

1 A bill to be entitled
2 An act relating to long-term care; amending s.
3 20.41, F.S.; providing for administration of
4 the State Long-Term Care Ombudsman Council by
5 the Department of Elderly Affairs; amending s.
6 400.0063, F.S.; locating the Office of the
7 State Long-Term Care Ombudsman in the
8 department; providing for appointment of the
9 ombudsman by the Secretary of Elderly Affairs;
10 amending s. 400.0065, F.S.; requiring the
11 secretary's approval of staff for the local
12 ombudsman councils; deleting requirement that
13 the ombudsman prepare an annual legislative
14 budget request; revising rulemaking authority;
15 amending s. 400.0067, F.S.; revising duties of
16 the State Long-Term Care Ombudsman Council;
17 providing duties of the department and
18 secretary; amending s. 400.0071, F.S.; revising
19 procedures relating to complaints; amending s.
20 400.0087, F.S.; revising provisions relating to
21 agency oversight; amending s. 400.0089, F.S.;
22 revising reporting responsibilities; repealing
23 s. 400.0066(2) and (3), F.S., relating to
24 administrative support for the ombudsman
25 program and interference with ombudsman staff
26 or volunteers; creating s. 409.221, F.S.;
27 creating the "Florida Consumer-Directed Care
28 Act"; providing legislative findings; providing
29 legislative intent; establishing the
30 consumer-directed care program; providing for
31 consumer selection of certain long-term care

1 services and providers; providing for
2 interagency agreements between the Agency for
3 Health Care Administration and the Department
4 of Elderly Affairs, the Department of Health,
5 and the Department of Children and Family
6 Services; providing for program eligibility and
7 enrollment; providing definitions; providing
8 for consumer budget allowances and purchasing
9 guidelines; specifying authorized services;
10 providing roles and responsibilities of
11 consumers, the agency and departments, and
12 fiduciary intermediaries; providing background
13 screening requirements for persons who render
14 care under the program; providing rulemaking
15 authority of the agency and departments;
16 requiring the agency to apply for federal
17 waivers as necessary; requiring ongoing program
18 reviews and annual reports; requiring the
19 Agency for Health Care Administration and the
20 Department of Elderly Affairs to submit a plan
21 to the Governor and Legislature for reducing
22 nursing home bed days funded under the Medicaid
23 program; amending s. 400.179, F.S.; providing
24 an exception from a bond requirement for
25 certain mortgage arrangements; amending s.
26 408.034, F.S.; providing additional
27 requirements for the Agency for Health Care
28 Administration in determining the need for
29 additional nursing facility beds; amending s.
30 409.912, F.S.; requiring the Agency for Health
31 Care Administration to establish a nursing

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

1 creating s. 430.7031, F.S.; requiring the
2 Department of Elderly Affairs and the Agency
3 for Health Care Administration to implement a
4 nursing home transition program; providing
5 requirements for the program; amending ss.
6 409.908, 430.708, and 641.386, F.S., relating
7 to reimbursement of Medicaid providers,
8 certificates of need, and agent licensing and
9 appointment; conforming cross references to
10 changes made by the act; amending s. 627.9408,
11 F.S.; authorizing the department to adopt by
12 rule certain provisions of the Long-Term Care
13 Insurance Model Regulation, as adopted by the
14 National Association of Insurance
15 Commissioners; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsection (4) of section 20.41, Florida
20 Statutes, is amended to read:

21 20.41 Department of Elderly Affairs.--There is created
22 a Department of Elderly Affairs.

23 (4) The department shall administer ~~administratively~~
24 ~~house~~ the State Long-Term Care Ombudsman Council, created by
25 s. 400.0067, and the local long-term care ombudsman councils,
26 created by s. 400.0069 and shall, as required by s. 712 of the
27 federal Older Americans Act of 1965, ensure that both the
28 state and local long-term care ombudsman councils operate in
29 compliance with the Older Americans Act. ~~The councils in~~
30 ~~performance of their duties shall not be subject to control,~~
31 ~~supervision, or direction by the department.~~

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

4 400.0063 Establishment of Office of State Long-Term
5 Care Ombudsman; designation of ombudsman and legal advocate.--

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

9 (2)

10 (b) The State Long-Term Care Ombudsman shall be
11 appointed by and shall serve at the pleasure of the Secretary
12 of Elderly Affairs ~~State Long-Term Care Ombudsman Council~~. No
13 person who has a conflict of interest, or has an immediate
14 family member who has a conflict of interest, may be involved
15 in the designation of the ombudsman.

16 Section 3. Paragraphs (c) and (f) of subsection (2)
17 and subsection (3) of section 400.0065, Florida Statutes, are
18 amended to read:

19 400.0065 State Long-Term Care Ombudsman; duties and
20 responsibilities; conflict of interest.--

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

23 (c) Within the limits of federal and state funding
24 authorized and appropriated, employ such personnel, including
25 staff for local ombudsman councils, as are necessary to
26 perform adequately the functions of the office and provide or
27 contract for legal services to assist the state and local
28 ombudsman councils in the performance of their duties. Staff
29 positions for each local ombudsman council may be established
30 as career service positions, and shall be filled by the
31

1 ombudsman after approval by the secretary ~~consultation with~~
2 ~~the respective local ombudsman council.~~

3 ~~(f) Annually prepare a budget request that shall be~~
4 ~~submitted to the Governor by the department for transmittal to~~
5 ~~the Legislature.~~

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

7 (a) Have a direct involvement in the licensing or
8 certification of, or an ownership or investment interest in, a
9 long-term care facility or a provider of a long-term care
10 service.

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

13 (c) Receive, or have a right to receive, directly or
14 indirectly, remuneration, in cash or in kind, under a
15 compensation agreement with the owner or operator of a
16 long-term care facility.

17
18 The Department of Elderly Affairs, ~~in consultation with the~~
19 ~~ombudsman,~~ shall adopt rules to establish procedures to
20 identify and eliminate conflicts of interest as described in
21 this subsection.

22 Section 4. Paragraphs (c), (d), (f), and (g) of
23 subsection (2) and paragraph (b) of subsection (3) of section
24 400.0067, Florida Statutes, are amended to read:

25 400.0067 Establishment of State Long-Term Care
26 Ombudsman Council; duties; membership.--

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

28 (c) Assist the ombudsman to discover, investigate, and
29 determine the existence of abuse or neglect in any long-term
30 care facility, ~~and to develop procedures, in consultation with~~
31 The Department of Elderly Affairs shall develop procedures,

1 relating to such investigations. Investigations may consist,
2 in part, of one or more onsite administrative inspections.

3 (d) Assist the ombudsman in eliciting, receiving,
4 responding to, and resolving complaints made by or on behalf
5 of long-term care facility residents and in developing
6 procedures, ~~in consultation with the Department of Elderly~~
7 ~~Affairs,~~ relating to the receipt and resolution of such
8 complaints. The secretary shall approve all such procedures.

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

14 (f)(g) Prepare an annual report describing the
15 activities carried out by the ombudsman and the State
16 Long-Term Care Ombudsman Council in the year for which the
17 report is prepared. The State Long-Term Care Ombudsman
18 Council shall submit the report to the Secretary of Elderly
19 Affairs. The secretary shall in turn submit the report to the
20 Commissioner of the United States Administration on Aging, the
21 Governor, the President of the Senate, the Speaker of the
22 House of Representatives, the minority leaders of the House
23 and Senate, the chairpersons of appropriate House and Senate
24 committees, the Secretary of ~~Secretaries of Elderly Affairs~~
25 ~~and~~ Children and Family Services, and the Secretary of Health
26 Care Administration. The report shall be submitted by the
27 Secretary of Elderly Affairs at least 30 days before the
28 convening of the regular session of the Legislature and shall,
29 at a minimum:

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

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

3 3. Contain recommendations for improving the quality
4 of life of the residents and for protecting the health,
5 safety, welfare, and rights of the residents.

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

16 5. Provide policy and regulatory and legislative
17 recommendations to solve identified problems; resolve
18 residents' complaints; improve the quality of care and life of
19 the residents; protect the health, safety, welfare, and rights
20 of the residents; and remove the barriers to the optimal
21 operation of the state long-term care ombudsman program.

22 6. Contain recommendations from the local ombudsman
23 councils regarding program functions and activities.

24 7. Include a report on the activities of the legal
25 advocate and other legal advocates acting on behalf of the
26 local and state councils.

27 (3)

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

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

4 3. If the Governor's appointments are not made within
5 60 days after the ombudsman submits the list, the ombudsman,
6 in consultation with the secretary ~~State Long-Term Care~~
7 ~~Ombudsman Council~~, shall appoint three members, one of whom
8 must be over 60 years of age.

9 Section 5. Subsection (1) of section 400.0071, Florida
10 Statutes, is amended to read:

11 400.0071 Complaint procedures.--

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

18 Section 6. Subsections (1) and (2) of section
19 400.0087, Florida Statutes, are amended to read:

20 400.0087 Agency oversight.--

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

28 (2) The department is responsible for ensuring that
29 the Office of State Long-Term Care Ombudsman ~~prepares its~~
30 ~~annual report~~; provides information to public and private
31 agencies, legislators, and others; provides appropriate

1 training to representatives of the office or of the state or
2 local long-term care ombudsman councils; and coordinates
3 ombudsman services with the Advocacy Center for Persons with
4 Disabilities and with providers of legal services to residents
5 of long-term care facilities in compliance with state and
6 federal laws.

7 Section 7. Section 400.0089, Florida Statutes, is
8 amended to read:

9 400.0089 Agency reports.--~~The State Long-Term Care~~
10 ~~Ombudsman Council, shall, in cooperation with the~~ Department
11 of Elderly Affairs shall, maintain a statewide uniform
12 reporting system to collect and analyze data relating to
13 complaints and conditions in long-term care facilities and to
14 residents, for the purpose of identifying and resolving
15 significant problems. The State Long-Term Care Ombudsman
16 Council shall submit such data as part of its annual report
17 required pursuant to s. 400.0067(2)(g) to the Agency for
18 Health Care Administration, the Department of Children and
19 Family Services, the Florida Statewide Advocacy Council, the
20 Advocacy Center for Persons with Disabilities, the
21 Commissioner for the United States Administration on Aging,
22 the National Ombudsman Resource Center, and any other state or
23 federal entities that the ombudsman determines appropriate.

24 Section 8. Subsections (2) and (3) of section
25 400.0066, Florida Statutes, are repealed.

26 Section 9. Section 409.221, Florida Statutes, is
27 created to read:

28 409.221 Consumer-directed care program.--

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

31

1 (2) LEGISLATIVE FINDINGS.--The Legislature finds that
2 alternatives to institutional care, such as in-home and
3 community-based care, should be encouraged. The Legislature
4 finds that giving recipients of in-home and community-based
5 services the opportunity to select the services they need and
6 the providers they want, including family and friends,
7 enhances their sense of dignity and autonomy. The Legislature
8 also finds that providing consumers choice and control, as
9 tested in current research and demonstration projects, has
10 been beneficial and should be developed further and
11 implemented statewide.

12 (3) LEGISLATIVE INTENT.--It is the intent of the
13 Legislature to nurture the autonomy of those citizens of the
14 state, of all ages, who have disabilities by providing the
15 long-term care services they need in the least restrictive,
16 appropriate setting. It is the intent of the Legislature to
17 give such individuals more choices in and greater control over
18 the purchased long-term care services they receive.

19 (4) CONSUMER-DIRECTED CARE.--

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

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

6 (c) Definitions.--For purposes of this section, the
7 term:

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

12 2. "Consultant" means an individual who provides
13 technical assistance to consumers in meeting their
14 responsibilities under this section.

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

18 4. "Fiscal intermediary" means an entity approved by
19 the agency that helps the consumer manage the consumer's
20 budget allowance, retains the funds, processes employment
21 information, if any, and tax information, reviews records to
22 ensure correctness, writes paychecks to providers, and
23 delivers paychecks to the consumer for distribution to
24 providers and caregivers.

25 5. "Provider" means:

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

29 b. A consumer-employed caregiver for whom the consumer
30 is the employer of record.

31

1 6. "Representative" means an uncompensated individual
2 designated by the consumer to assist in managing the
3 consumer's budget allowance and needed services.

4 (d) Budget allowances.--Consumers enrolled in the
5 program shall be given a monthly budget allowance based on the
6 results of their assessed functional needs and the financial
7 resources of the program. Consumers shall receive the budget
8 allowance directly from an agency-approved fiscal
9 intermediary. Each department shall develop purchasing
10 guidelines, approved by the agency, to assist consumers in
11 using the budget allowance to purchase needed, cost-effective
12 services.

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

18 1. Personal care.

19 2. Homemaking and chores, including housework, meals,
20 shopping, and transportation.

21 3. Home modifications and assistive devices which may
22 increase the consumer's independence or make it possible to
23 avoid institutional placement.

24 4. Assistance in taking self-administered medication.

25 5. Day care and respite care services, including those
26 provided by nursing home facilities pursuant to s. 400.141(6)
27 or by adult day care facilities licensed pursuant to s.
28 400.554.

29 6. Personal care and support services provided in an
30 assisted living facility.

31

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

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

8 a. Developing a job description.

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

11 c. Communicating needs, preferences, and expectations
12 about services being purchased.

13 d. Providing the fiscal intermediary with all
14 information necessary for provider payments and tax
15 requirements.

16 e. Ending the employment of an unsatisfactory
17 caregiver.

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

21 a. Communicating needs, preferences, and expectations
22 about services being purchased.

23 b. Ending the services of an unsatisfactory provider.

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

26 (g) Agency and departments roles and
27 responsibilities.--The agency's and the departments' roles and
28 responsibilities include, but are not limited to, the
29 following:

1 1. Assessing each consumer's functional needs, helping
2 with the service plan, and providing ongoing assistance with
3 the service plan.

4 2. Offering the services of consultants who shall
5 provide training, technical assistance, and support to the
6 consumer.

7 3. Completing the background screening for providers.

8 4. Approving fiscal intermediaries.

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

12 (h) Fiscal intermediary roles and
13 responsibilities.--The fiscal intermediary's roles and
14 responsibilities include, but are not limited to, the
15 following:

16 1. Providing recordkeeping services.

17 2. Retaining the consumer-directed care funds,
18 processing employment and tax information, reviewing records
19 to ensure correctness, writing paychecks to providers, and
20 delivering paychecks to the consumer for distribution.

21 (i) Background screening requirements.--All persons
22 who render care under this section shall comply with the
23 requirements of s. 435.05. Persons shall be excluded from
24 employment pursuant to s. 435.06.

25 1. Persons excluded from employment may request an
26 exemption from disqualification, as provided in s. 435.07.
27 Persons not subject to certification or professional licensure
28 may request an exemption from the agency. In considering a
29 request for an exemption, the agency shall comply with the
30 provisions of s. 435.07.

31

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

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

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

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

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

21 Section 10. (1) Prior to December 1, 2002, the Agency
22 for Health Care Administration in consultation with the
23 Department of Elderly Affairs shall submit to the Governor,
24 the President of the Senate, and the Speaker of the House of
25 Representatives a plan to reduce the number of nursing home
26 bed days purchased by the state Medicaid program and to
27 replace such nursing home care with care provided in less
28 costly alternative settings.

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

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 11. Paragraph (d) of subsection (5) of section
5 400.179, Florida Statutes, is amended to read:

6 400.179 Sale or transfer of ownership of a nursing
7 facility; liability for Medicaid underpayments and
8 overpayments.--

9 (5) Because any transfer of a nursing facility may
10 expose the fact that Medicaid may have underpaid or overpaid
11 the transferor, and because in most instances, any such
12 underpayment or overpayment can only be determined following a
13 formal field audit, the liabilities for any such underpayments
14 or overpayments shall be as follows:

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

17 1. The transferee shall, as a condition to being
18 issued a license by the agency, acquire, maintain, and provide
19 proof to the agency of a bond with a term of 30 months,
20 renewable annually, in an amount not less than the total of 3
21 months Medicaid payments to the facility computed on the basis
22 of the preceding 12-month average Medicaid payments to the
23 facility.

24 2. The leasehold operator may meet the bond
25 requirement through other arrangements acceptable to the
26 department.

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

1 4. It shall be the responsibility of all nursing
2 facility operators, operating the facility as a leasehold, to
3 renew the 30-month bond and to provide proof of such renewal
4 to the agency annually at the time of application for license
5 renewal.

6 5. Any failure of the nursing facility operator to
7 acquire, maintain, renew annually, or provide proof to the
8 agency shall be grounds for the agency to deny, cancel,
9 revoke, or suspend the facility license to operate such
10 facility and to take any further action, including, but not
11 limited to, enjoining the facility, asserting a moratorium, or
12 applying for a receiver, deemed necessary to ensure compliance
13 with this section and to safeguard and protect the health,
14 safety, and welfare of the facility's residents.

15
16 However, notwithstanding any provision of this section to the
17 contrary, a lease agreement required as a condition of bond
18 financing or refinancing under s. 154.213 by a health
19 facilities authority or under s. 159.30 by a county or
20 municipality is not considered to be a leasehold and,
21 therefore, is not subject to the bond requirements of this
22 paragraph.

23 Section 12. Section 408.034, Florida Statutes, is
24 amended to read:

25 408.034 Duties and responsibilities of agency;
26 rules.--

27 (1) The agency is designated as the single state
28 agency to issue, revoke, or deny certificates of need and to
29 issue, revoke, or deny exemptions from certificate-of-need
30 review in accordance with the district plans and present and
31 future federal and state statutes. The agency is designated

1 as the state health planning agency for purposes of federal
2 law.

3 (2) In the exercise of its authority to issue licenses
4 to health care facilities and health service providers, as
5 provided under chapters 393, 395, and parts II and VI of
6 chapter 400, the agency may not issue a license to any health
7 care facility, health service provider, hospice, or part of a
8 health care facility which fails to receive a certificate of
9 need or an exemption for the licensed facility or service.

10 (3) The agency shall establish, by rule, uniform need
11 methodologies for health services and health facilities. In
12 developing uniform need methodologies, the agency shall, at a
13 minimum, consider the demographic characteristics of the
14 population, the health status of the population, service use
15 patterns, standards and trends, geographic accessibility, and
16 market economics.

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

31

1 ~~(5)~~(4) The agency shall establish by rule a
2 nursing-home-bed-need methodology that reduces the community
3 nursing home bed need for the areas of the state where the
4 agency establishes pilot community diversion programs through
5 the Title XIX aging waiver program.

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

8 Section 13. Present subsections (13) through (39) of
9 section 409.912, Florida Statutes, are renumbered as
10 subsections (14) through (40), respectively, and subsection
11 (13) is added to said section, to read:

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

1 Committee of its decisions regarding drugs subject to prior
2 authorization.

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 may operate the CARES program using its
15 own staff or may contract with another state agency or other
16 provider. If the agency contracts for the operation of the
17 program, the agency must maintain policy control of all
18 operations of the program, including the criteria applied and
19 forms used, and perform regular monitoring to ensure effective
20 and efficient operation of the program and ensure that the
21 operation of the program is consistent with state and federal
22 law and rules.

23 (c) The agency shall develop performance standards for
24 the CARES program.

25 (d) Prior to making payment for nursing facility
26 services for a Medicaid recipient, the agency must verify that
27 the nursing facility preadmission screening program has
28 determined that the individual requires nursing facility care
29 and that the individual cannot be safely served in
30 community-based programs. The nursing facility preadmission
31 screening program shall refer a Medicaid recipient to a

1 community-based program if the individual could be safely
2 served at a lower cost and the recipient chooses to
3 participate in such program.

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

8 1. Rate of diversion to community alternative
9 programs.

10 2. CARES program staffing needs to achieve additional
11 diversions.

12 3. Reasons the program is unable to place individuals
13 in less restrictive settings when such individuals desired
14 such services and could have been served in such settings.

15 4. Barriers to appropriate placement, including
16 barriers due to policies or operations of other agencies or
17 state-funded programs.

18 5. Statutory changes necessary to ensure that
19 individuals in need of long-term care services receive care in
20 the least restrictive environment.

21 Section 14. Section 430.03, Florida Statutes, is
22 amended to read:

23 430.03 Purposes.--The purposes of the Department of
24 Elderly Affairs are to:

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

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

30 (3) Study and plan for programs and services to meet
31 identified and projected needs and to provide opportunities

1 for personal development and achievement of persons aged 60
2 years and older.

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

6 ~~(5) Coordinate interdepartmental policy development~~
7 ~~and program planning for all state agencies that provide~~
8 ~~services for the elderly population in order to prevent~~
9 ~~duplicative efforts, to maximize utilization of resources, and~~
10 ~~to ensure cooperation, communication, and departmental~~
11 ~~linkages.~~

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

15 (5)~~(7)~~ Oversee implementation of federally funded and
16 state-funded programs and services for the state's elderly
17 population.

18 (6)~~(8)~~ Recommend legislative budget requests for
19 programs and services for the state's elderly population.

20 (7)~~(9)~~ Serve as a state-level information
21 clearinghouse and encourage the development of local-level
22 identifiable points of information and referral regarding all
23 federal, state, and local resources of assistance to elderly
24 citizens.

25 (8)~~(10)~~ Assist elderly persons to secure needed
26 services in accordance with personal choice and in a manner
27 that achieves or maintains autonomy and prevents, reduces, or
28 eliminates dependency.

29 (9)~~(11)~~ Promote the maintenance and improvement of the
30 physical well-being and mental health of elderly persons.

31

1 (10)~~(12)~~ Promote opportunities for volunteerism among
2 the elderly population.

3 (11)~~(13)~~ Promote the prevention of neglect, abuse, or
4 exploitation of elderly persons unable to protect their own
5 interests.

6 (12)~~(14)~~ Eliminate and prevent inappropriate
7 institutionalization of elderly persons by promoting
8 community-based care, home-based care, or other forms of less
9 intensive care.

10 (13)~~(15)~~ Aid in the support of families and other
11 caregivers of elderly persons.

12 (14)~~(16)~~ Promote intergenerational relationships.

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

16 Section 15. Section 430.04, Florida Statutes, is
17 amended to read:

18 430.04 Duties and responsibilities of the Department
19 of Elderly Affairs.--The Department of Elderly Affairs shall:

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

24 (2) Be responsible for ensuring that each area agency
25 on aging operates in a manner to ensure that the elderly of
26 this state receive the best services possible. The department
27 shall rescind designation of an area agency on aging or take
28 intermediate measures against the agency, including corrective
29 action, unannounced special monitoring, temporary assumption
30 of operation of one or more programs by the department,
31 placement on probationary status, imposing a moratorium on

1 agency action, imposing financial penalties for
2 nonperformance, or other administrative action pursuant to
3 chapter 120, if the department finds that:

4 (a) An intentional or negligent act of the agency has
5 materially affected the health, welfare, or safety of clients,
6 or substantially and negatively affected the operation of an
7 aging services program.

8 (b) The agency lacks financial stability sufficient to
9 meet contractual obligations or that contractual funds have
10 been misappropriated.

11 (c) The agency has committed multiple or repeated
12 violations of legal and regulatory requirements or department
13 standards.

14 (d) The agency has failed to continue the provision or
15 expansion of services after the declaration of a state of
16 emergency.

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

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

21 (3) Prepare and submit the state plan as required by
22 ~~the United States Administration on Aging to the Governor,~~
23 ~~each Cabinet member, the President of the Senate, the Speaker~~
24 ~~of the House of Representatives, the minority leaders of the~~
25 ~~House and Senate, and chairpersons of appropriate House and~~
26 ~~Senate committees a master plan for policies and programs in~~
27 ~~the state related to aging. The plan must identify and assess~~
28 ~~the needs of the elderly population in the areas of housing,~~
29 ~~employment, education and training, medical care, long-term~~
30 ~~care, preventive care, protective services, social services,~~
31 ~~mental health, transportation, and long-term care insurance,~~

1 ~~and other areas considered appropriate by the department. The~~
 2 ~~plan must assess the needs of particular subgroups of the~~
 3 ~~population and evaluate the capacity of existing programs,~~
 4 ~~both public and private and in state and local agencies, to~~
 5 ~~respond effectively to identified needs. If the plan~~
 6 ~~recommends the transfer of any program or service from the~~
 7 ~~Department of Children and Family Services to another state~~
 8 ~~department, the plan must also include recommendations that~~
 9 ~~provide for an independent third-party mechanism, as currently~~
 10 ~~exists in the Florida advocacy councils established in ss.~~
 11 ~~402.165 and 402.166, for protecting the constitutional and~~
 12 ~~human rights of recipients of departmental services. The plan~~
 13 ~~must include policy goals and program strategies designed to~~
 14 ~~respond efficiently to current and projected needs. The plan~~
 15 ~~must also include policy goals and program strategies to~~
 16 ~~promote intergenerational relationships and activities.~~
 17 ~~Public hearings and other appropriate processes shall be~~
 18 ~~utilized by the department to solicit input for the~~
 19 ~~development and updating of the master plan from parties~~
 20 ~~including, but not limited to, the following:~~

- 21 ~~(a) Elderly citizens and their families and~~
 22 ~~caregivers.~~
- 23 ~~(b) Local-level public and private service providers,~~
 24 ~~advocacy organizations, and other organizations relating to~~
 25 ~~the elderly.~~
- 26 ~~(c) Local governments.~~
- 27 ~~(d) All state agencies that provide services to the~~
 28 ~~elderly.~~
- 29 ~~(e) University centers on aging.~~
- 30 ~~(f) Area agency on aging and community care for the~~
 31 ~~elderly lead agencies.~~

1 (4) Serve as an information clearinghouse at the state
2 level, and assist local-level information and referral
3 resources as a repository and means for dissemination of
4 information regarding all federal, state, and local resources
5 for assistance to the elderly in the areas of, but not limited
6 to, health, social welfare, long-term care, protective
7 services, consumer protection, education and training,
8 housing, employment, recreation, transportation, insurance,
9 and retirement.

10 ~~(5) Recommend guidelines for the development of roles~~
11 ~~for state agencies that provide services for the aging, review~~
12 ~~plans of agencies that provide such services, and relay these~~
13 ~~plans to the Governor, each Cabinet member, the President of~~
14 ~~the Senate, the Speaker of the House of Representatives, the~~
15 ~~minority leaders of the House and Senate, and chairpersons of~~
16 ~~appropriate House and Senate committees.~~

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

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

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

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

31

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

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

5 ~~(7) Advise the Governor, each Cabinet member, the~~
6 ~~President of the Senate, the Speaker of the House of~~
7 ~~Representatives, the minority leaders of the House and Senate,~~
8 ~~and the chairpersons of appropriate House and Senate~~
9 ~~committees regarding the need for and location of programs~~
10 ~~related to aging.~~

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

21 ~~(9) Review budget requests for programs related to~~
22 ~~aging for compliance with the master plan for policies and~~
23 ~~programs related to aging before submission to the Governor~~
24 ~~and the Legislature.~~

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

27 ~~(11) Review implementation of the master plan for~~
28 ~~programs and policies related to aging and annually report to~~
29 ~~the Governor, each Cabinet member, the President of the~~
30 ~~Senate, the Speaker of the House of Representatives, the~~
31 ~~minority leaders of the House and Senate, and the chairpersons~~

1 ~~of appropriate House and Senate committees the progress~~
2 ~~towards implementation of the plan.~~

3 ~~(12) Request other departments that administer~~
4 ~~programs affecting the state's elderly population to amend~~
5 ~~their plans, rules, policies, and research objectives as~~
6 ~~necessary to conform with the master plan for policies and~~
7 ~~programs related to aging.~~

8 ~~(5)(13)~~ Hold public meetings regularly throughout the
9 state for purposes of receiving information and maximizing the
10 visibility of important issues.

11 ~~(6)(14)~~ Conduct policy analysis and program evaluation
12 studies assigned by the Legislature.

13 ~~(7)(15)~~ Assist the Governor, each Cabinet member, the
14 President of the Senate, the Speaker of the House of
15 Representatives, the minority leaders of the House and Senate,
16 and the chairpersons of appropriate House and Senate
17 committees in the conduct of their responsibilities in such
18 capacities as they consider appropriate.

19 ~~(8)(16)~~ Call upon appropriate agencies of state
20 government for such assistance as is needed in the discharge
21 of its duties. All agencies shall cooperate in assisting the
22 department in carrying out its responsibilities as prescribed
23 by this section. However, no provision of law with respect to
24 confidentiality of information may be violated.

25 Section 16. Section 430.041, Florida Statutes, is
26 created to read:

27 430.041 Office of Long-Term Care Policy.--

28 (1) There is established within the Department of
29 Elderly Affairs the Office of Long-Term Care Policy to analyze
30 the state's long-term care system and increase the
31 availability and the use of noninstitutional settings to

1 provide care to the elderly and to ensure coordination among
2 the agencies responsible for the long-term care continuum. The
3 Department of Elderly Affairs shall provide administrative
4 support and service to the Office of Long-Term Care Policy.
5 The office is not subject to control, supervision, or
6 direction by the Department of Elderly Affairs in the
7 performance of its duties.

8 (2) The Office of Long-Term Care Policy shall:

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

13 (b) Ensure that state agencies involved in developing
14 long-term care policy have considered the preferences of
15 consumers, providers, and local elected officials.

16 (c) Study and plan for programs to meet identified and
17 projected needs of people who need long-term care.

18 (d) Develop a State Long-Term Care Plan and policy
19 recommendations to ensure that appropriate long-term care is
20 available in institutional and community-based settings.

21 (e) Update the State Long-Term Care Plan every 3
22 years.

23 (f) Recommend state and local organizational models
24 for the planning, coordination, implementation, and evaluation
25 of programs serving people with long-term care needs.

26 (g) Make recommendations to agencies for budget
27 requests for long-term care programs to ensure consistency
28 with the State Long-Term Care Plan.

29 (h) Develop and recommend strategies for ensuring
30 compliance with all federal requirements regarding access to
31 and choice of services and providers.

1 (i) Identify duplication and unnecessary service
2 provision in the long-term care system and make
3 recommendations to decrease inappropriate service provision.

4 (j) Make recommendations to increase consistency in
5 administering the state's long-term care programs.

6 (k) Ensure regular periodic evaluations of all
7 programs providing long-term care services to determine
8 whether the programs are cost-effective, of high quality,
9 operating efficiently, and consistent with state policy.

10 (l) Monitor characteristics of people applying for and
11 entering institutional and community-based long-term care, and
12 changes to these characteristics over time, to determine the
13 reasons and causes for changing levels of state expenditures
14 and to determine services that the state's system of
15 community-based care could provide to lessen the need for
16 facility-based care.

17 (m) Recommend changes to the preadmission screening
18 system of state nursing homes to ensure that individuals in
19 need of long-term care are served in settings most appropriate
20 to their needs.

21 (n) Recommend mechanisms to encourage families and
22 other caregivers to assist people in need of long-term care
23 services to remain as independent as possible.

24 (o) Analyze waiting lists for long-term care services
25 and recommend strategies to reduce the time applicants wait
26 for services.

27 (p) Oversee research on aging conducted or funded by
28 any state agency to ensure that such research is coordinated
29 and directed to fulfill the intent and purposes of this act.

30 (3) The director of the Office of Long-Term Care
31 Policy shall be appointed by and serve at the pleasure of the

1 Governor. The director of the Office of Long-Term Care Policy
2 shall report to the Governor.

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

6 (a) A member of the Senate, appointed by the President
7 of the Senate.

8 (b) A member of the House of Representatives,
9 appointed by the Speaker of the House of Representatives.

10 (c) The Secretary of Health Care Administration.

11 (d) The Secretary of Elderly Affairs.

12 (e) The state Medicaid Director.

13 (f) Two representatives of providers of long-term care
14 services for elderly persons, appointed by the Governor.

15 (g) Two representatives of people receiving long-term
16 care services, appointed by the Governor from groups
17 representing elderly persons.

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

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

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

27 (8) Personnel who are solely under the direction of
28 the Office of Long-Term Care Policy shall be provided by the
29 Agency for Health Care Administration and the Department of
30 Elderly Affairs. The office shall call upon appropriate
31 agencies of state government, including the centers on aging

1 in the State University System, for assistance needed in
2 discharging its duties. All agencies shall assist the office
3 in carrying out its responsibilities prescribed by this
4 section.

5 Section 17. Section 430.7031, Florida Statutes, is
6 created to read:

7 430.7031 Nursing home transition program.--The
8 department and the Agency for Health Care Administration:

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

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

18 (3) Shall modify existing service delivery systems or
19 develop new service delivery systems to economically and
20 efficiently meet such individuals' care needs.

21 (4) Shall offer such individuals priority placement
22 and services in all home-based and community-based care
23 programs, and shall ensure that funds are available to provide
24 services to individuals to whom services are offered.

25 (5) May seek federal waivers necessary to administer
26 this section.

27 Section 18. Subsection (4) of section 409.908, Florida
28 Statutes, is amended to read:

29 409.908 Reimbursement of Medicaid providers.--Subject
30 to specific appropriations, the agency shall reimburse
31 Medicaid providers, in accordance with state and federal law,

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

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

1 statutory teaching hospitals, specialty hospitals, and
2 community hospital education program hospitals from
3 reimbursement ceilings and the cost of special Medicaid
4 payments shall not be included in premiums paid to health
5 maintenance organizations or prepaid health care plans. Each
6 rate semester, the agency shall calculate and publish a
7 Medicaid hospital rate schedule that does not reflect either
8 special Medicaid payments or the elimination of rate
9 reimbursement ceilings, to be used by hospitals and Medicaid
10 health maintenance organizations, in order to determine the
11 Medicaid rate referred to in ss. 409.912(17) ~~409.912(16)~~,
12 409.9128(5), and 641.513(6).

13 Section 19. Section 430.708, Florida Statutes, is
14 amended to read:

15 430.708 Certificate of need.--To ensure that Medicaid
16 community diversion pilot projects result in a reduction in
17 the projected average monthly nursing home caseload, the
18 agency shall, in accordance with the provisions of s.
19 408.034(5) ~~s. 408.034(4)~~:

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

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

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

30
31

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

4 Section 20. Section 627.9408, Florida Statutes, is
5 amended to read:

6 627.9408 Rules.--

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

10 (2) The department may adopt by rule the provisions of
11 the Long-Term Care Insurance Model Regulation adopted by the
12 National Association of Insurance Commissioners in the second
13 quarter of the year 2000 which are not in conflict with the
14 Florida Insurance Code.

15 Section 21. Subsection (4) of section 641.386, Florida
16 Statutes, is amended to read:

17 641.386 Agent licensing and appointment required;
18 exceptions.--

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

30 Section 22. This act shall take effect July 1, 2002.

31