operating, the department shall report to the Legislature  
8 regarding the implementation and operation of community  
9 diversion pilot projects.

10           (2) The department shall contract for an independent  
11 evaluation of the community diversion pilot projects. Such  
12 evaluation must include a careful review and assessment of the  
13 actual cost for the provision of services to participants.

14           (3) The department, in consultation with the agency,  
15 shall assess the feasibility of implementing a managed  
16 long-term care system throughout the state to serve  
17 appropriate Medicaid-eligible long-term care recipients age 60  
18 years and older.

19           Section 10. Long-term care interagency advisory  
20 council.--

21           (1) The long-term care interagency advisory council is  
22 created within the Department of Elderly Affairs to advise the  
23 secretary of the department on matters related to the  
24 long-term care community diversion pilot projects. The  
25 department and the agency shall provide staff support to the  
26 council, as determined by the secretary of the department and  
27 the director of the agency.

28           (a) The Secretary of the Department of Children and  
29 Family Services shall appoint four members, one each to  
30 represent the following:

1           1. Consumers, or family or guardians of consumers, of  
2 optional state supplementation, adult protective services,  
3 developmental services, or mental health services from the  
4 department.

5           2. Providers of community-based services.

6           3. Consumer advocacy organizations.

7           4. Consumers, or representatives of consumers, who  
8 have non-age related physical disabilities.

9           (b) The Secretary of the Department of Elderly Affairs  
10 shall appoint five members, one each to represent the  
11 following:

12           1. The nursing home industry.

13           2. The assisted living industry.

14           3. Consumers of long-term care services.

15           4. Providers of community-based services.

16           5. Area Agencies on Aging.

17           (c) The Commissioner of Insurance shall appoint one  
18 member to represent the insurance industry.

19           (d) The Director of the Agency for Health Care  
20 Administration shall appoint three members, one each to  
21 represent the following:

22           1. The hospital industry.

23           2. The home health industry.

24           3. Health maintenance organizations.

25           (2) Council members representing industries or  
26 organizations shall serve at their own expense.

27           (3) Consumer council members shall be reimbursed by  
28 the appointing department for travel expenses incurred in  
29 attending council meetings.

30           (4) The council shall discuss, evaluate, and develop  
31 recommendations regarding the following topics:

1           (a) Implementation of community diversion pilot  
2 projects and the possibility of statewide implementation.

3           (b) Budgetary constraints and other issues related to  
4 providing a full continuum of long-term care services.

5           (c) The use and potential use of assistive  
6 technologies and equipment in the provision of long-term care  
7 services.

8           (d) Mechanisms to encourage families and other  
9 potential caregivers to assist people in need of long-term  
10 care.

11           (e) Related issues that the council determines are  
12 necessary and appropriate.

13           Section 11. Subsection (7) of section 400.071, Florida  
14 Statutes, is amended to read:

15           400.071 Application for license.--

16           (7) The agency may not issue a license to a nursing  
17 home that ~~which~~ fails to receive a certificate of need under  
18 the provisions of ss. 408.031-408.045. The agency may ~~shall~~  
19 consider, in addition to the other criteria specified in s.  
20 408.035, the statement of intent by the applicant to designate  
21 a percentage of the beds of the facility for use by patients  
22 eligible for care under Title XIX of the Social Security Act,  
23 the percentage to be all or a portion of the need for such  
24 beds as identified in the local health plan. It is the intent  
25 of the Legislature that preference be given to an application  
26 which most closely meets the need for such beds.

27           Section 12. This act shall take effect upon becoming a  
28 law.