Florida House of Representatives - 2000

By the Committee on Health Care Services and Representative Peaden

1	A bill to be entitled
2	An act relating to health care; amending s.
3	409.212, F.S.; providing for periodic increase
4	in the optional state supplementation rate;
5	amending s. 409.901, F.S.; amending definitions
6	of terms used in ss. 409.910-409.920, F.S.;
7	amending s. 409.902, F.S.; providing that the
8	Department of Children and Family Services is
9	responsible for Medicaid eligibility
10	determinations; amending s. 409.903, F.S.;
11	providing responsibility for determinations of
12	eligibility for payments for medical assistance
13	and related services; amending s. 409.905,
14	F.S.; increasing the maximum amount that may be
15	paid under Medicaid for hospital outpatient
16	services; amending s. 409.906, F.S.; allowing
17	the Department of Children and Family Services
18	to transfer funds to the Agency for Health Care
19	Administration to cover state match
20	requirements as specified; amending s. 409.907,
21	F.S.; specifying grounds on which provider
22	applications may be denied; amending s.
23	409.908, F.S.; increasing the maximum amount of
24	reimbursement allowable to Medicaid providers
25	for hospital inpatient care; creating s.
26	409.9119, F.S.; creating a disproportionate
27	share program for children's hospitals;
28	providing formulas governing payments made to
29	hospitals under the program; providing for
30	withholding payments from a hospital that is
31	not complying with agency rules; amending s.

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1	409.912, F.S.; providing for the transfer of
2	certain unexpended Medicaid funds from the
3	Department of Elderly Affairs to the Agency for
4	Health Care Administration; amending s.
5	409.919, F.S.; providing for the adoption and
6	the transfer of certain rules relating to the
7	determination of Medicaid eligibility;
8	authorizing developmental research schools to
9	participate in the Medicaid certified school
10	match program; providing for the Agency for
11	Health Care Administration to seek a federal
12	waiver allowing the agency to undertake a pilot
13	project that involves contracting with skilled
14	nursing facilities for the provision of
15	rehabilitation services to adult ventilator
16	dependent patients; providing for evaluation of
17	the pilot program; providing for a report;
18	repealing s. 409.912(4)(b), F.S., relating to
19	the authorization of the agency to contract
20	with certain prepaid health care services
21	providers; providing an effective date.
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23	Be It Enacted by the Legislature of the State of Florida:
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25	Section 1. Subsection (6) of section 409.212, Florida
26	Statutes, is renumbered as subsection (7) and a new subsection
27	(6) is added to said section, to read:
28	409.212 Optional supplementation
29	(6) The optional state supplementation rate shall be
30	increased by the cost-of-living adjustment to the federal
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1 benefits rate provided the average state optional 2 supplementation contribution does not increase as a result. 3 Section 2. Subsections (3), (15), and (18) of section 4 409.901, Florida Statutes, are amended to read: 5 409.901 Definitions.--As used in ss. 409.901-409.920, 6 except as otherwise specifically provided, the term: 7 "Applicant" means an individual whose written (3) 8 application for medical assistance provided by Medicaid under ss. 409.903-409.906 has been submitted to the Department of 9 Children and Family Services agency, or to the Social Security 10 Administration if the application is for Supplemental Security 11 12 Income, but has not received final action. This term includes 13 an individual, who need not be alive at the time of 14 application, whose application is submitted through a representative or a person acting for the individual. 15 16 (15) "Medicaid program" means the program authorized under Title XIX of the federal Social Security Act which 17 provides for payments for medical items or services, or both, 18 19 on behalf of any person who is determined by the Department of 20 Children and Family Services, or, for Supplemental Security Income, by the Social Security Administration, to be eligible 21 22 on the date of service for Medicaid assistance. 23 (18) "Medicaid recipient" or "recipient" means an 24 individual whom the Department of Children and Family 25 Services, or, for Supplemental Security Income, by the Social 26 Security Administration, determines is eligible, pursuant to 27 federal and state law, to receive medical assistance and 28 related services for which the agency may make payments under 29 the Medicaid program. For the purposes of determining third-party liability, the term includes an individual 30 31 formerly determined to be eligible for Medicaid, an individual 3

who has received medical assistance under the Medicaid 1 2 program, or an individual on whose behalf Medicaid has become 3 obligated. 4 Section 3. Section 409.902, Florida Statutes, is 5 amended to read: б 409.902 Designated single state agency; payment 7 requirements; program title.--The Agency for Health Care 8 Administration is designated as the single state agency 9 authorized to make payments for medical assistance and related services under Title XIX of the Social Security Act. These 10 11 payments shall be made, subject to any limitations or directions provided for in the General Appropriations Act, 12 13 only for services included in the program, shall be made only 14 on behalf of eligible individuals, and shall be made only to qualified providers in accordance with federal requirements 15 16 for Title XIX of the Social Security Act and the provisions of state law. This program of medical assistance is designated 17 the "Medicaid program." The Department of Children and Family 18 19 Services is responsible for Medicaid eligibility 20 determinations, including, but not limited to, policy, rules, and the agreement with the Social Security Administration for 21 22 Medicaid eligibility determinations for Supplemental Security Income recipients, as well as the actual determination of 23 24 eligibility. 25 Section 4. Section 409.903, Florida Statutes, is 26 amended to read: 27 409.903 Mandatory payments for eligible persons. -- The 28 agency shall make payments for medical assistance and related 29 services on behalf of the following persons who the department, or the Social Security Administration by contract 30 with the Department of Children and Family Services, agency 31

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

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determines to be eligible, subject to the income, assets, and 1 2 categorical eligibility tests set forth in federal and state 3 law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations 4 5 established by the General Appropriations Act or chapter 216. (1) Low-income families with children are eligible for 6 7 Medicaid provided they meet the following requirements: 8 (a) The family includes a dependent child who is 9 living with a caretaker relative. (b) The family's income does not exceed the gross 10 11 income test limit. 12 (c) The family's countable income and resources do not 13 exceed the applicable Aid to Families with Dependent Children 14 (AFDC) income and resource standards under the AFDC state plan in effect in July 1996, except as amended in the Medicaid 15 16 state plan to conform as closely as possible to the requirements of the WAGES Program as created in s. 414.015, to 17 the extent permitted by federal law. 18 19 (2) A person who receives payments from, who is 20 determined eligible for, or who was eligible for but lost cash 21 benefits from the federal program known as the Supplemental 22 Security Income program (SSI). This category includes a low-income person age 65 or over and a low-income person under 23 age 65 considered to be permanently and totally disabled. 24 (3) A child under age 21 living in a low-income, 25 26 two-parent family, and a child under age 7 living with a 27 nonrelative, if the income and assets of the family or child, 28 as applicable, do not exceed the resource limits under the 29 WAGES Program. (4) A child who is eligible under Title IV-E of the 30 31 Social Security Act for subsidized board payments, foster 5

care, or adoption subsidies, and a child for whom the state
 has assumed temporary or permanent responsibility and who does
 not qualify for Title IV-E assistance but is in foster care,
 shelter or emergency shelter care, or subsidized adoption.

5 (5) A pregnant woman for the duration of her pregnancy 6 and for the post partum period as defined in federal law and 7 rule, or a child under age 1, if either is living in a family 8 that has an income which is at or below 150 percent of the 9 most current federal poverty level, or, effective January 1, 1992, that has an income which is at or below 185 percent of 10 11 the most current federal poverty level. Such a person is not 12 subject to an assets test. Further, a pregnant woman who 13 applies for eligibility for the Medicaid program through a 14 qualified Medicaid provider must be offered the opportunity, subject to federal rules, to be made presumptively eligible 15 16 for the Medicaid program.

(6) A child born after September 30, 1983, living in a
family that has an income which is at or below 100 percent of
the current federal poverty level, who has attained the age of
6, but has not attained the age of 19. In determining the
eligibility of such a child, an assets test is not required.

(7) A child living in a family that has an income which is at or below 133 percent of the current federal poverty level, who has attained the age of 1, but has not attained the age of 6. In determining the eligibility of such a child, an assets test is not required.

(8) A person who is age 65 or over or is determined by
the agency to be disabled, whose income is at or below 100
percent of the most current federal poverty level and whose
assets do not exceed limitations established by the agency.
However, the agency may only pay for premiums, coinsurance,

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1 and deductibles, as required by federal law, unless additional 2 coverage is provided for any or all members of this group by 3 s. 409.904(1).

4 Section 5. Subsection (6) of section 409.905, Florida5 Statutes, is amended to read:

409.905 Mandatory Medicaid services. -- The agency may 6 7 make payments for the following services, which are required 8 of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are 9 determined to be eligible on the dates on which the services 10 11 were provided. Any service under this section shall be provided only when medically necessary and in accordance with 12 13 state and federal law. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, 14 reimbursement rates, lengths of stay, number of visits, number 15 16 of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions 17 provided for in the General Appropriations Act or chapter 216. 18 19 (6) HOSPITAL OUTPATIENT SERVICES. -- The agency shall 20 pay for preventive, diagnostic, therapeutic, or palliative 21 care and other services provided to a recipient in the 22 outpatient portion of a hospital licensed under part I of chapter 395, and provided under the direction of a licensed 23 physician or licensed dentist, except that payment for such 24 care and services is limited to\$1,500\$1,000 per state fiscal 25 26 year per recipient, unless an exception has been made by the 27 agency, and with the exception of a Medicaid recipient under 28 age 21, in which case the only limitation is medical

29 necessity.

30 Section 6. Subsection (5) of section 409.906, Florida 31 Statutes, is amended to read:

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409.906 Optional Medicaid services.--Subject to 1 2 specific appropriations, the agency may make payments for 3 services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid 4 5 providers to recipients who are determined to be eligible on б the dates on which the services were provided. Any optional 7 service that is provided shall be provided only when medically 8 necessary and in accordance with state and federal law. Nothing in this section shall be construed to prevent or limit 9 the agency from adjusting fees, reimbursement rates, lengths 10 of stay, number of visits, or number of services, or making 11 12 any other adjustments necessary to comply with the 13 availability of moneys and any limitations or directions 14 provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing 15 16 services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may 17 direct the Agency for Health Care Administration to amend the 18 19 Medicaid state plan to delete the optional Medicaid service 20 known as "Intermediate Care Facilities for the Developmentally 21 Disabled." Optional services may include: 22 (5) CASE MANAGEMENT SERVICES. -- The agency may pay for primary care case management services rendered to a recipient 23 24 pursuant to a federally approved waiver, and targeted case 25 management services for specific groups of targeted 26 recipients, for which funding has been provided and which are 27 rendered pursuant to federal guidelines. The agency is 28 authorized to limit reimbursement for targeted case management 29 services in order to comply with any limitations or directions provided for in the General Appropriations Act. 30 Notwithstanding s. 216.292, the Department of Children and 31

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Family Services may transfer general funds to the Agency for 1 2 Health Care Administration to fund state match requirements 3 exceeding the amount specified in the General Appropriations Act for targeted case management services. 4 5 Section 7. Subsections (9) and (10) of section б 409.907, Florida Statutes, are amended to read: 7 409.907 Medicaid provider agreements. -- The agency may 8 make payments for medical assistance and related services rendered to Medicaid recipients only to an individual or 9 entity who has a provider agreement in effect with the agency, 10 11 who is performing services or supplying goods in accordance with federal, state, and local law, and who agrees that no 12 13 person shall, on the grounds of handicap, race, color, or 14 national origin, or for any other reason, be subjected to discrimination under any program or activity for which the 15 16 provider receives payment from the agency. (9) Upon receipt of a completed, signed, and dated 17 application, and completion of any necessary background 18 19 investigation and criminal history record check, the agency 20 must either: (a) Enroll the applicant as a Medicaid provider; or 21 22 (b) Deny the application if the agency finds that, based on the grounds listed in subsection (10), it is in the 23 best interest of the Medicaid program to do so, specifying the 24 reasons for denial. The agency may consider the factors listed 25 26 in subsection (10), as well as any other factor that could 27 affect the effective and efficient administration of the 28 program, including, but not limited to, the current availability of medical care, services, or supplies to 29 recipients, taking into account geographic location and 30 reasonable travel time. 31

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(10) The agency may <u>consider whether</u> deny enrollment in the Medicaid program to a provider if the provider, or any officer, director, agent, managing employee, or affiliated person, or any partner or shareholder having an ownership interest equal to 5 percent or greater in the provider if the provider is a corporation, partnership, or other business entity, has:

8 (a) Made a false representation or omission of any 9 material fact in making the application, including the 10 submission of an application that conceals the controlling or 11 ownership interest of any officer, director, agent, managing 12 employee, affiliated person, or partner or shareholder who may 13 not be eligible to participate;

14 (b) Been or is currently excluded, suspended, 15 terminated from, or has involuntarily withdrawn from 16 participation in, Florida's Medicaid program or any other 17 state's Medicaid program, or from participation in any other 18 governmental or private health care or health insurance 19 program;

(c) Been convicted of a criminal offense relating to the delivery of any goods or services under Medicaid or Medicare or any other public or private health care or health insurance program including the performance of management or administrative services relating to the delivery of goods or services under any such program;

26 (d) Been convicted under federal or state law of a 27 criminal offense related to the neglect or abuse of a patient 28 in connection with the delivery of any health care goods or 29 services;

30 (e) Been convicted under federal or state law of a31 criminal offense relating to the unlawful manufacture,

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1 distribution, prescription, or dispensing of a controlled 2 substance;

3 (f) Been convicted of any criminal offense relating to 4 fraud, theft, embezzlement, breach of fiduciary 5 responsibility, or other financial misconduct;

6 (g) Been convicted under federal or state law of a
7 crime punishable by imprisonment of a year or more which
8 involves moral turpitude;

9 (h) Been convicted in connection with the interference 10 or obstruction of any investigation into any criminal offense 11 listed in this subsection;

(i) Been found to have violated federal or state laws, rules, or regulations governing Florida's Medicaid program or any other state's Medicaid program, the Medicare program, or any other publicly funded federal or state health care or health insurance program, and been sanctioned accordingly;

(j) Been previously found by a licensing, certifying, or professional standards board or agency to have violated the standards or conditions relating to licensure or certification or the quality of services provided; or

(k) Failed to pay any fine or overpayment properly assessed under the Medicaid program in which no appeal is pending or after resolution of the proceeding by stipulation or agreement, unless the agency has issued a specific letter of forgiveness or has approved a repayment schedule to which the provider agrees to adhere.

27 Section 8. Paragraph (a) of subsection (1) of section28 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.--Subject
to specific appropriations, the agency shall reimburse
Medicaid providers, in accordance with state and federal law,

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according to methodologies set forth in the rules of the 1 2 agency and in policy manuals and handbooks incorporated by 3 reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, 4 5 negotiated fees, competitive bidding pursuant to s. 287.057, б and other mechanisms the agency considers efficient and 7 effective for purchasing services or goods on behalf of 8 recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the 9 availability of moneys and any limitations or directions 10 11 provided for in the General Appropriations Act or chapter 216. 12 Further, nothing in this section shall be construed to prevent 13 or limit the agency from adjusting fees, reimbursement rates, 14 lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the 15 16 availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the 17 adjustment is consistent with legislative intent. 18

19 (1) Reimbursement to hospitals licensed under part I 20 of chapter 395 must be made prospectively or on the basis of 21 negotiation.

22 (a) Reimbursement for inpatient care is limited as provided for in s. 409.905(5). Reimbursement for hospital 23 outpatient care is limited to\$1,500\$1,000 per state fiscal 24 year per recipient, except for: 25

26 1 Such care provided to a Medicaid recipient under 27 age 21, in which case the only limitation is medical 28 necessity; 29

2. Renal dialysis services; and

30 3. Other exceptions made by the agency.

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1	Section 9. Section 409.9119, Florida Statutes, is
2	created to read:
3	409.9119 Disproportionate share program for children's
4	hospitalsIn addition to the payments made under s. 409.911,
5	the Agency for Health Care Administration shall develop and
6	implement a system under which disproportionate share payments
7	are made to those hospitals that are licensed by the state as
8	a children's hospital. This system of payments must conform to
9	federal requirements and must distribute funds in each fiscal
10	year for which an appropriation is made by making quarterly
11	Medicaid payments. Notwithstanding s. 409.915, counties are
12	exempt from contributing toward the cost of this special
13	reimbursement for hospitals that serve a disproportionate
14	share of low-income patients.
15	(1) The agency shall use the following formula to
16	calculate the total amount earned for hospitals that
17	participate in the children's hospital disproportionate share
18	program:
19	$TAE = DSR \times BMPD \times MD$
20	Where:
21	TAE = total amount earned by a children's hospital.
22	DSR = disproportionate share rate.
23	BMPD = base Medicaid per diem.
24	MD = Medicaid days.
25	(2) The agency shall calculate the total additional
26	payment for hospitals that participate in the children's
27	hospital disproportionate share program as follows:
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29	$\underline{\text{TAP}} = (\underline{\text{TAE x TA}})$
30	
31	STAE
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1 Where: 2 TAP = total additional payment for a children's 3 hospital. 4 TAE = total amount earned by a children's hospital. 5 STAE = sum of total amount earned by each hospital that 6 participates in the children's hospital disproportionate share 7 program. 8 TA = total appropriation for the children's hospital 9 disproportionate share program. 10 11 (3) A hospital may not receive any payments under this 12 section until it achieves full compliance with the applicable 13 rules of the agency. A hospital that is not in compliance for 14 two or more consecutive quarters may not receive its share of 15 the funds. Any forfeited funds must be distributed to the 16 remaining participating children's hospitals that are in 17 compliance. Section 10. Subsection (9) of section 409.912, Florida 18 19 Statutes, is amended to read: 20 409.912 Cost-effective purchasing of health care.--The agency shall purchase goods and services for Medicaid 21 recipients in the most cost-effective manner consistent with 22 the delivery of quality medical care. The agency shall 23 24 maximize the use of prepaid per capita and prepaid aggregate 25 fixed-sum basis services when appropriate and other 26 alternative service delivery and reimbursement methodologies, 27 including competitive bidding pursuant to s. 287.057, designed 28 to facilitate the cost-effective purchase of a case-managed 29 continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute 30 31

inpatient, custodial, and other institutional care and the
 inappropriate or unnecessary use of high-cost services.

3 (9) The agency, after notifying the Legislature, may 4 apply for waivers of applicable federal laws and regulations 5 as necessary to implement more appropriate systems of health care for Medicaid recipients and reduce the cost of the 6 7 Medicaid program to the state and federal governments and 8 shall implement such programs, after legislative approval, within a reasonable period of time after federal approval. 9 These programs must be designed primarily to reduce the need 10 11 for inpatient care, custodial care and other long-term or 12 institutional care, and other high-cost services.

13 (a) Prior to seeking legislative approval of such a 14 waiver as authorized by this subsection, the agency shall 15 provide notice and an opportunity for public comment. Notice 16 shall be provided to all persons who have made requests of the 17 agency for advance notice and shall be published in the 18 Florida Administrative Weekly not less than 28 days prior to 19 the intended action.

20 (b) Notwithstanding s. 216.292, funds that are 21 appropriated to the Department of Elderly Affairs for the 22 Assisted Living for the Elderly Medicaid waiver and are not 23 expended shall be transferred to the agency to fund 24 Medicaid-reimbursed nursing home care. 25 Section 11. Section 409.919, Florida Statutes, is

26 amended to read: 27 409.919 Rules.--The agency shall adopt any rules

28 necessary to comply with or administer ss. 409.901-409.920 and

29 all rules necessary to comply with federal requirements. In

30 addition, the Department of Children and Family Services shall

31 adopt and accept transfer of any rules necessary to carry out

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its responsibilities for receiving and processing Medicaid 1 2 applications and determining Medicaid eligibility, and for assuring compliance with and administering ss. 409.901-409.906 3 and any other provisions related to responsibility for the 4 5 determination of Medicaid eligibility. б Section 12. Notwithstanding the provisions of ss. 7 236.0812, 409.9071, and 409.908(21), Florida Statutes, 8 developmental research schools, as authorized under s. 9 228.053, Florida Statutes, shall be authorized to participate 10 in the Medicaid certified school match program subject to the 11 provisions of ss. 236.0812, 409.9071, and 409.908(21), Florida 12 Statutes. 13 Section 13. (1) The Agency for Health Care Administration is directed to submit to the Health Care 14 Financing Administration a request for a waiver that will 15 16 allow the agency to undertake a pilot project that would 17 implement a coordinated system of care for adult ventilator dependent patients. Under this pilot program, the agency shall 18 19 identify a network of skilled nursing facilities that have 20 respiratory departments geared towards intensive treatment and rehabilitation of adult ventilator patients and will contract 21 22 with such a network for respiratory services under a capitation arrangement. The pilot project must allow the 23 agency to evaluate a coordinated and focused system of care 24 for adult ventilator dependent patients to determine the 25 26 overall cost-effectiveness and improved outcomes for 27 participants. 28 (2) The agency shall submit the waiver by September 1, 29 2000. The agency shall forward a preliminary report of the pilot project's findings to the Governor, the Speaker of the 30 House of Representatives, and the President of the Senate 6 31

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months after project implementation. The agency shall submit a final report of the pilot project's findings to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than February 15, 2002. Section 14. Paragraph (b) of subsection (4) of section 409.912, Florida Statutes, is repealed. Section 15. This act shall take effect July 1, 2000. HOUSE SUMMARY Revises provisions relating to provision of health care under Medicaid to: make the Department of Children and Family Services responsible for Medicaid eligibility determinations; provide responsibility for determinations of eligibility for payments for medical assistance and related services; increase the maximum amount that may be paid under Medicaid for hospital outpatient services; allow the Department of Children and Family Services to transfer funds to the Agency for Health Care Administration to fund state match requirements; specify grounds on which provider applications may be denied; grounds on which provider applications may be denied; increase the maximum amount of reimbursement allowable to Increase the maximum amount of reimbursement allowable to Medicaid providers for hospital inpatient care; create a disproportionate share program for children's hospitals, provide formulas governing payments made to hospitals under the program, and provide for withholding payments from a hospital that is not complying with agency rules; provide for the transfer of unexpended Medicaid funds from the Department of Elderly Affairs to the Agency for Health Care Administration; provide for the adoption and the transfer of rules relating to the determination of Medicaid eligibility; authorize developmental research schools to participate in a Medicaid certified school match program; provide for the Agency for Health Care Administration to seek a federal waiver allowing the agency to undertake a pilot project that involves contracting with skilled nursing facilities for the provision of rehabilitation services to adult ventilator dependent patients and provide for evaluating the pilot program. See bill for details.