

By the Committee on Health, Aging and Long-Term Care; and
Senator Brown-Waite

317-1928-02

1 A bill to be entitled
2 An act relating to long-term care; creating s.
3 409.221, F.S.; creating the "Florida
4 Consumer-Directed Care Act"; providing
5 legislative findings; providing legislative
6 intent; establishing the consumer-directed care
7 program; providing for consumer selection of
8 certain long-term-care services and providers;
9 providing for interagency agreements between
10 the Agency for Health Care Administration and
11 the Department of Elderly Affairs, the
12 Department of Health, and the Department of
13 Children and Family Services; providing for
14 program eligibility and enrollment; providing
15 definitions; providing for consumer budget
16 allowances and purchasing guidelines;
17 specifying authorized services; providing roles
18 and responsibilities of consumers, the agency
19 and departments, and fiduciary intermediaries;
20 providing background screening requirements for
21 persons who render care under the program;
22 providing rulemaking authority of the agency
23 and departments; requiring the agency to apply
24 for federal waivers as necessary; requiring
25 ongoing program reviews and annual reports;
26 providing legislative findings and intent with
27 respect to the needs of the state's elderly
28 population; requiring the Agency for Health
29 Care Administration and the Department of
30 Elderly Affairs to submit a plan to the
31 Governor and Legislature for reducing

1 nursing-home-bed days funded under the Medicaid
2 program; amending s. 408.034, F.S.; providing
3 additional requirements for the Agency for
4 Health Care Administration in determining the
5 need for additional nursing-facility beds;
6 amending s. 409.912; requiring the Agency for
7 Health Care Administration to establish a
8 nursing facility preadmission screening
9 program; authorizing the agency to operate the
10 program by contract; requiring an annual report
11 to the Legislature and the Office of
12 Long-Term-Care Policy; amending s. 430.03,
13 F.S.; revising the purposes of the Department
14 of Elderly Affairs with respect to developing
15 policy, making recommendations, and
16 coordinating activities; amending s. 430.04,
17 F.S.; revising the duties of the Department of
18 Elderly Affairs with respect to developing
19 programs and policies related to aging;
20 creating s. 430.041, F.S.; establishing the
21 Office of Long-Term-Care Policy within the
22 Department of Elderly Affairs; requiring the
23 office to develop a State Long-Term-Care Plan;
24 requiring the office to make recommendations
25 for coordinating the services provided by state
26 agencies; providing for the appointment of an
27 advisory board to the Office of Long-Term-Care
28 Policy; specifying membership in the advisory
29 board; providing for reimbursement of per diem
30 and travel expenses for members of the advisory
31 board; requiring that the office submit an

1 annual report to the Governor and Legislature;
2 requiring the Agency for Health Care
3 Administration and the Department of Elderly
4 Affairs to provide staff and support services
5 for the Office of Long-Term-Care Policy;
6 creating s. 430.7031, F.S.; requiring the
7 Department of Elderly Affairs and the Agency
8 for Health Care Administration to implement a
9 nursing home transition program; providing
10 requirements for the program; amending ss.
11 409.908, 430.708, 641.386, F.S., relating to
12 reimbursement of Medicaid providers,
13 certificates of need, and agent licensing and
14 appointment; conforming cross-references to
15 changes made by the act; providing an effective
16 date.

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

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20 Section 1. 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.

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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.

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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, reviewing records
11 to ensure correctness, writing paychecks to providers, and
12 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 (j) Rules; federal waivers.--In order to implement
27 this section:

28 1. The agency and the Departments of Elderly Affairs,
29 Health, and Children and Family Services are authorized to
30 adopt and enforce rules.

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1 2. The agency shall take all necessary action to
2 ensure state compliance with federal regulations. The agency
3 shall apply for any necessary federal waivers or waiver
4 amendments needed to implement the program.

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

13 Section 2. The Legislature finds that the State of
14 Florida does not have a comprehensive and effective strategy
15 for economically and efficiently meeting the long-term-care
16 needs of an increasingly elderly population; that multiple
17 state agencies have responsibilities for oversight, planning,
18 and operation of long-term-care programs; that long-term care
19 is provided by a complex array of public and private entities
20 delivering services; that there has not been a focus on
21 evaluation of innovative and pilot projects and expansion of
22 pilot projects that are successful; that the provision of
23 long-term-care services has not been approached holistically;
24 and that the state does not have a mechanism for ensuring that
25 long-term-care programs are effectively and efficiently
26 operated and coordinated to comply with the policies set out
27 in Florida Statutes. It is therefore the intent of the
28 Legislature to increase the rate of diversion of elderly
29 persons in need of long-term care to noninstitutional
30 alternatives; to increase coordination, evaluation, and
31 planning for the state's long-term-care system; to expand

1 successful pilot programs; and to establish a nursing facility
2 preadmission screening program.

3 Section 3. (1) Prior to December 1, 2002, the Agency
4 for Health Care Administration in consultation with the
5 Department of Elderly Affairs shall submit to the Governor,
6 the President of the Senate, and the Speaker of the House of
7 Representatives a plan to reduce the number of
8 nursing-home-bed days purchased by the state Medicaid program
9 and to replace such nursing home care with care provided in
10 less costly alternative settings.

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

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

17 Section 4. Section 408.034, Florida Statutes, is
18 amended to read:

19 408.034 Duties and responsibilities of agency;
20 rules.--

21 (1) The agency is designated as the single state
22 agency to issue, revoke, or deny certificates of need and to
23 issue, revoke, or deny exemptions from certificate-of-need
24 review in accordance with the district plans and present and
25 future federal and state statutes. The agency is designated
26 as the state health planning agency for purposes of federal
27 law.

28 (2) In the exercise of its authority to issue licenses
29 to health care facilities and health service providers, as
30 provided under chapters 393, 395, and parts II and VI of
31 chapter 400, the agency may not issue a license to any health

1 care facility, health service provider, hospice, or part of a
2 health care facility which fails to receive a certificate of
3 need or an exemption for the licensed facility or service.

4 (3) The agency shall establish, by rule, uniform need
5 methodologies for health services and health facilities. In
6 developing uniform need methodologies, the agency shall, at a
7 minimum, consider the demographic characteristics of the
8 population, the health status of the population, service use
9 patterns, standards and trends, geographic accessibility, and
10 market economics.

11 (4) Prior to determining that there is a need for
12 additional community nursing-facility beds in any area of the
13 state, the agency shall determine that the need cannot be met
14 through the provision, enhancement, or expansion of home and
15 community-based services. In determining such need, the agency
16 shall examine nursing-home-placement patterns and demographic
17 patterns of persons entering nursing homes and the
18 availability of and effectiveness of existing home-based and
19 community-based service delivery systems at meeting the
20 long-term-care needs of the population. The agency shall
21 recommend to the Office of Long-Term-Care Policy changes that
22 could be made to existing home-based and community-based
23 delivery systems to lessen the need for additional
24 nursing-facility beds.

25 ~~(5)(4)~~ The agency shall establish by rule a
26 nursing-home-bed-need methodology that reduces the community
27 nursing home bed need for the areas of the state where the
28 agency establishes pilot community diversion programs through
29 the Title XIX aging waiver program.

30 ~~(6)(5)~~ The agency may adopt rules necessary to
31 implement ss. 408.031-408.045.

1 Section 5. Present subsections (13) through (39) of
2 section 409.912, Florida Statutes, are redesignated as
3 subsections (14) through (40) and a new subsection (13) is
4 added to that section to read:

5 409.912 Cost-effective purchasing of health care.--The
6 agency shall purchase goods and services for Medicaid
7 recipients in the most cost-effective manner consistent with
8 the delivery of quality medical care. The agency shall
9 maximize the use of prepaid per capita and prepaid aggregate
10 fixed-sum basis services when appropriate and other
11 alternative service delivery and reimbursement methodologies,
12 including competitive bidding pursuant to s. 287.057, designed
13 to facilitate the cost-effective purchase of a case-managed
14 continuum of care. The agency shall also require providers to
15 minimize the exposure of recipients to the need for acute
16 inpatient, custodial, and other institutional care and the
17 inappropriate or unnecessary use of high-cost services. The
18 agency may establish prior authorization requirements for
19 certain populations of Medicaid beneficiaries, certain drug
20 classes, or particular drugs to prevent fraud, abuse, overuse,
21 and possible dangerous drug interactions. The Pharmaceutical
22 and Therapeutics Committee shall make recommendations to the
23 agency on drugs for which prior authorization is required. The
24 agency shall inform the Pharmaceutical and Therapeutics
25 Committee of its decisions regarding drugs subject to prior
26 authorization.

27 (13)(a) The agency shall operate the Comprehensive
28 Assessment and Review (CARES) nursing facility preadmission
29 screening program to ensure that Medicaid payment for nursing
30 facility care is made only for individuals whose conditions
31 require such care and to ensure that long-term-care services

1 are provided in the setting most appropriate to the needs of
2 the person and in the most economical manner possible. The
3 CARES program shall also ensure that individuals participating
4 in Medicaid home and community-based waiver programs meet
5 criteria for those programs, consistent with approved federal
6 waivers.

7 (b) The agency may operate the CARES program using its
8 own staff or may contract with another state agency or other
9 provider. If the agency contracts for the operation of the
10 program, the agency must maintain policy control of all
11 operations of the program, including the criteria applied and
12 forms used, and perform regular monitoring to assure effective
13 and efficient operation of the program and ensure that the
14 operation of the program is consistent with state and federal
15 law and rules.

16 (c) The agency shall develop performance standards for
17 the CARES program.

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

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

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 6. Section 430.03, Florida Statutes, is
15 amended to read:

16 430.03 Purposes.--The purposes of the Department of
17 Elderly Affairs are to:

18 (1) Serve as the primary state agency responsible for
19 administering human services programs for the elderly ~~and for~~
20 ~~developing policy recommendations for long-term care.~~

21 (2) Combat ageism and create public awareness and
22 understanding of the potentials and needs of elderly persons.

23 (3) Study and plan for programs and services to meet
24 identified and projected needs and to provide opportunities
25 for personal development and achievement of persons aged 60
26 years and older.

27 (4) Advocate quality programs and services for the
28 state's elderly population and on behalf of the individual
29 citizen's needs.

30 ~~(5) Coordinate interdepartmental policy development~~
31 ~~and program planning for all state agencies that provide~~

1 ~~services for the elderly population in order to prevent~~
2 ~~duplicative efforts, to maximize utilization of resources, and~~
3 ~~to ensure cooperation, communication, and departmental~~
4 ~~linkages.~~

5 ~~(6) Recommend state and local level organizational~~
6 ~~models for the planning, coordination, implementation, and~~
7 ~~evaluation of programs serving the elderly population.~~

8 (5)~~(7)~~ Oversee implementation of federally funded and
9 state-funded programs and services for the state's elderly
10 population.

11 (6)~~(8)~~ Recommend legislative budget requests for
12 programs and services for the state's elderly population.

13 (7)~~(9)~~ Serve as a state-level information
14 clearinghouse and encourage the development of local-level
15 identifiable points of information and referral regarding all
16 federal, state, and local resources of assistance to elderly
17 citizens.

18 (8)~~(10)~~ Assist elderly persons to secure needed
19 services in accordance with personal choice and in a manner
20 that achieves or maintains autonomy and prevents, reduces, or
21 eliminates dependency.

22 (9)~~(11)~~ Promote the maintenance and improvement of the
23 physical well-being and mental health of elderly persons.

24 (10)~~(12)~~ Promote opportunities for volunteerism among
25 the elderly population.

26 (11)~~(13)~~ Promote the prevention of neglect, abuse, or
27 exploitation of elderly persons unable to protect their own
28 interests.

29 (12)~~(14)~~ Eliminate and prevent inappropriate
30 institutionalization of elderly persons by promoting

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1 community-based care, home-based care, or other forms of less
2 intensive care.

3 (13)~~(15)~~ Aid in the support of families and other
4 caregivers of elderly persons.

5 (14)~~(16)~~ Promote intergenerational relationships.

6 ~~(17) Oversee aging research conducted or funded by any
7 state agency to ensure that such activities are coordinated
8 and directed to fulfill the intent and purposes of this act.~~

9 Section 7. Section 430.04, Florida Statutes, is
10 amended to read:

11 430.04 Duties and responsibilities of the Department
12 of Elderly Affairs.--The Department of Elderly Affairs shall:

13 (1) Administer human services and long-term care
14 programs, including programs funded under the federal Older
15 Americans Act of 1965, as amended, and other programs that are
16 assigned to it by law.

17 (2) Be responsible for ensuring that each area agency
18 on aging operates in a manner to ensure that the elderly of
19 this state receive the best services possible. The department
20 shall rescind designation of an area agency on aging or take
21 intermediate measures against the agency, including corrective
22 action, unannounced special monitoring, temporary assumption
23 of operation of one or more programs by the department,
24 placement on probationary status, imposing a moratorium on
25 agency action, imposing financial penalties for
26 nonperformance, or other administrative action pursuant to
27 chapter 120, if the department finds that:

28 (a) An intentional or negligent act of the agency has
29 materially affected the health, welfare, or safety of clients,
30 or substantially and negatively affected the operation of an
31 aging services program.

1 (b) The agency lacks financial stability sufficient to
2 meet contractual obligations or that contractual funds have
3 been misappropriated.

4 (c) The agency has committed multiple or repeated
5 violations of legal and regulatory requirements or department
6 standards.

7 (d) The agency has failed to continue the provision or
8 expansion of services after the declaration of a state of
9 emergency.

10 (e) The agency has failed to adhere to the terms of
11 its contract with the department.

12 (f) The agency has failed to implement and maintain a
13 department-approved client grievance resolution procedure.

14 (3) Prepare and submit the state plan as required by
15 the United States Administration on Aging, ~~to the Governor,~~
16 ~~each Cabinet member, the President of the Senate, the Speaker~~
17 ~~of the House of Representatives, the minority leaders of the~~
18 ~~House and Senate, and chairpersons of appropriate House and~~
19 ~~Senate committees a master plan for policies and programs in~~
20 ~~the state related to aging. The plan must identify and assess~~
21 ~~the needs of the elderly population in the areas of housing,~~
22 ~~employment, education and training, medical care, long-term~~
23 ~~care, preventive care, protective services, social services,~~
24 ~~mental health, transportation, and long-term care insurance,~~
25 ~~and other areas considered appropriate by the department. The~~
26 ~~plan must assess the needs of particular subgroups of the~~
27 ~~population and evaluate the capacity of existing programs,~~
28 ~~both public and private and in state and local agencies, to~~
29 ~~respond effectively to identified needs. If the plan~~
30 ~~recommends the transfer of any program or service from the~~
31 ~~Department of Children and Family Services to another state~~

1 ~~department, the plan must also include recommendations that~~
2 ~~provide for an independent third-party mechanism, as currently~~
3 ~~exists in the Florida advocacy councils established in ss.~~
4 ~~402.165 and 402.166, for protecting the constitutional and~~
5 ~~human rights of recipients of departmental services. The plan~~
6 ~~must include policy goals and program strategies designed to~~
7 ~~respond efficiently to current and projected needs. The plan~~
8 ~~must also include policy goals and program strategies to~~
9 ~~promote intergenerational relationships and activities.~~
10 ~~Public hearings and other appropriate processes shall be~~
11 ~~utilized by the department to solicit input for the~~
12 ~~development and updating of the master plan from parties~~
13 ~~including, but not limited to, the following:~~

14 ~~(a) Elderly citizens and their families and~~
15 ~~caregivers.~~

16 ~~(b) Local-level public and private service providers,~~
17 ~~advocacy organizations, and other organizations relating to~~
18 ~~the elderly.~~

19 ~~(c) Local governments.~~

20 ~~(d) All state agencies that provide services to the~~
21 ~~elderly.~~

22 ~~(e) University centers on aging.~~

23 ~~(f) Area agency on aging and community care for the~~
24 ~~elderly lead agencies.~~

25 (4) Serve as an information clearinghouse at the state
26 level, and assist local-level information and referral
27 resources as a repository and means for dissemination of
28 information regarding all federal, state, and local resources
29 for assistance to the elderly in the areas of, but not limited
30 to, health, social welfare, long-term care, protective
31 services, consumer protection, education and training,

1 housing, employment, recreation, transportation, insurance,
2 and retirement.

3 ~~(5) Recommend guidelines for the development of roles~~
4 ~~for state agencies that provide services for the aging, review~~
5 ~~plans of agencies that provide such services, and relay these~~
6 ~~plans to the Governor, each Cabinet member, the President of~~
7 ~~the Senate, the Speaker of the House of Representatives, the~~
8 ~~minority leaders of the House and Senate, and chairpersons of~~
9 ~~appropriate House and Senate committees.~~

10 ~~(6) Recommend to the Governor, each Cabinet member,~~
11 ~~the President of the Senate, the Speaker of the House of~~
12 ~~Representatives, the minority leaders of the House and Senate,~~
13 ~~and chairpersons of appropriate House and Senate committees an~~
14 ~~organizational framework for the planning, coordination,~~
15 ~~implementation, and evaluation of programs related to aging,~~
16 ~~with the purpose of expanding and improving programs and~~
17 ~~opportunities available to the state's elderly population and~~
18 ~~enhancing a continuum of long-term care. This framework must~~
19 ~~assure that:~~

20 ~~(a) Performance objectives are established.~~

21 ~~(b) Program reviews are conducted statewide.~~

22 ~~(c) Each major program related to aging is reviewed~~
23 ~~every 3 years.~~

24 ~~(d) Agency budget requests reflect the results and~~
25 ~~recommendations of such program reviews.~~

26 ~~(e) Program decisions lead to the distinctive roles~~
27 ~~established for state agencies that provide aging services.~~

28 ~~(7) Advise the Governor, each Cabinet member, the~~
29 ~~President of the Senate, the Speaker of the House of~~
30 ~~Representatives, the minority leaders of the House and Senate,~~
31 ~~and the chairpersons of appropriate House and Senate~~

1 ~~committees regarding the need for and location of programs~~
2 ~~related to aging.~~

3 ~~(8) Review and coordinate aging research plans of all~~
4 ~~state agencies to ensure the conformance of research~~
5 ~~objectives to issues and needs addressed in the master plan~~
6 ~~for policies and programs related to aging. The research~~
7 ~~activities that must be reviewed and coordinated by the~~
8 ~~department include, but are not limited to, contracts with~~
9 ~~academic institutions, development of educational and training~~
10 ~~curriculums, Alzheimer's disease and other medical research,~~
11 ~~studies of long-term care and other personal assistance needs,~~
12 ~~and design of adaptive or modified living environments.~~

13 ~~(9) Review budget requests for programs related to~~
14 ~~aging for compliance with the master plan for policies and~~
15 ~~programs related to aging before submission to the Governor~~
16 ~~and the Legislature.~~

17 ~~(10) Update the master plan for policies and programs~~
18 ~~related to aging every 3 years.~~

19 ~~(11) Review implementation of the master plan for~~
20 ~~programs and policies related to aging and annually report to~~
21 ~~the Governor, each Cabinet member, the President of the~~
22 ~~Senate, the Speaker of the House of Representatives, the~~
23 ~~minority leaders of the House and Senate, and the chairpersons~~
24 ~~of appropriate House and Senate committees the progress~~
25 ~~towards implementation of the plan.~~

26 ~~(12) Request other departments that administer~~
27 ~~programs affecting the state's elderly population to amend~~
28 ~~their plans, rules, policies, and research objectives as~~
29 ~~necessary to conform with the master plan for policies and~~
30 ~~programs related to aging.~~

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1 ~~(5)(13)~~ Hold public meetings regularly throughout the
2 state for purposes of receiving information and maximizing the
3 visibility of important issues.

4 ~~(6)(14)~~ Conduct policy analysis and program evaluation
5 studies assigned by the Legislature.

6 ~~(7)(15)~~ Assist the Governor, each Cabinet member, the
7 President of the Senate, the Speaker of the House of
8 Representatives, the minority leaders of the House and Senate,
9 and the chairpersons of appropriate House and Senate
10 committees in the conduct of their responsibilities in such
11 capacities as they consider appropriate.

12 ~~(8)(16)~~ Call upon appropriate agencies of state
13 government for such assistance as is needed in the discharge
14 of its duties. All agencies shall cooperate in assisting the
15 department in carrying out its responsibilities as prescribed
16 by this section. However, no provision of law with respect to
17 confidentiality of information may be violated.

18 Section 8. Section 430.041, Florida Statutes, is
19 created to read:

20 430.041 Office of Long-Term-Care Policy.--

21 (1) There is established in the Department of Elderly
22 Affairs the Office of Long-Term-Care Policy to analyze the
23 state's long-term-care system and increase the availability
24 and the use of noninstitutional settings to provide care to
25 the elderly and to ensure coordination among the agencies
26 responsible for the long-term-care continuum. The Department
27 of Elderly Affairs shall provide administrative support and
28 service to the Office of Long-Term-Care Policy. The Office is
29 not subject to control, supervision, or direction by the
30 Department of Elderly Affairs in the performance of its
31 duties.

- 1 (2) The Office of Long-Term-Care Policy shall:
2 (a) Ensure close communication and coordination among
3 state agencies involved in developing and administering a more
4 efficient and coordinated long-term-care service delivery
5 system in this state;
6 (b) Ensure that state agencies involved in developing
7 long-term-care policy have considered the preferences of
8 consumers, providers, and local elected officials;
9 (c) Study and plan for programs to meet identified and
10 projected needs of people who need long-term care;
11 (d) Develop a State Long-Term Care Plan and policy
12 recommendations to ensure that appropriate long-term care is
13 available in institutional and community-based settings;
14 (e) Update the State Long-Term-Care Plan every 3
15 years;
16 (f) Recommend state and local organizational models
17 for the planning, coordination, implementation, and evaluation
18 of programs serving people with long-term-care needs;
19 (g) Make recommendations to agencies for budget
20 requests for long-term-care programs to ensure consistency
21 with the State Long-Term-Care Plan;
22 (h) Develop and recommend strategies for ensuring
23 compliance with all federal requirements regarding access to
24 and choice of services and providers;
25 (i) Identify duplication and unnecessary service
26 provision in the long-term-care system and make
27 recommendations to decrease inappropriate service provision;
28 (j) Make recommendations to increase consistency in
29 administering the state's long-term-care programs;
30 (k) Ensure regular periodic evaluations of all
31 programs providing long-term-care services to determine

1 whether the programs are cost-effective, of high quality,
2 operating efficiently, and consistent with state policy;

3 (l) Monitor characteristics of people applying for and
4 entering institutional and community-based long-term care, and
5 changes to these characteristics over time, to determine the
6 reasons and causes for changing levels of state expenditures
7 and to determine services that the state's system of
8 community-based care could provide to lessen the need for
9 facility-based care;

10 (m) Recommend changes to the preadmission screening
11 system of state nursing homes to ensure that individuals in
12 need of long-term care are served in settings most appropriate
13 to their needs;

14 (n) Recommend mechanisms to encourage families and
15 other caregivers to assist people in need of long-term-care
16 services to remain as independent as possible;

17 (o) Analyze waiting lists for long-term-care services
18 and recommend strategies to reduce the time applicants wait
19 for services; and

20 (p) Oversee research on aging which is conducted or
21 funded by any state agency to ensure that such research is
22 coordinated and directed to fulfill the intent and purposes of
23 this act.

24 (3) The director of the Office of Long-Term-Care
25 Policy shall be appointed by and serve at the pleasure of the
26 Governor. The director of the Office of Long-Term-Care Policy
27 shall report to the Governor.

28 (4) The Office of Long-Term-Care Policy shall have an
29 advisory board, whose chair is to be selected by the board.
30 The board shall consist of:

31

1 (a) A member of the Senate, appointed by the President
2 of the Senate;

3 (b) A member of the House of Representatives,
4 appointed by the Speaker of the House of Representatives;

5 (c) The Secretary of Health Care Administration;

6 (d) The Secretary of Elderly Affairs;

7 (e) The state Medicaid Director;

8 (f) Two representatives of providers of long-term-care
9 services for elderly persons, appointed by the Governor; and

10 (g) Two representatives of people using long-term-care
11 services, appointed by the Governor from groups representing
12 elderly persons.

13 (5) Members of the advisory board shall serve without
14 compensation, but are entitled to receive reimbursement for
15 travel and per diem as provided in s. 112.061.

16 (6) The advisory board shall meet at least monthly or
17 more often at the call of its chair or at the request of a
18 majority of its members.

19 (7) The office shall submit a report of its policy,
20 legislative, and funding recommendations to the Governor and
21 the Legislature by January 1 of each year.

22 (8) Personnel who are solely under the direction of
23 the Office of Long-Term-Care Policy shall be provided by the
24 Agency for Health Care Administration and the Department of
25 Elderly Affairs. The office shall call upon appropriate
26 agencies of state government, including the centers on aging
27 in the State University System, for assistance needed in
28 discharging its duties. All agencies shall assist the office
29 in carrying out its responsibilities prescribed by this
30 section.

31

1 Section 9. Section 430.7031, Florida Statutes, is
2 created to read:

3 430.7031 Nursing home transition program.--The
4 department and the Agency for Health Care Administration:

5 (1) Shall implement a system of care designed to
6 assist individuals residing in nursing homes to regain
7 independence and to move to less-costly settings.

8 (2) Shall collaboratively work to identify long-stay
9 nursing home residents who are able to move to community
10 placements, and to provide case management and supportive
11 services to such individuals while they are in nursing homes
12 to assist such individuals in moving to less-expensive and
13 less-restrictive settings.

14 (3) Shall modify existing service delivery systems or
15 develop new service delivery systems to economically and
16 efficiently meet such individuals' care needs.

17 (4) Shall offer such individuals priority placement
18 and services in all home-based and community-based care
19 programs, and shall ensure that funds are available to provide
20 services to individuals to whom services are offered.

21 (5) May seek federal waivers necessary to administer
22 this section.

23 Section 10. Subsection (4) of section 409.908, Florida
24 Statutes, is amended to read:

25 409.908 Reimbursement of Medicaid providers.--Subject
26 to specific appropriations, the agency shall reimburse
27 Medicaid providers, in accordance with state and federal law,
28 according to methodologies set forth in the rules of the
29 agency and in policy manuals and handbooks incorporated by
30 reference therein. These methodologies may include fee
31 schedules, reimbursement methods based on cost reporting,

1 negotiated fees, competitive bidding pursuant to s. 287.057,
2 and other mechanisms the agency considers efficient and
3 effective for purchasing services or goods on behalf of
4 recipients. Payment for Medicaid compensable services made on
5 behalf of Medicaid eligible persons is subject to the
6 availability of moneys and any limitations or directions
7 provided for in the General Appropriations Act or chapter 216.
8 Further, nothing in this section shall be construed to prevent
9 or limit the agency from adjusting fees, reimbursement rates,
10 lengths of stay, number of visits, or number of services, or
11 making any other adjustments necessary to comply with the
12 availability of moneys and any limitations or directions
13 provided for in the General Appropriations Act, provided the
14 adjustment is consistent with legislative intent.

15 (4) Subject to any limitations or directions provided
16 for in the General Appropriations Act, alternative health
17 plans, health maintenance organizations, and prepaid health
18 plans shall be reimbursed a fixed, prepaid amount negotiated,
19 or competitively bid pursuant to s. 287.057, by the agency and
20 prospectively paid to the provider monthly for each Medicaid
21 recipient enrolled. The amount may not exceed the average
22 amount the agency determines it would have paid, based on
23 claims experience, for recipients in the same or similar
24 category of eligibility. The agency shall calculate
25 capitation rates on a regional basis and, beginning September
26 1, 1995, shall include age-band differentials in such
27 calculations. Effective July 1, 2001, the cost of exempting
28 statutory teaching hospitals, specialty hospitals, and
29 community hospital education program hospitals from
30 reimbursement ceilings and the cost of special Medicaid
31 payments shall not be included in premiums paid to health

1 maintenance organizations or prepaid health care plans. Each
2 rate semester, the agency shall calculate and publish a
3 Medicaid hospital rate schedule that does not reflect either
4 special Medicaid payments or the elimination of rate
5 reimbursement ceilings, to be used by hospitals and Medicaid
6 health maintenance organizations, in order to determine the
7 Medicaid rate referred to in ss. 409.912(17)~~409.912(16)~~,
8 409.9128(5), and 641.513(6).

9 Section 11. Section 430.708, Florida Statutes, is
10 amended to read:

11 430.708 Certificate of need.--To ensure that Medicaid
12 community diversion pilot projects result in a reduction in
13 the projected average monthly nursing home caseload, the
14 agency shall, in accordance with the provisions of s.
15 408.034(5)~~s. 408.034(4)~~:

16 (1) Reduce the projected nursing home bed need in each
17 certificate-of-need batching cycle in the community diversion
18 pilot project areas.

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

22 (3) Adopt rules to reduce the number of beds in
23 Medicaid-participating nursing homes eligible for Medicaid,
24 through a Medicaid-selective contracting process or some other
25 appropriate method.

26 (4) Determine the feasibility of increasing the
27 nursing home occupancy threshold used in determining nursing
28 home bed needs under the certificate-of-need process.

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

31

1 641.386 Agent licensing and appointment required;
2 exceptions.--

3 (4) All agents and health maintenance organizations
4 shall comply with and be subject to the applicable provisions
5 of ss. 641.309 and 409.912(19)~~409.912(18)~~, and all companies
6 and entities appointing agents shall comply with s. 626.451,
7 when marketing for any health maintenance organization
8 licensed pursuant to this part, including those organizations
9 under contract with the Agency for Health Care Administration
10 to provide health care services to Medicaid recipients or any
11 private entity providing health care services to Medicaid
12 recipients pursuant to a prepaid health plan contract with the
13 Agency for Health Care Administration.

14 Section 13. This act shall take effect July 1, 2002.

15
16 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
17 COMMITTEE SUBSTITUTE FOR
18 Senate Bill 1838

19 CS/SB 1838 specifies that the consumer directed care program
20 is to be implemented upon federal approval of waivers or
21 waiver amendments; allows consumers to receive services in an
22 assisted living facility; adds findings regarding the need for
23 a more comprehensive strategy to meet the needs of an
24 increasingly elderly population; requires the Agency for
25 Health Care Administration, in consultation with the
26 Department of Elderly Affairs, to develop a plan to reduce the
27 number of Medicaid-funded nursing home days; establishes an
28 Office of Long-Term Care Policy within the Department of
29 Elderly Affairs; delineates the duties of the office;
30 establishes an advisory board for the office; modifies the
31 agency's duties with respect to the certificate-of-need
program to require that prior to issuing certificates of need
to construct additional nursing homes, the agency must
determine that such need cannot be met through enhanced home
and community-based services; establishes statutory
requirements for the Comprehensive Assessment and Review
(CARES) nursing home pre-admission screening program; revises
the purposes and duties of the Department of Elderly Affairs
to reflect creation of the Office of Long-Term Care Policy;
and requires the department and agency to implement a program
to assist individuals residing in nursing homes to move to
less restrictive settings.