

1                                   A bill to be entitled  
2           An act relating to access to health and human  
3           services; creating s. 408.911, F.S.; providing  
4           a short title; creating s. 408.913, F.S.;  
5           requiring the Agency for Health Care  
6           Administration to establish as a pilot project  
7           a comprehensive health and human services  
8           eligibility access system; establishing  
9           requirements for each component of the system;  
10          creating s. 408.914, F.S.; requiring the Agency  
11          for Health Care Administration to phase in  
12          implementation of the comprehensive health and  
13          human services eligibility access system;  
14          specifying timeframes for each implementation  
15          phase; requiring that the agency submit a plan  
16          for statewide implementation to the Governor  
17          and Legislature; creating s. 408.915, F.S.;  
18          requiring the Agency for Health Care  
19          Administration to develop and implement a pilot  
20          project to integrate eligibility determination  
21          and information and referral services;  
22          establishing requirements for the pilot  
23          project; establishing requirements for  
24          information and referral; specifying the scope  
25          of the project; authorizing the agency to  
26          request federal waivers; creating s. 408.916,  
27          F.S.; establishing the Health Care Access  
28          Steering Committee; providing for membership of  
29          the steering committee; providing duties;  
30          establishing an expiration date for the  
31          steering committee; creating s. 408.917, F.S.;

1 requiring an evaluation of the pilot project;  
2 requiring a report to the Governor and  
3 Legislature; specifying issues to be addressed  
4 in the report; creating s. 408.918, F.S.;  
5 authorizing the planning, development, and  
6 implementation of the Florida 211 Network;  
7 providing objectives for the Florida 211  
8 Network; requiring the Agency for Health Care  
9 Administration to establish criteria for  
10 certification of information and referral  
11 entities to participate in the Florida 211  
12 Network; providing for revocation of 211  
13 numbers from uncertified information and  
14 referral entities; providing for assistance in  
15 resolving disputes from the Public Service  
16 Commission and the Federal Communications  
17 Commission; amending s. 409.912, F.S.;  
18 authorizing the Agency for Health Care  
19 Administration to contract with an entity  
20 providing prepaid or fixed-sum health care and  
21 social services to elderly recipients; amending  
22 s. 430.205, F.S.; requiring the Department of  
23 Elderly Affairs and the Agency for Health Care  
24 Administration to develop a managed, integrated  
25 long-term-care delivery system under a single  
26 entity; providing for a pilot project;  
27 specifying requirements of the pilot project;  
28 specifying requirements for payment rates and  
29 risk-sharing agreements; authorizing the  
30 Department of Elderly Affairs and the Agency  
31 for Health Care Administration to seek federal

1           waivers to implement the pilot; specifying  
2           requirements for the Department of Children and  
3           Family Services and the Department of Elderly  
4           Affairs concerning eligibility determination  
5           and nursing home preadmission screening;  
6           requiring an evaluation of the pilot project;  
7           requiring a report to the Governor and  
8           Legislature; specifying issues to be addressed  
9           in this report; creating s. 430.041, F.S.;  
10          establishing the Office of Long-Term-Care  
11          Policy within the Department of Elderly  
12          Affairs; requiring the office to make  
13          recommendations for coordinating the services  
14          provided by state agencies; providing for the  
15          appointment of an advisory board to the Office  
16          of Long-Term-Care Policy; specifying membership  
17          in the advisory board; providing for  
18          reimbursement of per diem and travel expenses  
19          for members of the advisory board; requiring  
20          that the office submit an annual report to the  
21          Governor and Legislature; requiring assistance  
22          to the office by state agencies and  
23          universities; creating s. 409.221, F.S.;  
24          creating the "Florida Consumer-Directed Care  
25          Act"; providing legislative findings; providing  
26          legislative intent; establishing the  
27          consumer-directed care program; providing for  
28          consumer selection of certain long-term care  
29          services and providers; providing for  
30          interagency agreements among the Agency for  
31          Health Care Administration and the Department

1 of Elderly Affairs, the Department of Health,  
2 and the Department of Children and Family  
3 Services; providing for program eligibility and  
4 enrollment; providing definitions; providing  
5 for consumer budget allowances and purchasing  
6 guidelines; specifying authorized services;  
7 providing roles and responsibilities of  
8 consumers, the agency and departments, and  
9 fiduciary intermediaries; providing background  
10 screening requirements for persons who render  
11 care under the program; providing rulemaking  
12 authority of the agency and departments;  
13 requiring the agency to apply for federal  
14 waivers as necessary; requiring ongoing program  
15 reviews and annual reports; requiring the  
16 Agency for Health Care Administration and the  
17 Department of Elderly Affairs to submit a plan  
18 to the Governor and Legislature for reducing  
19 nursing home bed days funded under the Medicaid  
20 program; amending s. 408.034, F.S.; providing  
21 additional requirements for the Agency for  
22 Health Care Administration in determining the  
23 need for additional nursing facility beds;  
24 amending s. 409.912, F.S.; authorizing the  
25 Agency for Health Care Administration to  
26 contract with vendors on a risk-sharing basis  
27 for in-home physician services; requiring the  
28 Agency for Health Care Administration to  
29 establish a nursing facility preadmission  
30 screening program through an interagency  
31 agreement with the Department of Elderly

1 Affairs; requiring an annual report to the  
2 Legislature and the Office of Long-Term-Care  
3 Policy; creating s. 430.7031, F.S.; requiring  
4 the Department of Elderly Affairs and the  
5 Agency for Health Care Administration to  
6 implement a nursing home transition program;  
7 providing requirements for the program;  
8 amending ss. 409.908, 430.708, and 641.386,  
9 F.S., relating to reimbursement of Medicaid  
10 providers, certificates of need, and agent  
11 licensing and appointment; conforming  
12 cross-references to changes made by the act;  
13 amending s. 20.41, F.S.; providing for  
14 administration of the State Long-Term Care  
15 Ombudsman Council by the Department of Elderly  
16 Affairs; amending s. 400.0063, F.S.; locating  
17 the Office of the State Long-Term Care  
18 Ombudsman in the department; providing for  
19 appointment of the ombudsman by the Secretary  
20 of Elderly Affairs; amending s. 400.0065, F.S.;  
21 requiring the secretary's approval of staff for  
22 the local ombudsman councils; deleting  
23 requirement that the ombudsman prepare an  
24 annual legislative budget request; revising  
25 rulemaking authority; amending s. 400.0067,  
26 F.S.; revising duties of the State Long-Term  
27 Care Ombudsman Council; providing duties of the  
28 department and secretary; amending s. 400.0069,  
29 F.S.; increasing the maximum membership of the  
30 local long-term care ombudsman councils;  
31 amending s. 400.0071, F.S.; revising procedures

1 relating to complaints; amending s. 400.0087,  
2 F.S.; revising provisions relating to agency  
3 oversight; amending s. 400.0089, F.S.; revising  
4 reporting responsibilities; requiring the State  
5 Long-Term Care Ombudsman Council to publish  
6 complaint information quarterly; amending s.  
7 400.0091, F.S.; specifying training  
8 requirements for employees of the Office of the  
9 State Long-Term Care Ombudsman and its  
10 volunteers; amending s. 400.179, F.S.;  
11 providing an exemption from certain  
12 requirements that the transferor of a nursing  
13 facility maintain a bond; amending s. 400.141,  
14 F.S.; requiring nursing home facilities to  
15 maintain general and professional liability  
16 insurance coverage; authorizing  
17 state-designated teaching nursing homes to  
18 demonstrate certain proof of financial  
19 responsibility; amending s. 430.80, F.S.;  
20 specifying the minimum proof of financial  
21 responsibility required for state-designated  
22 teaching nursing homes; amending s. 477.025,  
23 F.S.; exempting certain facilities from a  
24 provision of law requiring licensing as a  
25 cosmetology salon; amending s. 627.9408, F.S.;  
26 authorizing the department to adopt by rule  
27 certain provisions of the Long-Term Care  
28 Insurance Model Regulation, as adopted by the  
29 National Association of Insurance  
30 Commissioners; repealing s. 400.0066(2) and  
31 (3), F.S., relating to the Office of State

1 Long-Term Care Ombudsman; deleting a  
2 prohibition on interference with the official  
3 duty of any ombudsman staff or volunteers;  
4 deleting reference to administrative support by  
5 the Department of Elderly Affairs; providing an  
6 effective date.

7

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

9

10 Section 1. Section 408.911, Florida Statutes, is  
11 created to read:

12 408.911 Short title.--Sections 408.911-408.918 may be  
13 cited as the "Florida Health and Human Services Access Act."

14 Section 2. Section 408.913, Florida Statutes, is  
15 created to read:

16 408.913 Comprehensive Health and Human Services  
17 Eligibility Access System.--

18 (1) The Agency for Health Care Administration shall  
19 develop a comprehensive, automated system for access to health  
20 care services. This system shall, to the greatest extent  
21 possible, use the capacity of existing automated systems so as  
22 to maximize the benefit of investments already made in  
23 information technology and minimize additional costs.

24 (2) The benefit-eligibility component of the system  
25 shall include simplified access through coordination with  
26 information and referral telephone systems. This does not  
27 preclude use of other methods of application, including  
28 mail-in applications, office visits, or on-line applications  
29 via the Internet. The eligibility component of the system  
30 shall include:

31 (a) Improved access to eligibility-status information.

1           (b) Development and sharing of information with  
2 eligible individuals and families regarding choices available  
3 to them for using health care services.

4           (3) The state agencies providing the medical,  
5 clinical, and related health care support services for special  
6 populations, including frail elders, adults with disabilities,  
7 and children with special needs shall develop systems for  
8 these populations which integrate and coordinate care and  
9 improved communication. These systems must include development  
10 of standard protocols for care planning and assessment, a  
11 focus on family involvement, and methods to communicate across  
12 systems, including automated methods, in order to improve  
13 integration and coordination of services.

14           Section 3. Section 408.914, Florida Statutes, is  
15 created to read:

16           408.914 Phased implementation plan.--The Agency for  
17 Health Care Administration, in consultation with the Health  
18 Care Access Steering Committee created in s. 408.916, shall  
19 phase in the implementation of the Comprehensive Health and  
20 Human Services Eligibility Access System.

21           (1) The first phase of implementation shall be a pilot  
22 project in one or more counties to demonstrate the feasibility  
23 of integrating eligibility determination for health care  
24 services with information and referral services. The  
25 department shall, when selecting an area to be designated as a  
26 model area, give consideration to an entity that is a  
27 community care for the elderly lead agency and has developed,  
28 through a joint effort, an integrated service delivery  
29 information network.

30           (2) Upon demonstration of the feasibility of the first  
31 phase of implementation, and subject to appropriation of any



1 necessary resources, the steering committee shall develop a  
2 detailed implementation plan for the care-management component  
3 of the system. The implementation plan must include the  
4 steering committee's recommendation of one or more state  
5 agencies that should be designated to implement the  
6 care-management component of the system.

7 (3) Options for further implementation of the system  
8 may include a phased implementation of the eligibility  
9 component in additional sites before implementing the  
10 remaining components of the system or may include  
11 implementation of the care management and service system  
12 components along with the eligibility components.

13 (4) The Agency for Health Care Administration, in  
14 consultation with the steering committee, shall complete  
15 analysis of the initial pilot project by November 1, 2003, and  
16 by January 1, 2004, shall submit a plan to the Governor, the  
17 President of the Senate, and the Speaker of the House of  
18 Representatives for statewide implementation of all components  
19 of the system, if warranted. This plan must also include  
20 recommendations for incorporating additional public assistance  
21 and human services programs into the Comprehensive Health and  
22 Human Services Eligibility Access System.

23 Section 4. Section 408.915, Florida Statutes, is  
24 created to read:

25 408.915 Eligibility pilot project.--The Agency for  
26 Health Care Administration, in consultation with the steering  
27 committee established in s. 408.916, shall develop and  
28 implement a pilot project to integrate the determination of  
29 eligibility for health care services with information and  
30 referral services.

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1           (1) The pilot project shall operate in one or more  
2 contiguous counties, as selected by the agency in consultation  
3 with the steering committee.

4           (2) The pilot project shall focus on developing, to  
5 the maximum extent possible, a process for eligibility  
6 application which:

7           (a) Uses a single uniform electronic application  
8 process, but permits applying for health services through  
9 various entry points, including information and referral  
10 providers, state agency program personnel or contracted  
11 providers, the mail, or the Internet;

12           (b) Is linked to a shared database that will have the  
13 capability to sort or store information by families as well as  
14 individuals;

15           (c) Permits electronic input and storage of data and  
16 electronic verification and exchange of information;

17           (d) Is compliant with the federal Health Insurance  
18 Portability and Accountability Act, as well as all other  
19 applicable state and federal confidentiality, financial, and  
20 insurance requirements;

21           (e) Includes an initial screening component for  
22 referring applicants to other health and human services  
23 programs provided through state agencies and the Florida  
24 Healthy Kids Corporation, including programs addressing  
25 developmental delays, developmental disabilities, chronic  
26 physical illness, mental health needs, substance-abuse  
27 treatment needs, elder and aging needs, and other health care  
28 needs; and

29           (f) Includes the level of customer service available  
30 to applicants and participants in the pilot project.

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1           (3) The information and referral provider in the site  
2 selected as the pilot project shall, at a minimum:

3           (a) Execute a memorandum of understanding with the  
4 local community volunteer placement centers;

5           (b) Implement, or be in the process of implementing, a  
6 shared, web-based, information and eligibility database with  
7 community health providers and funders;

8           (c) Provide comprehensive information and referral  
9 services 24 hours per day, 7 days per week;

10           (d) Agree, in writing, to become accredited within 3  
11 years by a nationally recognized information and referral  
12 accrediting agency;

13           (e) Execute a memorandum of understanding with 911 and  
14 other emergency response agencies in the pilot area;

15           (f) Implement policies and structured training to  
16 effectively respond to crisis calls or obtain accreditation by  
17 a nationally recognized mental health or crisis accrediting  
18 agency;

19           (g) Obtain teletypewriter and multi-language  
20 accessibility, either on-site or through a translation  
21 service;

22           (h) Develop resources to support and publicize  
23 information and referral services and provide ongoing  
24 education to the public on the availability of such services;  
25 and

26           (i) Provide periodic reports to the Governor, the  
27 President of the Senate, and the Speaker of the House of  
28 Representatives on the use of the information and referral  
29 system and on measures that demonstrate the effectiveness and  
30 efficiency of the information and referral services provided.

31

1           (4) The pilot project shall include eligibility  
2 determinations for the following programs:

3           (a) Medicaid under Title XIX of the Social Security  
4 Act.

5           (b) Medikids as created in s. 409.8132.

6           (c) Florida Healthy Kids as described in s. 624.91 and  
7 within eligibility guidelines provided in s. 409.814.

8           (d) Eligibility for Florida Kidcare services outside  
9 of the scope of Title XIX or Title XXI of the Social Security  
10 Act as provided in s. 409.814.

11           (e) State and local publicly funded health and social  
12 services programs as determined appropriate by the steering  
13 committee.

14           (5) If the Secretary of Health Care Administration, in  
15 consultation with the steering committee established in s.  
16 408.916, determines that it would facilitate operation of the  
17 pilot project to obtain federal waiver authority, the  
18 appropriate state agency shall request such waiver authority  
19 from the appropriate federal agency.

20           Section 5. Section 408.916, Florida Statutes, is  
21 created to read:

22           408.916 Steering committee.--In order to guide the  
23 implementation of the pilot project, there is created a Health  
24 Care Access Steering Committee.

25           (1) The steering committee shall be composed of the  
26 following members:

27           (a) The Secretary of Health Care Administration.

28           (b) The Secretary of Children and Family Services.

29           (c) The Secretary of Elderly Affairs.

30           (d) The Secretary of Health.

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1           (e) A representative of the Florida Alliance of  
2 Information and Referral Services.

3           (f) A representative of the Florida Healthy Kids  
4 Corporation.

5           (2) The steering committee may designate additional ad  
6 hoc members or technical advisors as the committee finds is  
7 appropriate.

8           (3) The Secretary of Health Care Administration shall  
9 be the chairperson of the steering committee.

10           (4) The steering committee shall provide oversight to  
11 the ongoing implementation of the pilot project, provide  
12 consultation and guidance on matters of policy, and provide  
13 oversight to the evaluation of the pilot project.

14           (5) The steering committee shall complete its  
15 activities by June 30, 2004, and the authorization for the  
16 steering committee ends on that date.

17           Section 6. Section 408.917, Florida Statutes, is  
18 created to read:

19           408.917 Evaluation of the pilot project.--The Agency  
20 for Health Care Administration, in consultation with the  
21 steering committee, shall conduct or contract for an  
22 evaluation of the pilot project under the guidance and  
23 oversight of the steering committee. The agency shall ensure  
24 that the evaluation is submitted to the Governor and  
25 Legislature by January 1, 2004. The evaluation report must  
26 address at least the following questions:

27           (1) What has been the impact of the pilot project on  
28 improving access to the process of determining eligibility?

29           (2) Based on the experience of the pilot project, what  
30 is the projected cost of statewide implementation?

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1           (3) What has been the impact of the pilot project on  
2 the caseload trends in publicly funded programs and what is  
3 the projected impact of statewide implementation?

4           (4) How has the implementation of the pilot project  
5 affected customer satisfaction with access to eligibility  
6 determination for state-funded health services?

7           (5) Does the experience of the pilot project support  
8 continued expansion of the concept?

9           (6) What changes or modifications to the concepts of  
10 the pilot project are recommended for future sites?

11           Section 7. Section 408.918, Florida Statutes, is  
12 created to read:

13           408.918 Florida 211 Network; uniform certification  
14 requirements.--

15           (1) The Legislature authorizes the planning,  
16 development, and, subject to appropriations, the  
17 implementation of a statewide Florida 211 Network, which shall  
18 serve as the single point of coordination for information and  
19 referral for health and human services. The objectives for  
20 establishing the Florida 211 Network shall be to:

21           (a) Provide comprehensive and cost-effective access to  
22 health and human services information.

23           (b) Improve access to accurate information by  
24 simplifying and enhancing state and local health and human  
25 services information and referral systems and by fostering  
26 collaboration among information and referral systems.

27           (c) Electronically connect local information and  
28 referral systems to each other, to service providers, and to  
29 consumers of information and referral services.

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1           (d) Establish and promote standards for data  
2 collection and for distributing information among state and  
3 local organizations.

4           (e) Promote the use of a common dialing access code  
5 and the visibility and public awareness of the availability of  
6 information and referral services.

7           (f) Provide a management and administrative structure  
8 to support the Florida 211 Network and establish technical  
9 assistance, training, and support programs for information and  
10 referral-service programs.

11           (g) Test methods for integrating information and  
12 referral services with local and state health and human  
13 services programs and for consolidating and streamlining  
14 eligibility and case-management processes.

15           (h) Provide access to standardized, comprehensive data  
16 to assist in identifying gaps and needs in health and human  
17 services programs.

18           (i) Provide a unified systems plan with a developed  
19 platform, taxonomy, and standards for data management and  
20 access.

21           (2) In order to participate in the Florida 211  
22 Network, a 211 provider must be certified by the Agency for  
23 Health Care Administration. The agency shall develop criteria  
24 for certification, as recommended by the Florida Alliance of  
25 Information and Referral Services, and shall adopt the  
26 criteria as administrative rules.

27           (a) If any provider of information and referral  
28 services or other entity leases a 211 number from a local  
29 exchange company and is not certified by the agency, the  
30 agency shall, after consultation with the local exchange  
31 company and the Public Service Commission, request that the

1 Federal Communications Commission direct the local exchange  
2 company to revoke the use of the 211 number.

3 (b) The agency shall seek the assistance and guidance  
4 of the Public Service Commission and the Federal  
5 Communications Commission in resolving any disputes arising  
6 over jurisdiction related to 211 numbers.

7 Section 8. Subsection (3) of section 409.912, Florida  
8 Statutes, is amended to read:

9 409.912 Cost-effective purchasing of health care.--The  
10 agency shall purchase goods and services for Medicaid  
11 recipients in the most cost-effective manner consistent with  
12 the delivery of quality medical care. The agency shall  
13 maximize the use of prepaid per capita and prepaid aggregate  
14 fixed-sum basis services when appropriate and other  
15 alternative service delivery and reimbursement methodologies,  
16 including competitive bidding pursuant to s. 287.057, designed  
17 to facilitate the cost-effective purchase of a case-managed  
18 continuum of care. The agency shall also require providers to  
19 minimize the exposure of recipients to the need for acute  
20 inpatient, custodial, and other institutional care and the  
21 inappropriate or unnecessary use of high-cost services. The  
22 agency may establish prior authorization requirements for  
23 certain populations of Medicaid beneficiaries, certain drug  
24 classes, or particular drugs to prevent fraud, abuse, overuse,  
25 and possible dangerous drug interactions. The Pharmaceutical  
26 and Therapeutics Committee shall make recommendations to the  
27 agency on drugs for which prior authorization is required. The  
28 agency shall inform the Pharmaceutical and Therapeutics  
29 Committee of its decisions regarding drugs subject to prior  
30 authorization.

31 (3) The agency may contract with:



1           (a) An entity that provides no prepaid health care  
2 services other than Medicaid services under contract with the  
3 agency and which is owned and operated by a county, county  
4 health department, or county-owned and operated hospital to  
5 provide health care services on a prepaid or fixed-sum basis  
6 to recipients, which entity may provide such prepaid services  
7 either directly or through arrangements with other providers.  
8 Such prepaid health care services entities must be licensed  
9 under parts I and III by January 1, 1998, and until then are  
10 exempt from the provisions of part I of chapter 641. An entity  
11 recognized under this paragraph which demonstrates to the  
12 satisfaction of the Department of Insurance that it is backed  
13 by the full faith and credit of the county in which it is  
14 located may be exempted from s. 641.225.

15           (b) An entity that is providing comprehensive  
16 behavioral health care services to certain Medicaid recipients  
17 through a capitated, prepaid arrangement pursuant to the  
18 federal waiver provided for by s. 409.905(5). Such an entity  
19 must be licensed under chapter 624, chapter 636, or chapter  
20 641 and must possess the clinical systems and operational  
21 competence to manage risk and provide comprehensive behavioral  
22 health care to Medicaid recipients. As used in this paragraph,  
23 the term "comprehensive behavioral health care services" means  
24 covered mental health and substance abuse treatment services  
25 that are available to Medicaid recipients. The secretary of  
26 the Department of Children and Family Services shall approve  
27 provisions of procurements related to children in the  
28 department's care or custody prior to enrolling such children  
29 in a prepaid behavioral health plan. Any contract awarded  
30 under this paragraph must be competitively procured. In  
31 developing the behavioral health care prepaid plan procurement

1 document, the agency shall ensure that the procurement  
2 document requires the contractor to develop and implement a  
3 plan to ensure compliance with s. 394.4574 related to services  
4 provided to residents of licensed assisted living facilities  
5 that hold a limited mental health license. The agency must  
6 ensure that Medicaid recipients have available the choice of  
7 at least two managed care plans for their behavioral health  
8 care services. The agency may reimburse for  
9 substance-abuse-treatment services on a fee-for-service basis  
10 until the agency finds that adequate funds are available for  
11 capitated, prepaid arrangements.

12 1. By January 1, 2001, the agency shall modify the  
13 contracts with the entities providing comprehensive inpatient  
14 and outpatient mental health care services to Medicaid  
15 recipients in Hillsborough, Highlands, Hardee, Manatee, and  
16 Polk Counties, to include substance-abuse-treatment services.

17 2. By December 31, 2001, the agency shall contract  
18 with entities providing comprehensive behavioral health care  
19 services to Medicaid recipients through capitated, prepaid  
20 arrangements in Charlotte, Collier, DeSoto, Escambia, Glades,  
21 Hendry, Lee, Okaloosa, Pasco, Pinellas, Santa Rosa, Sarasota,  
22 and Walton Counties. The agency may contract with entities  
23 providing comprehensive behavioral health care services to  
24 Medicaid recipients through capitated, prepaid arrangements in  
25 Alachua County. The agency may determine if Sarasota County  
26 shall be included as a separate catchment area or included in  
27 any other agency geographic area.

28 3. Children residing in a Department of Juvenile  
29 Justice residential program approved as a Medicaid behavioral  
30 health overlay services provider shall not be included in a  
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1 behavioral health care prepaid health plan pursuant to this  
2 paragraph.

3           4. In converting to a prepaid system of delivery, the  
4 agency shall in its procurement document require an entity  
5 providing comprehensive behavioral health care services to  
6 prevent the displacement of indigent care patients by  
7 enrollees in the Medicaid prepaid health plan providing  
8 behavioral health care services from facilities receiving  
9 state funding to provide indigent behavioral health care, to  
10 facilities licensed under chapter 395 which do not receive  
11 state funding for indigent behavioral health care, or  
12 reimburse the unsubsidized facility for the cost of behavioral  
13 health care provided to the displaced indigent care patient.

14           5. Traditional community mental health providers under  
15 contract with the Department of Children and Family Services  
16 pursuant to part IV of chapter 394 and inpatient mental health  
17 providers licensed pursuant to chapter 395 must be offered an  
18 opportunity to accept or decline a contract to participate in  
19 any provider network for prepaid behavioral health services.

20           (c) A federally qualified health center or an entity  
21 owned by one or more federally qualified health centers or an  
22 entity owned by other migrant and community health centers  
23 receiving non-Medicaid financial support from the Federal  
24 Government to provide health care services on a prepaid or  
25 fixed-sum basis to recipients. Such prepaid health care  
26 services entity must be licensed under parts I and III of  
27 chapter 641, but shall be prohibited from serving Medicaid  
28 recipients on a prepaid basis, until such licensure has been  
29 obtained. However, such an entity is exempt from s. 641.225  
30 if the entity meets the requirements specified in subsections  
31 (14) and (15).

1           (d) No more than four provider service networks for  
2 demonstration projects to test Medicaid direct contracting.  
3 The demonstration projects may be reimbursed on a  
4 fee-for-service or prepaid basis. A provider service network  
5 which is reimbursed by the agency on a prepaid basis shall be  
6 exempt from parts I and III of chapter 641, but must meet  
7 appropriate financial reserve, quality assurance, and patient  
8 rights requirements as established by the agency. The agency  
9 shall award contracts on a competitive bid basis and shall  
10 select bidders based upon price and quality of care. Medicaid  
11 recipients assigned to a demonstration project shall be chosen  
12 equally from those who would otherwise have been assigned to  
13 prepaid plans and MediPass. The agency is authorized to seek  
14 federal Medicaid waivers as necessary to implement the  
15 provisions of this section. A demonstration project awarded  
16 pursuant to this paragraph shall be for 4 years from the date  
17 of implementation.

18           (e) An entity that provides comprehensive behavioral  
19 health care services to certain Medicaid recipients through an  
20 administrative services organization agreement. Such an entity  
21 must possess the clinical systems and operational competence  
22 to provide comprehensive health care to Medicaid recipients.  
23 As used in this paragraph, the term "comprehensive behavioral  
24 health care services" means covered mental health and  
25 substance abuse treatment services that are available to  
26 Medicaid recipients. Any contract awarded under this paragraph  
27 must be competitively procured. The agency must ensure that  
28 Medicaid recipients have available the choice of at least two  
29 managed care plans for their behavioral health care services.

30           (f) An entity in Pasco County or Pinellas County that  
31 provides in-home physician services to Medicaid recipients

1 with degenerative neurological diseases in order to test the  
2 cost-effectiveness of enhanced home-based medical care. The  
3 entity providing the services shall be reimbursed on a  
4 fee-for-service basis at a rate not less than comparable  
5 Medicare reimbursement rates. The agency may apply for waivers  
6 of federal regulations necessary to implement such program.  
7 This paragraph expires ~~shall be repealed~~ on July 1, 2002.

8 (g) Children's provider networks that provide care  
9 coordination and care management for Medicaid-eligible  
10 pediatric patients, primary care, authorization of specialty  
11 care, and other urgent and emergency care through organized  
12 providers designed to service Medicaid eligibles under age 18.  
13 The networks shall provide after-hour operations, including  
14 evening and weekend hours, to promote, when appropriate, the  
15 use of the children's networks rather than hospital emergency  
16 departments.

17 (h) An entity authorized in s. 430.205 to contract  
18 with the agency and the Department of Elderly Affairs to  
19 provide health care and social services on a prepaid or  
20 fixed-sum basis to elderly recipients. Such prepaid healthcare  
21 services entities are exempt from the provisions of part I of  
22 chapter 641 for the first 3 years of operation. An entity  
23 recognized under this paragraph that demonstrates to the  
24 satisfaction of the Department of Insurance that it is backed  
25 by the full faith and credit of one or more counties in which  
26 it operates may be exempted from s. 641.225.

27 Section 9. Section 430.205, Florida Statutes is  
28 amended to read:

29 430.205 Community care service system.--

30 (1)(a) The department, through the area agency on  
31 aging, shall fund in each planning and service area at least

1 one community care service system that provides case  
2 management and other in-home and community services as needed  
3 to help the older person maintain independence and prevent or  
4 delay more costly institutional care.

5 (b) For fiscal year 2001-2002 only, in each county  
6 having a population over 2 million, the department, through  
7 the area agency on aging, shall fund in each planning and  
8 service area more than one community care service system that  
9 provides case management and other in-home and community  
10 services as needed to help elderly persons maintain  
11 independence and prevent or delay more costly institutional  
12 care. This paragraph expires July 1, 2002.

13 (2) Core services and other support services may be  
14 furnished by public or private agencies or organizations.  
15 Each community care service system must be under the direction  
16 of a lead agency that coordinates the activities of individual  
17 contracting agencies providing community-care-for-the-elderly  
18 services. When practicable, the activities of a community  
19 care service area must be directed from a multiservice senior  
20 center and coordinated with other services offered therein.  
21 This subsection does not require programs in existence prior  
22 to the effective date of this act to be relocated.

23 (3) The department shall define each core service that  
24 is to be provided or coordinated within a community care  
25 service area and establish rules and minimum standards for the  
26 delivery of core services. The department may conduct or  
27 contract for demonstration projects to determine the  
28 desirability of new concepts of organization, administration,  
29 or service delivery designed to prevent the  
30 institutionalization of functionally impaired elderly persons.  
31 Evaluations shall be made of the cost-avoidance of such

1 demonstration projects, the ability of the projects to reduce  
2 the rate of placement of functionally impaired elderly persons  
3 in institutions, and the impact of projects on the use of  
4 institutional services and facilities.

5 (4) A preservice and inservice training program for  
6 community-care-for-the-elderly service providers and staff may  
7 be designed and implemented to help assure the delivery of  
8 quality services. The department shall specify in rules the  
9 training standards and requirements for the  
10 community-care-for-the-elderly service providers and staff.  
11 Training must be sufficient to ensure that quality services  
12 are provided to clients and that appropriate skills are  
13 developed to conduct the program.

14 (5) Any person who has been classified as a  
15 functionally impaired elderly person is eligible to receive  
16 community-care-for-the-elderly core services. Those elderly  
17 persons who are determined by protective investigations to be  
18 vulnerable adults in need of services, pursuant to s.  
19 415.104(3)(b), or to be victims of abuse, neglect, or  
20 exploitation who are in need of immediate services to prevent  
21 further harm and are referred by the adult protective services  
22 program, shall be given primary consideration for receiving  
23 community-care-for-the-elderly services. As used in this  
24 subsection, "primary consideration" means that an assessment  
25 and services must commence within 72 hours after referral to  
26 the department or as established in accordance with department  
27 contracts by local protocols developed between department  
28 service providers and the adult protective services program.

29 (6) Notwithstanding other requirements of this chapter,  
30 the Department of Elderly Affairs and the Agency for Health  
31 Care Administration shall develop a model system to transition

1 all state-funded services for elderly individuals in one of  
2 the department's planning and service areas to a managed,  
3 integrated long-term-care delivery system under the direction  
4 of a single entity.

5 (a) The duties of the model system shall include  
6 organizing and administering service delivery for the elderly;  
7 obtaining contracts for services with providers in the area;  
8 monitoring the quality of services provided; determining  
9 levels of need and disability for payment purposes; and other  
10 activities determined by the department and the agency in  
11 order to operate the model system.

12 (b) The agency and the department shall integrate all  
13 funding for services to individuals over the age of 65 in the  
14 model planning and service areas into a single per-person  
15 per-month payment rate, except that funds for Medicaid  
16 behavioral health care services are exempt from this section.  
17 The funds to be integrated shall include:

- 18 1. Community-care-for-the-elderly funds;
- 19 2. Home-care-for-the-elderly funds;
- 20 3. Local services program funds;
- 21 4. Contracted services funds;
- 22 5. Alzheimer's disease initiative funds;
- 23 6. Medicaid home and community-based waiver services  
24 funds;
- 25 7. Funds for all Medicaid services authorized in ss.  
26 409.905 and 409.906, including Medicaid nursing home services;  
27 and
- 28 8. Funds paid for Medicare premiums, coinsurance and  
29 deductibles for persons dually eligible for Medicaid and  
30 Medicare as prescribed in s. 409.908(13).

31



1 The department and the agency shall not make payments for  
2 services for people age 65 and older except through the model  
3 delivery system.

4 (c) The entity selected to administer the model system  
5 shall develop a comprehensive health and long-term-care  
6 service delivery system through contracts with providers of  
7 medical, social, and long-term-care services sufficient to  
8 meet the needs of the population age 65 and older. The entity  
9 selected to administer the model system shall not directly  
10 provide services other than intake, assessment, and referral  
11 services.

12 (d) The department shall determine which of the  
13 department's planning and services areas is to be designated  
14 as a model area by means of a request for proposals. The  
15 department shall select an area to be designated as a model  
16 area and the entity to administer the model system based on  
17 demonstration of capacity of the entity to:

18 1. Develop contracts with providers currently under  
19 contract with the department, area agencies on aging, or  
20 community-care-for-the-elderly lead agencies;

21 2. Provide a comprehensive system of appropriate  
22 medical and long-term-care services that provides high-quality  
23 medical and social services to assist older individuals in  
24 remaining in the least-restrictive setting;

25 3. Demonstrate a quality assurance and quality  
26 improvement system satisfactory to the department and the  
27 agency;

28 4. Develop a system to identify participants who have  
29 special health care needs such as polypharmacy, mental health  
30 and substance abuse problems, falls, chronic pain, nutritional  
31

1 deficits, and cognitive deficits, in order to respond to and  
2 meet these needs;

3 5. Use a multi-disciplinary team approach to  
4 participant management which ensures that information is  
5 shared among providers responsible for delivering care to a  
6 participant;

7 6. Ensure medical oversight of care plans and service  
8 delivery, regular medical evaluation of care plans, and the  
9 availability of medical consultation for case managers and  
10 service coordinators;

11 7. Develop, monitor, and enforce quality-of-care  
12 requirements;

13 8. Secure subcontracts with providers of medical,  
14 nursing home, and community-based long-term-care services  
15 sufficient to assure access to and choice of providers;

16 9. Ensure a system of case management and service  
17 coordination which includes educational and training standards  
18 for case managers and service coordinators;

19 10. Develop a business plan that considers the ability  
20 of the applicant to organize and operate a risk-bearing  
21 entity;

22 11. Furnish evidence of adequate liability insurance  
23 coverage or an adequate plan of self-insurance to respond to  
24 claims for injuries arising out of the furnishing of health  
25 care; and

26 12. Provide, through contract or otherwise, for  
27 periodic review of its medical facilities as required by the  
28 department and the agency.

29  
30 The department shall give preference in selecting an area to  
31 be designated as a model area to that in which the

1 administering entity is an existing area agency on aging or  
2 community-care-for-the-elderly lead agency demonstrating the  
3 ability to perform the functions described in this paragraph.

4 (e) The department in consultation with the selected  
5 entity shall develop a statewide proposal regarding the  
6 long-term use and structure of a program that addresses a risk  
7 pool to reduce financial risk.

8 (f) The department and the agency shall develop  
9 capitation rates based on the historical cost experience of  
10 the state in providing acute and long-term-care services to  
11 the population over 65 years of age in the area served.

12 1. Payment rates in the first 2 years of operation  
13 shall be set at no more than 100 percent of the costs to the  
14 state of providing equivalent services to the population of  
15 the model area for the year prior to the year in which the  
16 model system is implemented, adjusted forward to account for  
17 inflation and population growth. In subsequent years, the rate  
18 shall be negotiated based on the cost experience of the model  
19 system in providing contracted services, but may not exceed 95  
20 percent of the amount that would have been paid by the state  
21 in the model planning and service area absent the model  
22 integrated service delivery system.

23 2. The agency and the department may develop  
24 innovative risk-sharing agreements that limit the level of  
25 custodial nursing home risk that the administering entity  
26 assumes, consistent with the intent of the Legislature to  
27 reduce the use and cost of nursing home care. Under  
28 risk-sharing arrangements, the agency and the department may  
29 reimburse the administering entity for the cost of providing  
30 nursing home care for Medicaid-eligible participants who have  
31

1 been permanently placed and remain in nursing home care for  
2 more than 1 year.

3 (g) The department and the Agency for Health Care  
4 Administration shall seek federal waivers necessary to  
5 implement the requirements of this section.

6 (h) The Department of Children and Family Services  
7 shall develop a streamlined and simplified eligibility system  
8 and shall outstation a sufficient number and quality of  
9 eligibility-determination staff with the administering entity  
10 to assure determination of Medicaid eligibility for the  
11 integrated service delivery system in the model planning and  
12 service area within 10 days after receipt of a complete  
13 application.

14 (i) The Department of Elderly Affairs shall make  
15 arrangements to outstation a sufficient number of nursing home  
16 preadmission screening staff with the administering entity to  
17 assure timely assessment of level of need for long-term-care  
18 services in the model area.

19 (j) The Department of Elderly Affairs shall conduct or  
20 contract for an evaluation of the pilot project. The  
21 department shall submit the evaluation to the Governor and the  
22 Legislature by January 1, 2005. The evaluation must address  
23 the effects of the pilot project on the effectiveness of the  
24 entity providing a comprehensive system of appropriate and  
25 high-quality medical and long-term-care services to elders in  
26 the least-restrictive setting and make recommendations on a  
27 phased-in implementation expansion for the rest of the state.

28 Section 10. Section 430.041, Florida Statutes, is  
29 created to read:

30 430.041 Office of Long-Term-Care Policy.--  
31

1           (1) There is established in the Department of Elderly  
2 Affairs the Office of Long-Term-Care Policy to evaluate the  
3 state's long-term-care service delivery system and make  
4 recommendations to increase the availability and the use of  
5 noninstitutional settings to provide care to the elderly and  
6 ensure coordination among the agencies responsible for the  
7 long-term-care continuum.

8           (2) The purpose of the Office of Long-Term-Care Policy  
9 is to:

10           (a) Ensure close communication and coordination among  
11 state agencies involved in developing and administering a more  
12 efficient and coordinated long-term-care service delivery  
13 system in this state;

14           (b) Identify duplication and unnecessary service  
15 provision in the long-term-care system and make  
16 recommendations to decrease inappropriate service provision;

17           (c) Review current programs providing long-term-care  
18 services to determine whether the programs are cost effective,  
19 of high quality, and operating efficiently and make  
20 recommendations to increase consistency and effectiveness in  
21 the state's long-term-care programs;

22           (d) Develop strategies for promoting and implementing  
23 cost-effective home and community-based services as an  
24 alternative to institutional care which coordinate and  
25 integrate the continuum of care needs of the elderly; and

26           (e) Assist the Office of Long-Term-Care Policy  
27 Advisory Council as necessary to help implement this section.

28           (3) The Director of the Office of Long-Term-Care  
29 Policy shall be appointed by, and serve at the pleasure of,  
30 the Governor. The director shall report to, and be under the  
31 general supervision of, the Secretary of Elderly Affairs and

1 shall not be subject to supervision by any other employee of  
2 the department.

3 (4) The Office of Long-Term-Care Policy shall have an  
4 advisory council, whose chair shall be the Director of the  
5 Office of Long-Term-Care Policy. The purposes of the advisory  
6 council are to provide assistance and direction to the office  
7 and to ensure that the appropriate state agencies are properly  
8 implementing recommendations from the office.

9 (a) The advisory council shall consist of:

10 1. A member of the Senate, appointed by the President  
11 of the Senate;

12 2. A member of the House of Representatives, appointed  
13 by the Speaker of the House of Representatives;

14 3. The Director of the Office of Long-Term-Care  
15 Policy;

16 4. The Secretary of Health Care Administration;

17 5. The Secretary of Elderly Affairs;

18 6. The Secretary of Children and Family Services;

19 7. The Secretary of Health;

20 8. The Executive Director of the Department of  
21 Veterans' Affairs;

22 9. Three people with broad knowledge and experience in  
23 the delivery of long-term care services, appointed by the  
24 Governor from groups representing elderly persons; and

25 10. Two representatives of people using long-term-care  
26 services, appointed by the Governor from groups representing  
27 elderly persons.

28 (b) Members shall serve without compensation, but are  
29 entitled to receive reimbursement for travel and per diem as  
30 provided in s. 112.061.

31

1           (c) The advisory council shall meet at the call of its  
2 chair or at the request of a majority of its members. During  
3 its first year of existence, the advisory council shall meet  
4 at least monthly.

5           (d) Members of the advisory council appointed by the  
6 Governor shall serve at the pleasure of the Governor and shall  
7 be appointed to 4-year staggered terms in accordance with s.  
8 20.052.

9           (5)(a) The Department of Elderly Affairs shall provide  
10 administrative support and services to the Office of  
11 Long-Term-Care Policy.

12           (b) The office shall call upon appropriate agencies of  
13 state government, including the centers on aging in the State  
14 University System, for assistance needed in discharging its  
15 duties.

16           (c) Each state agency represented on the Office of  
17 Long-Term-Care Policy Advisory Council shall make at least one  
18 employee available to work with the Office of Long-Term-Care  
19 Policy. All state agencies and universities shall assist the  
20 office in carrying out its responsibilities prescribed by this  
21 section.

22           (d) Each state agency shall pay from its own funds any  
23 expenses related to its support of the Office of  
24 Long-Term-Care Policy and its participation on the advisory  
25 council. The Department of Elderly Affairs shall be  
26 responsible for expenses related to participation on the  
27 advisory council by members appointed by the Governor.

28           (6)(a) By December 1, 2002, the office shall submit to  
29 the advisory council a preliminary report of its findings and  
30 recommendations on improving the long-term-care continuum in  
31 this state. The report shall contain recommendations and

1 implementation proposals for policy changes, as well as  
2 legislative and funding recommendations that will make the  
3 system more effective and efficient. The report shall contain  
4 a specific plan for accomplishing the recommendations and  
5 proposals. Thereafter, the office shall revise and update the  
6 report annually and resubmit it to the advisory council for  
7 review and comments by November 1 of each year.

8 (b) The advisory council shall review and recommend  
9 any suggested changes to the preliminary report, and each  
10 subsequent annual update of the report, within 30 days after  
11 the receipt of the preliminary report. Suggested revisions,  
12 additions, or deletions shall be made to the Director of the  
13 Office of Long-Term-Care Policy.

14 (c) The office shall submit its final report, and each  
15 subsequent annual update of the report, to the Governor and  
16 the Legislature within 30 days after the receipt of any  
17 revisions, additions, or deletions suggested by the advisory  
18 council, or after the time such comments are due to the  
19 office.

20 Section 11. Section 409.221, Florida Statutes, is  
21 created to read:

22 409.221 Consumer-directed care program.--

23 (1) SHORT TITLE.--This section may be cited as the  
24 "Florida Consumer-Directed Care Act."

25 (2) LEGISLATIVE FINDINGS.--The Legislature finds that  
26 alternatives to institutional care, such as in-home and  
27 community-based care, should be encouraged. The Legislature  
28 finds that giving recipients of in-home and community-based  
29 services the opportunity to select the services they need and  
30 the providers they want, including family and friends,  
31 enhances their sense of dignity and autonomy. The Legislature



1 also finds that providing consumers choice and control, as  
2 tested in current research and demonstration projects, has  
3 been beneficial and should be developed further and  
4 implemented statewide.

5 (3) LEGISLATIVE INTENT.--It is the intent of the  
6 Legislature to nurture the autonomy of those citizens of the  
7 state, of all ages, who have disabilities by providing the  
8 long-term care services they need in the least restrictive,  
9 appropriate setting. It is the intent of the Legislature to  
10 give such individuals more choices in and greater control over  
11 the purchased long-term care services they receive.

12 (4) CONSUMER-DIRECTED CARE.--

13 (a) Program established.--The Agency for Health Care  
14 Administration shall establish the consumer-directed care  
15 program which shall be based on the principles of consumer  
16 choice and control. The agency shall implement the program  
17 upon federal approval. The agency shall establish interagency  
18 cooperative agreements with and shall work with the  
19 Departments of Elderly Affairs, Health, and Children and  
20 Family Services to implement and administer the program. The  
21 program shall allow enrolled persons to choose the providers  
22 of services and to direct the delivery of services, to best  
23 meet their long-term care needs. The program must operate  
24 within the funds appropriated by the Legislature.

25 (b) Eligibility and enrollment.--Persons who are  
26 enrolled in one of the Medicaid home and community-based  
27 waiver programs and are able to direct their own care, or to  
28 designate an eligible representative, may choose to  
29 participate in the consumer-directed care program.

30 (c) Definitions.--For purposes of this section, the  
31 term:

1           1. "Budget allowance" means the amount of money made  
2 available each month to a consumer to purchase needed  
3 long-term care services, based on the results of a functional  
4 needs assessment.

5           2. "Consultant" means an individual who provides  
6 technical assistance to consumers in meeting their  
7 responsibilities under this section.

8           3. "Consumer" means a person who has chosen to  
9 participate in the program, has met the enrollment  
10 requirements, and has received an approved budget allowance.

11           4. "Fiscal intermediary" means an entity approved by  
12 the agency that helps the consumer manage the consumer's  
13 budget allowance, retains the funds, processes employment  
14 information, if any, and tax information, reviews records to  
15 ensure correctness, writes paychecks to providers, and  
16 delivers paychecks to the consumer for distribution to  
17 providers and caregivers.

18           5. "Provider" means:

19           a. A person licensed or otherwise permitted to render  
20 services eligible for reimbursement under this program for  
21 whom the consumer is not the employer of record; or

22           b. A consumer-employed caregiver for whom the consumer  
23 is the employer of record.

24           6. "Representative" means an uncompensated individual  
25 designated by the consumer to assist in managing the  
26 consumer's budget allowance and needed services.

27           (d) Budget allowances.--Consumers enrolled in the  
28 program shall be given a monthly budget allowance based on the  
29 results of their assessed functional needs and the financial  
30 resources of the program. Consumers shall receive the budget  
31 allowance directly from an agency-approved fiscal

1 intermediary. Each department shall develop purchasing  
2 guidelines, approved by the agency, to assist consumers in  
3 using the budget allowance to purchase needed, cost-effective  
4 services.

5 (e) Services.--Consumers shall use the budget  
6 allowance only to pay for home and community-based services  
7 that meet the consumer's long-term care needs and are a  
8 cost-efficient use of funds. Such services may include, but  
9 are not limited to, the following:

10 1. Personal care.

11 2. Homemaking and chores, including housework, meals,  
12 shopping, and transportation.

13 3. Home modifications and assistive devices which may  
14 increase the consumer's independence or make it possible to  
15 avoid institutional placement.

16 4. Assistance in taking self-administered medication.

17 5. Day care and respite care services, including those  
18 provided by nursing home facilities pursuant to s. 400.141(6)  
19 or by adult day care facilities licensed pursuant to s.  
20 400.554.

21 6. Personal care and support services provided in an  
22 assisted living facility.

23 (f) Consumer roles and responsibilities.--Consumers  
24 shall be allowed to choose the providers of services, as well  
25 as when and how the services are provided. Providers may  
26 include a consumer's neighbor, friend, spouse, or relative.

27 1. In cases where a consumer is the employer of  
28 record, the consumer's roles and responsibilities include, but  
29 are not limited to, the following:

30 a. Developing a job description.

31

1           b. Selecting caregivers and submitting information for  
2 the background screening as required in s. 435.05.

3           c. Communicating needs, preferences, and expectations  
4 about services being purchased.

5           d. Providing the fiscal intermediary with all  
6 information necessary for provider payments and tax  
7 requirements.

8           e. Ending the employment of an unsatisfactory  
9 caregiver.

10           2. In cases where a consumer is not the employer of  
11 record, the consumer's roles and responsibilities include, but  
12 are not limited to, the following:

13           a. Communicating needs, preferences, and expectations  
14 about services being purchased.

15           b. Ending the services of an unsatisfactory provider.

16           c. Providing the fiscal agent with all information  
17 necessary for provider payments and tax requirements.

18           (g) Agency and departments roles and  
19 responsibilities.--The agency's and the departments' roles and  
20 responsibilities include, but are not limited to, the  
21 following:

22           1. Assessing each consumer's functional needs, helping  
23 with the service plan, and providing ongoing assistance with  
24 the service plan.

25           2. Offering the services of consultants who shall  
26 provide training, technical assistance, and support to the  
27 consumer.

28           3. Completing the background screening for providers.

29           4. Approving fiscal intermediaries.

30  
31

1           5. Establishing the minimum qualifications for all  
2 caregivers and providers and being the final arbiter of the  
3 fitness of any individual to be a caregiver or provider.

4           (h) Fiscal intermediary roles and  
5 responsibilities.--The fiscal intermediary's roles and  
6 responsibilities include, but are not limited to, the  
7 following:

8           1. Providing recordkeeping services.

9           2. Retaining the consumer-directed care funds,  
10 processing employment and tax information, if any, reviewing  
11 records to ensure correctness, writing paychecks to providers,  
12 and delivering paychecks to the consumer for distribution.

13           (i) Background screening requirements.--All persons  
14 who render care under this section shall comply with the  
15 requirements of s. 435.05. Persons shall be excluded from  
16 employment pursuant to s. 435.06.

17           1. Persons excluded from employment may request an  
18 exemption from disqualification, as provided in s. 435.07.  
19 Persons not subject to certification or professional licensure  
20 may request an exemption from the agency. In considering a  
21 request for an exemption, the agency shall comply with the  
22 provisions of s. 435.07.

23           2. The agency shall, as allowable, reimburse  
24 consumer-employed caregivers for the cost of conducting  
25 background screening as required by this section.

26  
27 For purposes of this section, a person who has undergone  
28 screening, who is qualified for employment under this section  
29 and applicable rule, and who has not been unemployed for more  
30 than 180 days following such screening is not required to be  
31 rescreened. Such person must attest under penalty of perjury

1 to not having been convicted of a disqualifying offense since  
2 completing such screening.

3 (j) Rules; federal waivers.--In order to implement  
4 this section:

5 1. The agency and the Departments of Elderly Affairs,  
6 Health, and Children and Family Services are authorized to  
7 adopt and enforce rules.

8 2. The agency shall take all necessary action to  
9 ensure state compliance with federal regulations. The agency  
10 shall apply for any necessary federal waivers or waiver  
11 amendments needed to implement the program.

12 (k) Reviews and reports.--The agency and the  
13 Departments of Elderly Affairs, Health, and Children and  
14 Family Services shall each, on an ongoing basis, review and  
15 assess the implementation of the consumer-directed care  
16 program. By January 15 of each year, the agency shall submit a  
17 written report to the Legislature that includes each  
18 department's review of the program and contains  
19 recommendations for improvements to the program.

20 Section 12. (1) Prior to December 1, 2002, the Agency  
21 for Health Care Administration, in consultation with the  
22 Department of Elderly Affairs, shall submit to the Governor,  
23 the President of the Senate, and the Speaker of the House of  
24 Representatives a plan to reduce the number of nursing home  
25 bed days purchased by the state Medicaid program and to  
26 replace such nursing home care with care provided in less  
27 costly alternative settings.

28 (2) The plan must include specific goals for reducing  
29 Medicaid-funded bed days and recommend specific statutory and  
30 operational changes necessary to achieve such reduction.

31

1           (3) The plan must include an evaluation of the  
2 cost-effectiveness and the relative strengths and weaknesses  
3 of programs that serve as alternatives to nursing homes.

4           Section 13. Section 408.034, Florida Statutes, is  
5 amended to read:

6           408.034 Duties and responsibilities of agency;  
7 rules.--

8           (1) The agency is designated as the single state  
9 agency to issue, revoke, or deny certificates of need and to  
10 issue, revoke, or deny exemptions from certificate-of-need  
11 review in accordance with the district plans and present and  
12 future federal and state statutes. The agency is designated  
13 as the state health planning agency for purposes of federal  
14 law.

15           (2) In the exercise of its authority to issue licenses  
16 to health care facilities and health service providers, as  
17 provided under chapters 393, 395, and parts II and VI of  
18 chapter 400, the agency may not issue a license to any health  
19 care facility, health service provider, hospice, or part of a  
20 health care facility which fails to receive a certificate of  
21 need or an exemption for the licensed facility or service.

22           (3) The agency shall establish, by rule, uniform need  
23 methodologies for health services and health facilities. In  
24 developing uniform need methodologies, the agency shall, at a  
25 minimum, consider the demographic characteristics of the  
26 population, the health status of the population, service use  
27 patterns, standards and trends, geographic accessibility, and  
28 market economics.

29           (4) Prior to determining that there is a need for  
30 additional community nursing facility beds in any area of the  
31 state, the agency shall determine that the need cannot be met

1 through the provision, enhancement, or expansion of home and  
2 community-based services. In determining such need, the agency  
3 shall examine nursing home placement patterns and demographic  
4 patterns of persons entering nursing homes and the  
5 availability of and effectiveness of existing home-based and  
6 community-based service delivery systems at meeting the  
7 long-term care needs of the population. The agency shall  
8 recommend to the Office of Long-Term Care Policy changes that  
9 could be made to existing home-based and community-based  
10 delivery systems to lessen the need for additional nursing  
11 facility beds.

12 ~~(5)(4)~~ The agency shall establish by rule a  
13 nursing-home-bed-need methodology that reduces the community  
14 nursing home bed need for the areas of the state where the  
15 agency establishes pilot community diversion programs through  
16 the Title XIX aging waiver program.

17 ~~(6)(5)~~ The agency may adopt rules necessary to  
18 implement ss. 408.031-408.045.

19 Section 14. Paragraph (f) of subsection (3) of section  
20 409.912, Florida Statutes, is amended, and present subsections  
21 (13) through (39) of said section are renumbered as  
22 subsections (14) through (40), respectively, and a new  
23 subsection (13) is added to that section, to read:

24 409.912 Cost-effective purchasing of health care.--The  
25 agency shall purchase goods and services for Medicaid  
26 recipients in the most cost-effective manner consistent with  
27 the delivery of quality medical care. The agency shall  
28 maximize the use of prepaid per capita and prepaid aggregate  
29 fixed-sum basis services when appropriate and other  
30 alternative service delivery and reimbursement methodologies,  
31 including competitive bidding pursuant to s. 287.057, designed



1 to facilitate the cost-effective purchase of a case-managed  
2 continuum of care. The agency shall also require providers to  
3 minimize the exposure of recipients to the need for acute  
4 inpatient, custodial, and other institutional care and the  
5 inappropriate or unnecessary use of high-cost services. The  
6 agency may establish prior authorization requirements for  
7 certain populations of Medicaid beneficiaries, certain drug  
8 classes, or particular drugs to prevent fraud, abuse, overuse,  
9 and possible dangerous drug interactions. The Pharmaceutical  
10 and Therapeutics Committee shall make recommendations to the  
11 agency on drugs for which prior authorization is required. The  
12 agency shall inform the Pharmaceutical and Therapeutics  
13 Committee of its decisions regarding drugs subject to prior  
14 authorization.

15 (3) The agency may contract with:

16 (f) An entity that provides in-home physician services  
17 to test the cost-effectiveness of enhanced home-based medical  
18 care to Medicaid recipients with degenerative neurological  
19 diseases and other diseases or disabling conditions associated  
20 with high costs to Medicaid. The program shall be designed to  
21 serve very disabled persons and to reduce Medicaid reimbursed  
22 costs for inpatient, outpatient, and emergency department  
23 services. The agency shall contract with vendors on a  
24 risk-sharing basis.~~in Pasco County or Pinellas County that~~  
25 ~~provides in-home physician services to Medicaid recipients~~  
26 ~~with degenerative neurological diseases in order to test the~~  
27 ~~cost-effectiveness of enhanced home-based medical care. The~~  
28 ~~entity providing the services shall be reimbursed on a~~  
29 ~~fee-for-service basis at a rate not less than comparable~~  
30 ~~Medicare reimbursement rates. The agency may apply for waivers~~  
31

1 ~~of federal regulations necessary to implement such program.~~

2 ~~This paragraph shall be repealed on July 1, 2002.~~

3 (13)(a) The agency shall operate the Comprehensive  
4 Assessment and Review (CARES) nursing facility preadmission  
5 screening program to ensure that Medicaid payment for nursing  
6 facility care is made only for individuals whose conditions  
7 require such care and to ensure that long-term care services  
8 are provided in the setting most appropriate to the needs of  
9 the person and in the most economical manner possible. The  
10 CARES program shall also ensure that individuals participating  
11 in Medicaid home and community-based waiver programs meet  
12 criteria for those programs, consistent with approved federal  
13 waivers.

14 (b) The agency shall operate the CARES program through  
15 an interagency agreement with the Department of Elderly  
16 Affairs.

17 (c) Prior to making payment for nursing facility  
18 services for a Medicaid recipient, the agency must verify that  
19 the nursing facility preadmission screening program has  
20 determined that the individual requires nursing facility care  
21 and that the individual cannot be safely served in  
22 community-based programs. The nursing facility preadmission  
23 screening program shall refer a Medicaid recipient to a  
24 community-based program if the individual could be safely  
25 served at a lower cost and the recipient chooses to  
26 participate in such program.

27 (d) By January 1 of each year, the agency shall submit  
28 a report to the Legislature and the Office of Long-Term Care  
29 Policy describing the operations of the CARES program. The  
30 report must describe:

31

1           1. Rate of diversion to community alternative  
2 programs;

3           2. CARES program staffing needs to achieve additional  
4 diversions;

5           3. Reasons the program is unable to place individuals  
6 in less restrictive settings when such individuals desired  
7 such services and could have been served in such settings;

8           4. Barriers to appropriate placement, including  
9 barriers due to policies or operations of other agencies or  
10 state-funded programs; and

11           5. Statutory changes necessary to ensure that  
12 individuals in need of long-term care services receive care in  
13 the least restrictive environment.

14           Section 15. Section 430.7031, Florida Statutes, is  
15 created to read:

16           430.7031 Nursing home transition program.--The  
17 department and the Agency for Health Care Administration:

18           (1) Shall implement a system of care designed to  
19 assist individuals residing in nursing homes to regain  
20 independence and to move to less costly settings.

21           (2) Shall collaboratively work to identify long-stay  
22 nursing home residents who are able to move to community  
23 placements, and to provide case management and supportive  
24 services to such individuals while they are in nursing homes  
25 to assist such individuals in moving to less expensive and  
26 less restrictive settings.

27           (3) Shall modify existing service delivery systems or  
28 develop new service delivery systems to economically and  
29 efficiently meet such individuals' care needs.

30           (4) Shall offer such individuals priority placement  
31 and services in all home-based and community-based care

1 programs and shall ensure that funds are available to provide  
2 services to individuals to whom services are offered.

3 (5) May seek federal waivers necessary to administer  
4 this section.

5 Section 16. Subsection (4) of section 409.908, Florida  
6 Statutes, is amended to read:

7 409.908 Reimbursement of Medicaid providers.--Subject  
8 to specific appropriations, the agency shall reimburse  
9 Medicaid providers, in accordance with state and federal law,  
10 according to methodologies set forth in the rules of the  
11 agency and in policy manuals and handbooks incorporated by  
12 reference therein. These methodologies may include fee  
13 schedules, reimbursement methods based on cost reporting,  
14 negotiated fees, competitive bidding pursuant to s. 287.057,  
15 and other mechanisms the agency considers efficient and  
16 effective for purchasing services or goods on behalf of  
17 recipients. Payment for Medicaid compensable services made on  
18 behalf of Medicaid eligible persons is subject to the  
19 availability of moneys and any limitations or directions  
20 provided for in the General Appropriations Act or chapter 216.  
21 Further, nothing in this section shall be construed to prevent  
22 or limit the agency from adjusting fees, reimbursement rates,  
23 lengths of stay, number of visits, or number of services, or  
24 making any other adjustments necessary to comply with the  
25 availability of moneys and any limitations or directions  
26 provided for in the General Appropriations Act, provided the  
27 adjustment is consistent with legislative intent.

28 (4) Subject to any limitations or directions provided  
29 for in the General Appropriations Act, alternative health  
30 plans, health maintenance organizations, and prepaid health  
31 plans shall be reimbursed a fixed, prepaid amount negotiated,

1 or competitively bid pursuant to s. 287.057, by the agency and  
2 prospectively paid to the provider monthly for each Medicaid  
3 recipient enrolled. The amount may not exceed the average  
4 amount the agency determines it would have paid, based on  
5 claims experience, for recipients in the same or similar  
6 category of eligibility. The agency shall calculate  
7 capitation rates on a regional basis and, beginning September  
8 1, 1995, shall include age-band differentials in such  
9 calculations. Effective July 1, 2001, the cost of exempting  
10 statutory teaching hospitals, specialty hospitals, and  
11 community hospital education program hospitals from  
12 reimbursement ceilings and the cost of special Medicaid  
13 payments shall not be included in premiums paid to health  
14 maintenance organizations or prepaid health care plans. Each  
15 rate semester, the agency shall calculate and publish a  
16 Medicaid hospital rate schedule that does not reflect either  
17 special Medicaid payments or the elimination of rate  
18 reimbursement ceilings, to be used by hospitals and Medicaid  
19 health maintenance organizations, in order to determine the  
20 Medicaid rate referred to in ss. 409.912(17)~~409.912(16)~~,  
21 409.9128(5), and 641.513(6).

22 Section 17. Section 430.708, Florida Statutes, is  
23 amended to read:

24 430.708 Certificate of need.--To ensure that Medicaid  
25 community diversion pilot projects result in a reduction in  
26 the projected average monthly nursing home caseload, the  
27 agency shall, in accordance with the provisions of s.  
28 408.034(5)~~s. 408.034(4)~~:

29 (1) Reduce the projected nursing home bed need in each  
30 certificate-of-need batching cycle in the community diversion  
31 pilot project areas.

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

4 (3) Adopt rules to reduce the number of beds in  
5 Medicaid-participating nursing homes eligible for Medicaid,  
6 through a Medicaid-selective contracting process or some other  
7 appropriate method.

8 (4) Determine the feasibility of increasing the  
9 nursing home occupancy threshold used in determining nursing  
10 home bed needs under the certificate-of-need process.

11 Section 18. Subsection (4) of section 641.386, Florida  
12 Statutes, is amended to read:

13 641.386 Agent licensing and appointment required;  
14 exceptions.--

15 (4) All agents and health maintenance organizations  
16 shall comply with and be subject to the applicable provisions  
17 of ss. 641.309 and 409.912(19)~~409.912(18)~~, and all companies  
18 and entities appointing agents shall comply with s. 626.451,  
19 when marketing for any health maintenance organization  
20 licensed pursuant to this part, including those organizations  
21 under contract with the Agency for Health Care Administration  
22 to provide health care services to Medicaid recipients or any  
23 private entity providing health care services to Medicaid  
24 recipients pursuant to a prepaid health plan contract with the  
25 Agency for Health Care Administration.

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

28 20.41 Department of Elderly Affairs.--There is created  
29 a Department of Elderly Affairs.

30 (4) The department shall administer ~~administratively~~  
31 ~~house~~ the State Long-Term Care Ombudsman Council, created by

1 s. 400.0067, and the local long-term care ombudsman councils,  
2 created by s. 400.0069 and shall, as required by s. 712 of the  
3 federal Older Americans Act of 1965, ensure that both the  
4 state and local long-term care ombudsman councils operate in  
5 compliance with the Older Americans Act. ~~The councils in~~  
6 ~~performance of their duties shall not be subject to control,~~  
7 ~~supervision, or direction by the department.~~

8 Section 20. Subsection (1) and paragraph (b) of  
9 subsection (2) of section 400.0063, Florida Statutes, are  
10 amended to read:

11 400.0063 Establishment of Office of State Long-Term  
12 Care Ombudsman; designation of ombudsman and legal advocate.--

13 (1) There is created an Office of State Long-Term Care  
14 Ombudsman, ~~which shall be located for administrative purposes~~  
15 in the Department of Elderly Affairs.

16 (2)

17 (b) The State Long-Term Care Ombudsman shall be  
18 appointed by and shall serve at the pleasure of the Secretary  
19 of Elderly Affairs ~~State Long-Term Care Ombudsman Council~~. No  
20 person who has a conflict of interest, or has an immediate  
21 family member who has a conflict of interest, may be involved  
22 in the designation of the ombudsman.

23 Section 21. Paragraphs (c) and (f) of subsection (2)  
24 and subsection (3) of section 400.0065, Florida Statutes, are  
25 amended to read:

26 400.0065 State Long-Term Care Ombudsman; duties and  
27 responsibilities; conflict of interest.--

28 (2) The State Long-Term Care Ombudsman shall have the  
29 duty and authority to:

30 (c) Within the limits of federal and state funding  
31 authorized and appropriated, employ such personnel, including

1 staff for local ombudsman councils, as are necessary to  
2 perform adequately the functions of the office and provide or  
3 contract for legal services to assist the state and local  
4 ombudsman councils in the performance of their duties. Staff  
5 positions for each local ombudsman council may be established  
6 as career service positions, and shall be filled by the  
7 ombudsman after approval by the secretary ~~consultation with~~  
8 ~~the respective local ombudsman council.~~

9 ~~(f) Annually prepare a budget request that shall be~~  
10 ~~submitted to the Governor by the department for transmittal to~~  
11 ~~the Legislature.~~

12 (3) The State Long-Term Care Ombudsman shall not:

13 (a) Have a direct involvement in the licensing or  
14 certification of, or an ownership or investment interest in, a  
15 long-term care facility or a provider of a long-term care  
16 service.

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

19 (c) Receive, or have a right to receive, directly or  
20 indirectly, remuneration, in cash or in kind, under a  
21 compensation agreement with the owner or operator of a  
22 long-term care facility.

23  
24 The Department of Elderly Affairs, ~~in consultation with the~~  
25 ~~ombudsman,~~ shall adopt rules to establish procedures to  
26 identify and eliminate conflicts of interest as described in  
27 this subsection.

28 Section 22. Paragraphs (c), (d), (f), and (g) of  
29 subsection (2) and paragraph (b) of subsection (3) of section  
30 400.0067, Florida Statutes, are amended to read:

31



1           400.0067 Establishment of State Long-Term Care  
2 Ombudsman Council; duties; membership.--

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

4           (c) Assist the ombudsman to discover, investigate, and  
5 determine the existence of abuse or neglect in any long-term  
6 care facility ~~and to develop procedures, in consultation with~~  
7 The Department of Elderly Affairs shall develop procedures,  
8 relating to such investigations. Investigations may consist,  
9 in part, of one or more onsite administrative inspections.

10          (d) Assist the ombudsman in eliciting, receiving,  
11 responding to, and resolving complaints made by or on behalf  
12 of long-term care facility residents and in developing  
13 ~~procedures, in consultation with the Department of Elderly~~  
14 ~~Affairs,~~ relating to the receipt and resolution of such  
15 complaints. The secretary shall approve all such procedures.

16          ~~(f) Be authorized to call upon appropriate agencies of~~  
17 ~~state government for such professional assistance as may be~~  
18 ~~needed in the discharge of its duties, including assistance~~  
19 ~~from the adult protective services program of the Department~~  
20 ~~of Children and Family Services.~~

21          (f)(g) Prepare an annual report describing the  
22 activities carried out by the ombudsman and the State  
23 Long-Term Care Ombudsman Council in the year for which the  
24 report is prepared. The State Long-Term Care Ombudsman  
25 Council shall submit the report to the Secretary of Elderly  
26 Affairs. The secretary shall in turn submit the report to the  
27 Commissioner of the United States Administration on Aging, the  
28 Governor, the President of the Senate, the Speaker of the  
29 House of Representatives, the minority leaders of the House  
30 and Senate, the chairpersons of appropriate House and Senate  
31 committees, the Secretary of ~~Secretaries of Elderly Affairs~~

1 ~~and~~ Children and Family Services, and the Secretary of Health  
2 Care Administration. The report shall be submitted by the  
3 Secretary of Elderly Affairs at least 30 days before the  
4 convening of the regular session of the Legislature and shall,  
5 at a minimum:

6 1. Contain and analyze data collected concerning  
7 complaints about and conditions in long-term care facilities.

8 2. Evaluate the problems experienced by residents of  
9 long-term care facilities.

10 3. Contain recommendations for improving the quality  
11 of life of the residents and for protecting the health,  
12 safety, welfare, and rights of the residents.

13 4. Analyze the success of the ombudsman program during  
14 the preceding year and identify the barriers that prevent the  
15 optimal operation of the program. The report of the program's  
16 successes shall also address the relationship between the  
17 state long-term care ombudsman program, the Department of  
18 Elderly Affairs, the Agency for Health Care Administration,  
19 and the Department of Children and Family Services, and an  
20 assessment of how successfully the state long-term care  
21 ombudsman program has carried out its responsibilities under  
22 the Older Americans Act.

23 5. Provide policy and regulatory and legislative  
24 recommendations to solve identified problems; resolve  
25 residents' complaints; improve the quality of care and life of  
26 the residents; protect the health, safety, welfare, and rights  
27 of the residents; and remove the barriers to the optimal  
28 operation of the state long-term care ombudsman program.

29 6. Contain recommendations from the local ombudsman  
30 councils regarding program functions and activities.

31

1           7. Include a report on the activities of the legal  
2 advocate and other legal advocates acting on behalf of the  
3 local and state councils.

4           (3)

5           (b)1. The ombudsman, in consultation with the  
6 secretary ~~and the state ombudsman council~~, shall submit to the  
7 Governor a list of at least eight names of persons who are not  
8 serving on a local council.

9           2. The Governor shall appoint three members chosen  
10 from the list, at least one of whom must be over 60 years of  
11 age.

12           3. If the Governor's appointments are not made within  
13 60 days after the ombudsman submits the list, the ombudsman,  
14 in consultation with the secretary ~~State Long-Term Care~~  
15 ~~Ombudsman Council~~, shall appoint three members, one of whom  
16 must be over 60 years of age.

17           Section 23. Subsection (4) of section 400.0069,  
18 Florida Statutes, is amended to read:

19           400.0069 Local long-term care ombudsman councils;  
20 duties; membership.--

21           (4) Each local ombudsman council shall be composed of  
22 no less than 15 members and no more than 40 ~~30~~ members from  
23 the local planning and service area, to include the following:  
24 one medical or osteopathic physician whose practice includes  
25 or has included a substantial number of geriatric patients and  
26 who may have limited practice in a long-term care facility;  
27 one registered nurse who has geriatric experience, if  
28 possible; one licensed pharmacist; one registered dietitian;  
29 at least six nursing home residents or representative consumer  
30 advocates for nursing home residents; at least three residents  
31 of assisted living facilities or adult family-care homes or

1 three representative consumer advocates for long-term care  
2 facility residents; one attorney; and one professional social  
3 worker. In no case shall the medical director of a long-term  
4 care facility or an employee of the Agency for Health Care  
5 Administration, the Department of Children and Family  
6 Services, or the Department of Elderly Affairs serve as a  
7 member or as an ex officio member of a council. Each member  
8 of the council shall certify that neither the council member  
9 nor any member of the council member's immediate family has  
10 any conflict of interest pursuant to subsection (10). Local  
11 ombudsman councils are encouraged to recruit council members  
12 who are 60 years of age or older.

13 Section 24. Subsection (1) of section 400.0071,  
14 Florida Statutes, is amended to read:

15 400.0071 Complaint procedures.--

16 (1) The state ombudsman council shall recommend to the  
17 ombudsman and the secretary ~~establish~~ state and local  
18 procedures for receiving complaints against a nursing home or  
19 long-term care facility or its employee. The procedures shall  
20 be implemented after the approval of the ombudsman and the  
21 secretary.

22 Section 25. Subsections (1) and (2) of section  
23 400.0087, Florida Statutes, are amended to read:

24 400.0087 Agency oversight.--

25 (1) The Department of Elderly Affairs shall monitor  
26 the local ombudsman councils responsible for carrying out the  
27 duties delegated by s. 400.0069 and federal law. The  
28 department, in consultation with the ombudsman ~~and the State~~  
29 ~~Long-Term Care Ombudsman Council~~, shall adopt rules to  
30 establish the policies and procedures for the monitoring of  
31 local ombudsman councils.

1           (2) The department is responsible for ensuring that  
2 the Office of State Long-Term Care Ombudsman ~~prepares its~~  
3 ~~annual report~~; provides information to public and private  
4 agencies, legislators, and others; provides appropriate  
5 training to representatives of the office or of the state or  
6 local long-term care ombudsman councils; and coordinates  
7 ombudsman services with the Advocacy Center for Persons with  
8 Disabilities and with providers of legal services to residents  
9 of long-term care facilities in compliance with state and  
10 federal laws.

11           Section 26. Section 400.0089, Florida Statutes, is  
12 amended to read:

13           400.0089 Agency reports.--The ~~State Long-Term Care~~  
14 ~~Ombudsman Council, shall, in cooperation with the~~ Department  
15 of Elderly Affairs shall, maintain a statewide uniform  
16 reporting system to collect and analyze data relating to  
17 complaints and conditions in long-term care facilities and to  
18 residents, for the purpose of identifying and resolving  
19 significant problems. The department and the State Long-Term  
20 Care Ombudsman Council shall submit such data as part of its  
21 annual report required pursuant to s. 400.0067(2)(g) to the  
22 Agency for Health Care Administration, the Department of  
23 Children and Family Services, the Florida Statewide Advocacy  
24 Council, the Advocacy Center for Persons with Disabilities,  
25 the Commissioner for the United States Administration on  
26 Aging, the National Ombudsman Resource Center, and any other  
27 state or federal entities that the ombudsman determines  
28 appropriate. The State Long-Term Care Ombudsman Council shall  
29 publish quarterly and make readily available information  
30 pertaining to the number and types of complaints received by  
31 the long-term care ombudsman program.

1           Section 27. Section 400.0091, Florida Statutes, is  
2 amended to read:

3           400.0091 Training.--The ombudsman shall provide  
4 appropriate training to all employees of the Office of State  
5 Long-Term Care Ombudsman and to the state and local long-term  
6 care ombudsman councils, including all unpaid volunteers. All  
7 volunteers and appropriate employees of the Office of the  
8 State Long-Term Care Ombudsman must be given a minimum of 20  
9 hours of training upon employment or enrollment as a volunteer  
10 and 10 hours of continuing education annually thereafter.  
11 Training must cover, at a minimum, guardianships and powers of  
12 attorney, medication administration, care and medication of  
13 residents with dementia and Alzheimer's disease, accounting  
14 for residents' funds, discharge rights and responsibilities,  
15 and cultural sensitivity.No employee, officer, or  
16 representative of the office or of the state or local  
17 long-term care ombudsman councils, other than the ombudsman,  
18 may carry out any authorized ombudsman duty or responsibility  
19 unless the person has received the training required by this  
20 section and has been approved by the ombudsman as qualified to  
21 carry out ombudsman activities on behalf of the office or the  
22 state or local long-term care ombudsman councils.

23           Section 28. Paragraph (d) of subsection (5) of section  
24 400.179, Florida Statutes, is amended to read:

25           400.179 Sale or transfer of ownership of a nursing  
26 facility; liability for Medicaid underpayments and  
27 overpayments.--

28           (5) Because any transfer of a nursing facility may  
29 expose the fact that Medicaid may have underpaid or overpaid  
30 the transferor, and because in most instances, any such  
31 underpayment or overpayment can only be determined following a

1 formal field audit, the liabilities for any such underpayments  
2 or overpayments shall be as follows:

3 (d) Where the transfer involves a facility that has  
4 been leased by the transferor:

5 1. The transferee shall, as a condition to being  
6 issued a license by the agency, acquire, maintain, and provide  
7 proof to the agency of a bond with a term of 30 months,  
8 renewable annually, in an amount not less than the total of 3  
9 months Medicaid payments to the facility computed on the basis  
10 of the preceding 12-month average Medicaid payments to the  
11 facility.

12 2. The leasehold operator may meet the bond  
13 requirement through other arrangements acceptable to the  
14 department.

15 3. All existing nursing facility licensees, operating  
16 the facility as a leasehold, shall acquire, maintain, and  
17 provide proof to the agency of the 30-month bond required in  
18 subparagraph 1., above, on and after July 1, 1993, for each  
19 license renewal.

20 4. It shall be the responsibility of all nursing  
21 facility operators, operating the facility as a leasehold, to  
22 renew the 30-month bond and to provide proof of such renewal  
23 to the agency annually at the time of application for license  
24 renewal.

25 5. Any failure of the nursing facility operator to  
26 acquire, maintain, renew annually, or provide proof to the  
27 agency shall be grounds for the agency to deny, cancel,  
28 revoke, or suspend the facility license to operate such  
29 facility and to take any further action, including, but not  
30 limited to, enjoining the facility, asserting a moratorium, or  
31 applying for a receiver, deemed necessary to ensure compliance

1 with this section and to safeguard and protect the health,  
2 safety, and welfare of the facility's residents. A lease  
3 agreement required as a condition of bond financing or  
4 refinancing under s. 154.213 by a health facilities authority  
5 or required under s. 159.30 by a county or municipality is not  
6 a leasehold for purposes of this paragraph and is not subject  
7 to the bond requirement of this paragraph.

8 Section 29. Subsection (20) of section 400.141,  
9 Florida Statutes, is amended to read:

10 400.141 Administration and management of nursing home  
11 facilities.--Every licensed facility shall comply with all  
12 applicable standards and rules of the agency and shall:

13 (20) Maintain liability insurance coverage that is in  
14 force at all times. In lieu of general and professional  
15 liability insurance coverage, a state-designated teaching  
16 nursing home and its affiliated assisted living facilities  
17 created under s. 430.80 may demonstrate proof of financial  
18 responsibility as provided in s. 430.80(3)(h); the exception  
19 provided in this paragraph shall expire July 1, 2005.

20 Section 30. Paragraph (h) is added to subsection (3)  
21 of section 430.80, Florida Statutes, to read:

22 430.80 Implementation of a teaching nursing home pilot  
23 project.--

24 (3) To be designated as a teaching nursing home, a  
25 nursing home licensee must, at a minimum:

26 (h) Maintain insurance coverage pursuant to s.  
27 400.141(20) or proof of financial responsibility in a minimum  
28 amount of \$750,000. Such proof of financial responsibility may  
29 include:

30 1. Maintaining an escrow account consisting of cash or  
31 assets eligible for deposit in accordance with s. 625.52; or



1           2. Obtaining and maintaining pursuant to chapter 675  
2 an unexpired, irrevocable, nontransferable and nonassignable  
3 letter of credit issued by any bank or savings association  
4 organized and existing under the laws of this state or any  
5 bank or savings association organized under the laws of the  
6 United States that has its principal place of business in this  
7 state or has a branch office which is authorized to receive  
8 deposits in this state. The letter of credit shall be used to  
9 satisfy the obligation of the facility to the claimant upon  
10 presentment of a final judgment indicating liability and  
11 awarding damages to be paid by the facility or upon  
12 presentment of a settlement agreement signed by all parties to  
13 the agreement when such final judgment or settlement is a  
14 result of a liability claim against the facility.

15           Section 31. Subsection (1) of section 477.025, Florida  
16 Statutes, is amended, and subsection (11) is added to said  
17 section, to read:

18           477.025 Cosmetology salons; specialty salons;  
19 requisites; licensure; inspection; mobile cosmetology  
20 salons.--

21           (1) No cosmetology salon or specialty salon shall be  
22 permitted to operate without a license issued by the  
23 department except as provided in subsection (11).

24           (11) Facilities licensed under part II or part III of  
25 chapter 400 shall be exempt from the provisions of this  
26 section and a cosmetologist licensed pursuant to s. 477.019  
27 may provide salon services exclusively for facility residents.

28           Section 32. Section 627.9408, Florida Statutes, is  
29 amended to read:

30           627.9408 Rules.--

31

1           (1) The department has authority to adopt rules  
2 pursuant to ss. 120.536(1) and 120.54 to implement the  
3 provisions of this part.

4           (2) The department may adopt by rule the provisions of  
5 the Long-Term Care Insurance Model Regulation adopted by the  
6 National Association of Insurance Commissioners in the second  
7 quarter of the year 2000 which are not in conflict with the  
8 Florida Insurance Code.

9           Section 33. Subsections (2) and (3) of section  
10 400.0066, Florida Statutes, are repealed.

11           Section 34. This act shall take effect upon becoming a  
12 law.