

1 A bill to be entitled
2 An act relating to the protection and delivery
3 of services to persons who are disabled,
4 vulnerable, or elderly; creating s. 393.506,
5 F.S.; allowing administration of medication by
6 certain unlicensed staff for persons with
7 developmental disabilities; providing
8 requirements for such administration; creating
9 s. 400.9685, F.S.; allowing administration of
10 medication by certain unlicensed staff in
11 nursing homes and related health care
12 facilities for persons with developmental
13 disabilities; providing requirements for such
14 administration; amending s. 394.74, F.S.;
15 providing for alternative payment methods for
16 contracts for provision of local substance
17 abuse and mental health programs; amending s.
18 415.102, F.S.; clarifying definitions; amending
19 s. 765.401, F.S.; providing additional persons
20 which may be given a proxy for the making of
21 health care decisions; amending s. 744.102,
22 F.S.; providing that a public guardian shall be
23 considered a professional guardian for certain
24 purposes; amending s. 744.108, F.S.; providing
25 that certain costs relating to determination of
26 certain fees shall be payable from the
27 guardianship estate; amending s. 744.1083,
28 F.S.; deleting obsolete language; increasing
29 the maximum annual fee for registration as a
30 professional guardian; requiring additional
31 information for registration; transferring

1 certain rule adoption authority and
2 registration responsibilities from the
3 Statewide Public Guardianship Office to the
4 Department of Elderly Affairs; authorizing the
5 Department of Elderly Affairs to contract with
6 a not-for-profit entity to register
7 professional guardians; providing that certain
8 educational institutions may act as
9 professional guardians without registering;
10 amending s. 744.1085, F.S.; providing for
11 additional regulation of professional
12 guardians; providing for a professional
13 examination as a condition of registration;
14 providing additional requirements for
15 registration as a professional guardian;
16 providing that certain financial institutions
17 are exempt from the regulations governing
18 professional guardians; amending s. 744.3135,
19 F.S.; limiting certain requirements to
20 professional guardians; authorizing the court
21 to require guardians to submit to credit
22 history investigations and background
23 screening; amending s. 744.3145, F.S.;
24 providing training requirements for parents
25 appointed as guardians of the property of their
26 minor children; amending s. 744.444, F.S.;
27 allowing guardians to employ care managers and
28 disclose confidential information to an
29 ombudsman without court approval; providing
30 that such information shall remain
31 confidential; authorizing the payment of

1 certain costs; amending ss. 744.534 and
2 744.7021, F.S.; providing that the executive
3 director of the Statewide Public Guardianship
4 Office shall be appointed by the Secretary of
5 Elderly Affairs, rather than by the Governor;
6 transferring certain responsibilities from the
7 Statewide Public Guardianship Office to the
8 Department of Elderly Affairs; amending s.
9 744.704, F.S.; removing a limitation on what
10 wards a public guardian may serve; creating the
11 Guardianship Task Force to examine and make
12 recommendations regarding guardianship in this
13 state; providing for membership; providing for
14 appointment; providing for term of existence;
15 providing that certain prior offenses shall be
16 considered in conducting employment screening,
17 notwithstanding the provisions of section 64 of
18 ch. 95-228, Laws of Florida; amending s.
19 400.071, F.S.; requiring applicants for
20 licensure as a nursing home to provide proof of
21 a legal right to occupy the property; amending
22 s. 400.414, F.S.; delineating the types and
23 number of deficiencies justifying denial,
24 revocation, or suspension of a license as an
25 assisted living facility; amending s. 400.417,
26 F.S.; providing an alternative method of
27 providing notice to an assisted living facility
28 that a license must be renewed; amending s.
29 400.419, F.S.; providing that administrative
30 fines for assisted living facilities or its
31 personnel shall be imposed by the Agency for

1 Health Care Administration in the manner
2 provided in ch. 120, F.S.; amending s.
3 400.0239, F.S.; providing for deposit of civil
4 monetary fines in the Quality of Long-Term Care
5 Facility Improvement Trust Fund; providing for
6 additional purposes for which funds from such
7 trust fund may be expended; amending s.
8 400.141, F.S.; providing for enforcement of
9 minimum staffing standards for a nursing
10 facility within a range; amending s. 400.235,
11 F.S.; allowing reviewed financial statements to
12 be submitted for the Gold Seal program;
13 amending s. 400.452, F.S.; revising training
14 and education requirements of the Department of
15 Elderly Affairs for assisted living facilities;
16 deleting a requirement that fees for training
17 and education programs be based on the
18 percentage of residents receiving monthly
19 optional supplementation payments; amending s.
20 430.502, F.S.; requiring the Agency for Health
21 Care Administration and the Department of
22 Health to seek and implement a Medicaid home
23 and community-based waiver for persons with
24 Alzheimer's disease; requiring the development
25 of waiver program standards; providing for
26 consultation with the presiding officers of the
27 Legislature; providing for a contingent future
28 repeal of such waiver program; amending s.
29 400.557, F.S.; providing an alternative method
30 of providing notice to an adult day care center
31 that a license must be renewed; amending s.

1 400.619, F.S.; requiring that the Agency for
2 Health Care Administration provide advance
3 notice to an adult family-care home that a
4 license must be renewed; reenacting and
5 amending s. 400.980, F.S.; providing that the
6 provisions governing background screening of
7 persons involved with health care services
8 pools shall not stand repealed; amending s.
9 408.061, F.S.; exempting nursing homes and
10 continuing care facilities from certain
11 financial reporting requirements; amending s.
12 408.062, F.S.; providing that the Agency for
13 Health Care Administration is not required to
14 evaluate financial reports of nursing homes;
15 amending s. 408.831, F.S.; requiring that
16 licensees of the Agency for Health Care
17 Administration pay or arrange for payment of
18 amounts owed to the agency by the licensee
19 prior to transfer of the license or issuance of
20 a license to a transferee; amending s.
21 409.9116, F.S.; correcting a cross-reference;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 393.506, Florida Statutes, is
27 created to read:

28 393.506 Administration of medication.--

29 (1) Notwithstanding the provisions of part I of
30 chapter 464, the Nurse Practice Act, unlicensed direct care
31 service staff providing services to persons with developmental

1 disabilities may administer oral, transdermal, inhaled, or
2 topical prescription medications as provided in this section.

3 (a) For day programs, as defined in s. 393.063, the
4 director of the facility or program shall designate in writing
5 unlicensed direct care services staff who are eligible to be
6 trained to assist in the administration of or to administer
7 medication.

8 (b) For intermediate care facilities for the
9 developmentally disabled licensed pursuant to part XI of
10 chapter 400, unlicensed staff designated by the director may
11 provide medication assistance under the general supervision of
12 a registered nurse licensed pursuant to chapter 464.

13 (2) Each facility, institution, or program must
14 include in its policies and procedures a plan for training
15 designated staff to ensure the safe handling, storage, and
16 administration of prescription medication. These policies and
17 procedures must be approved by the department before
18 unlicensed direct care services staff assist with medication.

19 (3) The policies and procedures must include, at a
20 minimum, the following provisions:

21 (a) An expressed and informed consent for each client.

22 (b) The director of the facility, program, or provider
23 must maintain a copy of the written prescription, and that
24 prescription must include the name of the medication, the
25 dosage and administration schedule, the reason for the
26 prescription, and the termination date.

27 (c) Each prescribed medication shall be kept in its
28 original container and in a secure location.

29 (4) The training required in this section shall be
30 conducted by a registered nurse or a physician licensed
31 pursuant to chapter 458 or chapter 459.

1 Section 2. Section 400.9685, Florida Statutes, is
2 created to read:

3 400.9685 Administration of medication.--

4 (1) Notwithstanding the provisions of the Nurse
5 Practice Act, part I of chapter 464, unlicensed direct care
6 services staff who are providing services to clients in
7 Intermediate Care Facilities for the Developmentally Disabled,
8 licensed pursuant to this part, may administer prescribed,
9 prepackaged, pre-measured medications under the general
10 supervision of a registered nurse as provided in this section
11 and applicable rules. Training required by this section and
12 applicable rules must be conducted by a registered nurse
13 licensed pursuant to chapter 464, or a physician licensed
14 pursuant to chapter 458 or chapter 459.

15 (2) Each facility that allows unlicensed direct care
16 service staff to administer medications pursuant to this
17 section must:

18 (a) Develop and implement policies and procedures that
19 include a plan to ensure the safe handling, storage, and
20 administration of prescription medication.

21 (b) Maintain written evidence of the expressed and
22 informed consent for each client.

23 (c) Maintain a copy of the written prescription
24 including the name of the medication, the dosage, and
25 administration schedule.

26 (d) Maintain documentation regarding the prescription
27 including the name, dosage, and administration schedule,
28 reason for prescription, and the termination date.

29 (e) Maintain documentation of compliance with required
30 training.

31

- 1 (3) Agency rules shall specify the following as it
2 relates to the administration of medications by unlicensed
3 staff:
- 4 (a) Medications authorized and packaging required.
5 (b) Acceptable methods of administration.
6 (c) A definition of "general supervision".
7 (d) Minimum educational requirements of staff.
8 (e) Criteria of required training and competency that
9 must be demonstrated prior to the administration of
10 medications by unlicensed staff including in-service training.
11 (f) Requirements for safe handling, storage, and
12 administration of medications.

13 Section 3. Subsection (2) of section 394.74, Florida
14 Statutes, is amended, and subsection (6) is added to said
15 section, to read:

16 394.74 Contracts for provision of local substance
17 abuse and mental health programs.--

18 (2)(a) Contracts for service shall be consistent with
19 the approved district plan.

20 (b) Notwithstanding s. 394.76(3)(a) and (c), the
21 department may use unit cost methods of payment in contracts
22 for purchasing mental health and substance abuse services. The
23 unit cost contracting system must account for those patient
24 fees that are paid on behalf of a specific client and those
25 that are earned and used by the provider for those services
26 funded in whole or in part by the department. The department
27 may also use a fee-for-service arrangement, case rates, or a
28 capitation arrangement in order to account for those services.

29 (c) The department may reimburse actual expenditures
30 for startup contracts and fixed capital outlay contracts in
31 accordance with contract specifications.

1 (6) The department may use a fee-for-service
2 arrangement, case rates, or capitation in order to account for
3 mental health and substance abuse services.

4 Section 4. Subsections (1) and (26) of section
5 415.102, Florida Statutes, are amended to read:

6 415.102 Definitions of terms used in ss.
7 415.101-415.113.--As used in ss. 415.101-415.113, the term:

8 (1) "Abuse" means any willful act or threatened act by
9 a caregiver that causes or is likely to cause significant
10 impairment to a vulnerable adult's physical, mental, or
11 emotional health. Abuse includes acts and omissions.

12 (26) "Vulnerable adult" means a person 18 years of age
13 or older whose ability to perform the normal activities of
14 daily living or to provide for his or her own care or
15 protection is impaired due to a mental, emotional, long-term
16 physical, or developmental disability or dysfunctioning, or
17 brain damage, or the infirmities of aging.

18 Section 5. Paragraph (h) is added to subsection (1) of
19 section 765.401, Florida Statutes, to read:

20 765.401 The proxy.--

21 (1) If an incapacitated or developmentally disabled
22 patient has not executed an advance directive, or designated a
23 surrogate to execute an advance directive, or the designated
24 or alternate surrogate is no longer available to make health
25 care decisions, health care decisions may be made for the
26 patient by any of the following individuals, in the following
27 order of priority, if no individual in a prior class is
28 reasonably available, willing, or competent to act:

29 (h) A clinical social worker licensed pursuant to
30 chapter 491, or who is a graduate of a court-approved
31 guardianship program. Such a proxy must be selected by the

1 provider's bioethics committee and must not be employed by the
2 provider. If the provider does not have a bioethics committee,
3 then such a proxy may be chosen through an arrangement with
4 the bioethics committee of another provider. The proxy will be
5 notified that upon request, the provider shall make available
6 a second physician, not involved in the patient's care to
7 assist the proxy in evaluating treatment. Decisions to
8 withhold or withdraw life-prolonging procedures will be
9 reviewed by the facility's bioethics committee. Documentation
10 of efforts to locate proxies from prior classes must be
11 recorded in the patient record.

12 Section 6. Subsection (15) of section 744.102, Florida
13 Statutes, is amended to read:

14 744.102 Definitions.--As used in this chapter, the
15 term:

16 (15) "Professional guardian" means any guardian who
17 receives or has at any time received compensation for services
18 rendered to more than two wards as their guardian. A person
19 serving as a guardian for two or more relatives as defined in
20 s. 744.309(2) is not considered a professional guardian. A
21 public guardian shall be considered a professional guardian
22 for purposes of regulation, education, and registration.

23 Section 7. Subsection (8) is added to section 744.108,
24 Florida Statutes, to read:

25 744.108 Guardian's and attorney's fees and expenses.--

26 (8) When court proceedings are instituted to review or
27 determine a guardian's or an attorney's fees under subsection
28 (2), such proceedings are part of the guardianship
29 administration process and the costs, including fees for the
30 guardian's attorney, shall be determined by the court and paid
31 from the assets of the guardianship estate unless the court

1 finds the requested compensation under subsection (2) to be
2 substantially unreasonable.

3 Section 8. Section 744.1083, Florida Statutes, is
4 amended to read:

5 744.1083 Professional guardian registration.--

6 (1) ~~Effective January 1, 2003,~~A professional guardian
7 must register with the Statewide Public Guardianship Office
8 established in part IX of this chapter. ~~The Statewide Public~~
9 ~~Guardianship Office may contract with the clerk of the court~~
10 ~~in each county to perform the administrative functions~~
11 ~~associated with registering professional guardians.~~

12 (2) Annual registration shall be made on forms
13 furnished by the Statewide Public Guardianship Office and
14 accompanied by the applicable registration fee as determined
15 by rule. Such fee shall not exceed ~~\$100~~\$25.

16 (3) Registration must include the following:

17 (a) If the professional guardian is a natural person,
18 the name, address, date of birth, and employer identification
19 or social security number of the professional guardian.

20 (b) If the professional guardian is a partnership or
21 association, the name, address, and date of birth of every
22 member, and the employer identification number of the
23 partnership or association.

24 (c) If the professional guardian is a corporation, the
25 name, address, and employer identification number of the
26 corporation; the name, address, and date of birth of each of
27 its directors and officers; the name of its resident agent;
28 and the name, address, and date of birth of each person having
29 at least a 10-percent interest in the corporation.

30 (d) The name, address, date of birth, and employer
31 identification number, if applicable, of each person providing

1 guardian-delegated financial or personal guardianship services
2 for wards.

3 (e) Documentation that the bonding and educational
4 requirements of s. 744.1085 have been met, and that background
5 screening has been conducted pursuant to s. 744.3135.

6 Compliance with this section shall constitute compliance with
7 the attestation requirement of s. 435.04(5).

8 (f) Sufficient information to distinguish a guardian
9 providing guardianship services as a public guardian,
10 individually, through partnership, corporation, or any other
11 business organization.

12 (4) The Department of Elderly Affairs ~~Statewide Public~~
13 ~~Guardianship Office~~ may adopt rules necessary to administer
14 this section.

15 (5) A trust company, a state banking corporation or
16 state savings association authorized and qualified to exercise
17 fiduciary powers in this state, or a national banking
18 association or federal savings and loan association authorized
19 and qualified to exercise fiduciary powers in this state, may,
20 but shall not be required to, register as a professional
21 guardian under this section. If a trust company, state banking
22 corporation, state savings association, national banking
23 association, or federal savings and loan association described
24 in this subsection elects to register as a professional
25 guardian under this subsection, the requirements of subsection
26 (3) shall not apply and the registration shall include only
27 the name, address, and employer identification number of the
28 registrant, the name and address of its registered agent, if
29 any, and the documentation described in paragraph (3)(e).

30
31

1 (6) The Department of Elderly Affairs may contract
2 with the Florida Guardianship Foundation or other
3 not-for-profit entity to register professional guardians.

4 (7) The department or its contractor shall ensure that
5 the clerks of the court and the Chief Judge of each judicial
6 circuit receive information about each registered professional
7 guardian.

8 (8) A state college or university or an independent
9 college or university as described pursuant to s.
10 1009.98(3)(a), may, but shall not be required to, register as
11 a professional guardian under this section. If a state college
12 or university or independent college or university elects to
13 register as a professional guardian under this subsection, the
14 requirements of subsection (3) shall not apply and the
15 registration shall include only the name, address, and
16 employer identification number of the registrant.

17 Section 9. Subsection (3) of section 744.1085, Florida
18 Statutes, is amended and subsections (4) through (10) are
19 added to said section to read:

20 744.1085 Regulation of professional guardians;
21 application; bond required; educational requirements.--

22 (3) Each professional guardian defined in s.
23 ~~744.102(15) and public guardian, on October 1, 1997, must~~
24 ~~receive a minimum of 40 hours of instruction and training by~~
25 ~~October 1, 1998, or within 1 year after becoming a~~
26 ~~professional guardian, whichever occurs later. Each~~
27 professional guardian must receive a minimum of 16 hours of
28 continuing education every 2 calendar years after the year in
29 which the initial 40-hour educational requirement is met. The
30 instruction and education must be completed through a course
31 approved or offered by the Statewide Public Guardianship

1 Office. The expenses incurred to satisfy the educational
2 requirements prescribed in this section may not be paid with
3 the assets of any ward. This subsection does not apply to any
4 attorney who is licensed to practice law in this state.

5 (4) Each professional guardian must allow, at the
6 guardian's expense, an investigation of the guardian's credit
7 history, and the credit history of employees of the guardian,
8 in a manner prescribed by the Department of Elderly Affairs.

9 (5) As required in s. 744.3135, each professional
10 guardian shall allow a level 2 background screening of the
11 guardian and employees of the guardian in accordance with the
12 provisions of s. 435.04.

13 (6) After July 1, 2005, each professional guardian
14 shall be required to demonstrate competency to act as a
15 professional guardian by taking an examination approved by the
16 Department of Elderly Affairs.

17 (a) The Department of Elderly Affairs shall determine
18 the minimum examination score necessary for passage of
19 guardianship examinations.

20 (b) The Department of Elderly Affairs shall determine
21 the procedure for administration of the examination.

22 (c) The Department of Elderly Affairs or its
23 contractor shall charge an examination fee for the actual
24 costs of the development and the administration of the
25 examination, not to exceed \$500.

26 (d) The Department of Elderly Affairs may recognize
27 passage of a national guardianship examination in lieu of all
28 or part of the examination approved by the Department of
29 Elderly Affairs, except that all professional guardians must
30 take and pass an approved examination section related to
31 Florida law and procedure.

1 (7) The Department of Elderly Affairs shall set the
2 minimum score necessary to demonstrate professional
3 guardianship competency.

4 (8) The Department of Elderly Affairs shall waive the
5 examination requirement in paragraph (6) if a professional
6 guardian can provide:

7 (a) Proof that the guardian has actively acted as a
8 professional guardian for 5 years or more; and

9 (b) A letter from a circuit judge before whom the
10 professional guardian practiced at least 1 year which states
11 that the professional guardian had demonstrated to the court
12 competency as a professional guardian.

13 (9) After July 1, 2004, the court shall not appoint
14 any professional guardian who has not met the requirements of
15 this section and s. 744.1083.

16 (10) This section does not apply to a professional
17 guardian or the employees of that professional guardian when
18 that guardian is a trust company, a state banking corporation,
19 state savings association authorized and qualified to exercise
20 fiduciary powers in this state, or a national banking
21 association or federal savings and loan association authorized
22 and qualified to exercise fiduciary powers in this state.

23 Section 10. Section 744.3135, Florida Statutes, is
24 amended to read:

25 744.3135 Credit and criminal investigation.--The court
26 may require a nonprofessional guardian and shall require a
27 professional or public guardian, and all employees of a
28 professional guardian who have a fiduciary responsibility to a
29 ward, to submit, at their own expense, to an investigation of
30 the guardian's credit history and to undergo level 2
31 background screening as required under s. 435.04. The clerk of

1 the court shall obtain fingerprint cards from the Federal
2 Bureau of Investigation and make them available to guardians.
3 Any guardian who is so required shall have his or her
4 fingerprints taken and forward the proper fingerprint card
5 along with the necessary fee to the Florida Department of Law
6 Enforcement for processing. The professional guardian shall
7 pay to the clerk of the court a fee of \$5 for handling and
8 processing professional guardian files. The results of the
9 fingerprint checks shall be forwarded to the clerk of court
10 who shall maintain the results in a guardian file and shall
11 make the results available to the court. If credit or criminal
12 investigations are required, the court must consider the
13 results of the investigations in appointing a guardian.
14 Professional guardians and all employees of a professional
15 guardian who have a fiduciary responsibility to a ward, so
16 appointed, must resubmit, at their own expense, to an
17 investigation of credit history, and undergo level 1
18 background screening as required under s. 435.03, at least
19 every 2 years after the date of their appointment. At any
20 time, the court may require guardians or their employees to
21 submit to an investigation of credit history and undergo level
22 1 background screening as required under s. 435.03.The court
23 must consider the results of these investigations in
24 reappointing a guardian. This section shall not apply to a
25 professional guardian, or to the employees of a professional
26 guardian, that is a trust company, a state banking corporation
27 or state savings association authorized and qualified to
28 exercise fiduciary powers in this state, or a national banking
29 association or federal savings and loan association authorized
30 and qualified to exercise fiduciary powers in this state.
31

1 Section 11. Section 744.3145, Florida Statutes, is
2 amended to read:

3 744.3145 Guardian education requirements.--

4 (1) Each ward is entitled to a guardian competent to
5 perform the duties of a guardian necessary to protect the
6 interests of the ward.

7 (2) Each person appointed by the court to be a
8 guardian, other than a parent who is the guardian of the
9 property of a minor child, must receive a minimum of 8 hours
10 of instruction and training which covers:

11 (a) The legal duties and responsibilities of the
12 guardian;

13 (b) The rights of the ward;

14 (c) The availability of local resources to aid the
15 ward; and

16 (d) The preparation of habilitation plans and annual
17 guardianship reports, including financial accounting for the
18 ward's property.

19 (3) Each person appointed by the court to be the
20 guardian of the property of his or her minor child must
21 receive a minimum of 4 hours of instruction and training that
22 covers:

23 (a) The legal duties and responsibilities of the
24 guardian of the property;

25 (b) The preparation of the initial inventory and
26 annual guardianship accountings for the ward's property; and

27 (c) Use of guardianship assets.

28 (4)~~(3)~~ Each person appointed by the court to be a
29 guardian must complete the required number of 8 hours of
30 instruction and education within 1 year after his or her
31 appointment as guardian. The instruction and education must be

1 completed through a course approved by the chief judge of the
2 circuit court and taught by a court-approved organization.
3 Court-approved organizations may include, but are not limited
4 to, community or junior colleges, guardianship organizations,
5 and the local bar association or The Florida Bar.

6 (5)~~(4)~~ Expenses incurred by the guardian to satisfy
7 the education requirement may be paid from the ward's estate,
8 unless the court directs that such expenses be paid by the
9 guardian individually.

10 (6)~~(5)~~ The court may, in its discretion, waive some or
11 all of the requirements of this section or impose additional
12 requirements. The court shall make its decision on a
13 case-by-case basis and, in making its decision, shall consider
14 the experience and education of the guardian, the duties
15 assigned to the guardian, and the needs of the ward.

16 (7)~~(6)~~ The provisions of this section do not apply to
17 professional guardians.

18 Section 12. Subsection (13) of section 744.444,
19 Florida Statutes, is amended, and subsections (16) and (17)
20 are added to said section to read:

21 744.444 Power of guardian without court
22 approval.--Without obtaining court approval, a plenary
23 guardian of the property, or a limited guardian of the
24 property within the powers granted by the order appointing the
25 guardian or an approved annual or amended guardianship report,
26 may:

27 (13) When reasonably necessary, employ persons,
28 including attorneys, auditors, investment advisers, care
29 managers, or agents, even if they are associated with the
30 guardian, to advise or assist the guardian in the performance
31 of his or her duties.

1 (16) Pay or reimburse costs incurred and reasonable
2 fees or compensation to persons, including attorneys, employed
3 by the guardian pursuant to subsection (13) from the assets of
4 the guardianship estate, subject to obtaining court approval
5 of the annual accounting.

6 (17) Provide confidential information about a ward
7 that is related to an investigation arising under part I of
8 chapter 400 to a local or state ombudsman council member
9 conducting such an investigation. Any such ombudsman shall
10 have a duty to maintain the confidentiality of such
11 information.

12 Section 13. Paragraph (c) of subsection (2) of section
13 744.534, Florida Statutes, is amended to read:

14 744.534 Disposition of unclaimed funds held by
15 guardian.--

16 (2)

17 (c) Within 5 years from the date of deposit with the
18 State Treasurer, on written petition to the court that
19 directed the deposit of the funds and informal notice to the
20 Department of Legal Affairs, and after proof of his or her
21 right to them, any person entitled to the funds, before or
22 after payment to the State Treasurer and deposit as provided
23 for in paragraph (a), may obtain a court order directing the
24 payment of the funds to him or her. All funds deposited with
25 the State Treasurer and not claimed within 5 years from the
26 date of deposit shall escheat to the state to be deposited in
27 the Department of Elderly Affairs Administrative Trust Fund to
28 be used solely for the benefit of public guardianship as
29 determined by the Secretary of Elderly Affairs ~~Statewide~~
30 ~~Public Guardianship Office established in part IX of this~~
31 ~~chapter.~~

1 Section 14. Section 744.7021, Florida Statutes, is
2 amended to read:

3 744.7021 Statewide Public Guardianship Office.--There
4 is hereby created the Statewide Public Guardianship Office
5 within the Department of Elderly Affairs. ~~The Department of~~
6 ~~Elderly Affairs shall provide administrative support and~~
7 ~~service to the office to the extent requested by the executive~~
8 ~~director within the available resources of the department. The~~
9 ~~Statewide Public Guardianship Office may request the~~
10 ~~assistance of the Inspector General of the Department of~~
11 ~~Elderly Affairs in providing auditing services, and the Office~~
12 ~~of General Counsel of the department may provide assistance in~~
13 ~~rulemaking and other matters as needed to assist the Statewide~~
14 ~~Public Guardianship Office. The Statewide Public Guardianship~~
15 ~~Office shall not be subject to control, supervision, or~~
16 ~~direction by the Department of Elderly Affairs in the~~
17 ~~performance of its duties.~~

18 (1) The Secretary of Elderly Affairs shall appoint the
19 executive director, who shall be the head of the Statewide
20 Public Guardianship Office ~~is the executive director, who~~
21 ~~shall be appointed by the Governor.~~ The executive director
22 must be a member of The Florida Bar, knowledgeable of licensed
23 attorney with a background in guardianship law and knowledge
24 of the social services available to meet the needs of
25 incapacitated persons, shall serve on a full-time basis, and
26 shall personally, or through representatives of the office,
27 carry out the purposes and functions of the Statewide Public
28 Guardianship Office in accordance with state and federal law.
29 The executive director shall serve at the pleasure of and
30 report to the Secretary ~~Governor~~ .

31

1 (2) The executive director ~~Statewide Public~~
2 ~~Guardianship Office~~ shall, within available resources, have
3 oversight responsibilities for all public guardians.

4 (a) The executive director ~~office~~ shall review the
5 current public guardian programs in Florida and other states.

6 (b) The executive director ~~office~~, in consultation
7 with local guardianship offices, shall develop statewide
8 performance measures and standards.

9 (c) The executive director ~~office~~ shall review the
10 various methods of funding guardianship programs, the kinds of
11 services being provided by such programs, and the demographics
12 of the wards. In addition, the executive director ~~office~~ shall
13 review and make recommendations regarding the feasibility of
14 recovering a portion or all of the costs of providing public
15 guardianship services from the assets or income of the wards.

16 (d) ~~No later than October 1, 2000, the office shall~~
17 ~~submit to the Governor, the President of the Senate, the~~
18 ~~Speaker of the House of Representatives, and the Chief Justice~~
19 ~~of the Supreme Court an interim report describing the progress~~
20 ~~of the office in meeting the goals as described in this~~
21 ~~section. No later than October 1, 2001, the office shall~~
22 ~~submit to the Governor, the President of the Senate, the~~
23 ~~Speaker of the House of Representatives, and the Chief Justice~~
24 ~~of the Supreme Court a proposed public guardianship plan~~
25 ~~including alternatives for meeting the state's guardianship~~
26 ~~needs. This plan may include recommendations for less than the~~
27 ~~entire state, may include a phase-in system, and shall include~~
28 ~~estimates of the cost of each of the alternatives.~~By January
29 1, 2004, and by January 1 of each year thereafter, the
30 executive director ~~office~~ shall provide a status report and
31

1 provide further recommendations to the Secretary that address
2 the need for public guardianship services and related issues.

3 (e) The executive director ~~office~~ may provide
4 assistance to local governments or entities in pursuing grant
5 opportunities. The executive director ~~office~~ shall review and
6 make recommendations in the annual report on the availability
7 and efficacy of seeking Medicaid matching funds. The executive
8 director ~~office~~ shall diligently seek ways to use existing
9 programs and services to meet the needs of public wards.

10 (f) The executive director, in consultation with the
11 Florida Guardianship Foundation,~~office~~ shall develop a
12 guardianship training program curriculum that. ~~The training~~
13 ~~program~~ may be offered to all guardians whether public or
14 private. ~~The office shall establish a curriculum committee to~~
15 ~~develop the training program specified in this part. The~~
16 ~~curriculum committee shall include, but not be limited to,~~
17 ~~probate judges. A fee may be charged to private guardians in~~
18 ~~order to defray the cost of providing the training. In~~
19 ~~addition, a fee may be charged to any training provider for up~~
20 ~~to the actual cost of the review and approval of their~~
21 ~~curriculum. Any fees collected pursuant to this paragraph~~
22 ~~shall be deposited in the Department of Elderly Affairs~~
23 ~~Administrative Trust Fund to be used for the guardianship~~
24 ~~training program.~~

25 (3) The executive director ~~office~~ may conduct or
26 contract for demonstration projects authorized by the
27 Department of Elderly Affairs, within funds appropriated or
28 through gifts, grants, or contributions for such purposes, to
29 determine the feasibility or desirability of new concepts of
30 organization, administration, financing, or service delivery
31 designed to preserve the civil and constitutional rights of

1 persons of marginal or diminished capacity. Any gifts, grants,
2 or contributions for such purposes shall be deposited in the
3 Department of Elderly Affairs Administrative Trust Fund.

4 (4) The Department of Elderly Affairs office has
5 authority to adopt rules pursuant to ss. 120.536(1) and 120.54
6 to carry out the provisions of this section.

7 Section 15. Subsections (1) and (3) of section
8 744.704, Florida Statutes, are amended to read:

9 744.704 Powers and duties.--

10 (1) A public guardian may serve as a guardian of a
11 person adjudicated incapacitated under this chapter+

12 ~~(a) if there is no family member or friend, other~~
13 ~~person, bank, or corporation willing and qualified to serve as~~
14 ~~guardian; and~~

15 ~~(b) If the assets of the ward do not exceed the asset~~
16 ~~level for Medicaid eligibility, exclusive of homestead and~~
17 ~~exempt property as defined in s. 4, Art. X of the State~~
18 ~~Constitution, and the ward's income, from all sources, is less~~
19 ~~than \$4,000 per year. Income from public welfare programs,~~
20 ~~supplemental security income, optional state supplement, a~~
21 ~~disability pension, or a social security pension shall be~~
22 ~~excluded in such computation. However, a ward whose total~~
23 ~~income, counting excludable income, exceeds \$30,000 a year may~~
24 ~~not be served.~~

25 (3) The public guardian shall primarily serve
26 incapacitated persons who are of limited financial means, as
27 defined by contract or rule of the Department of Elderly
28 Affairs. The public guardian may serve incapacitated persons
29 of greater financial means to the extent the Department of
30 Elderly Affairs determines to be appropriate ~~If the public~~
31 ~~guardian finds that the assets or the income of the ward~~

1 ~~exceeds the amounts set forth in paragraph (1)(b), the public~~
2 ~~guardian shall submit a resignation and petition the court for~~
3 ~~appointment of a successor guardian. The public guardian shall~~
4 ~~not be dismissed until such time that a private guardian is~~
5 ~~appointed. If a qualified successor guardian is not available,~~
6 ~~the public guardian may remain as guardian, provided the~~
7 ~~guardian makes reasonable efforts to find a successor and~~
8 ~~reports to the court every 6 months on efforts to obtain a~~
9 ~~successor.~~

10 Section 16. (1) There is created within the
11 Department of Elderly Affairs a Guardianship Task Force for
12 the purpose of examining guardianship and incapacity and
13 making recommendations to the Governor and the Legislature for
14 the improvement of processes and procedures related to
15 guardianship and incapacity. The department shall staff the
16 task force, and the Secretary of Elderly Affairs shall appoint
17 the chair from among the task force membership. The members of
18 the task force shall serve without compensation. Unless
19 specified otherwise, task force members shall be appointed by
20 the organizations they represent, and the cost of members'
21 participation shall be borne by their appointing organization.
22 Any member who is a public employee is entitled to
23 reimbursement for per diem and travel expenses by the
24 appointing department.

25 (2) The Guardianship Task Force shall identify the
26 characteristics of Florida guardianship practice. It shall
27 also identify best practices and recommend specific statutory
28 and other changes for achieving such best practices and for
29 achieving citizen access to quality guardianship services. The
30 task force shall make a preliminary report to the Secretary of
31 Elderly Affairs no later than January 1, 2004, and its final

1 report to the secretary shall be made no later than January 1,
2 2005.

3 (3) The Guardianship Task Force shall consist of ten
4 members, including a judge with experience in guardianship
5 proceedings who is appointed by the Florida Conference of
6 Circuit Judges, a representative of the Association of Clerks
7 of Court, a professor of law with experience in elder issues
8 appointed by the Secretary of Elderly Affairs, a
9 representative of the Florida State Guardianship Association,
10 a representative of the Florida Guardianship Foundation, a
11 representative of the Real Property and Probate Section of The
12 Florida Bar, a representative of the Elder Law Section of The
13 Florida Bar, a professional as provided in section 744.331(3),
14 Florida Statutes, with experience performing examinations and
15 determining incapacity, a representative of the Florida
16 Banker's Association, and a citizen or consumer appointed by
17 the Executive Director of the Florida office of the American
18 Association of Retired Persons.

19 (4) The Guardianship Task Force may appoint ex officio
20 members who possess needed expertise to assist the task force
21 in its work. The task force will cease to exist May 6, 2005.

22 Section 17. Notwithstanding the provisions of section
23 64 of chapter 95-228, Laws of Florida, the provisions of
24 chapter 435, Florida Statutes, as created therein and as
25 subsequently amended, and any reference thereto, shall apply
26 to all offenses regardless of the date on which offenses
27 referenced in chapter 435, Florida Statutes, were committed,
28 unless specifically provided otherwise in a provision other
29 than section 64 of chapter 95-228, Laws of Florida.

30 Section 18. Subsection (12) is added to section
31 400.071, Florida Statutes, to read:

1 400.071 Application for license.--

2 (12) The applicant must provide the agency with proof
3 of a legal right to occupy the property before a license may
4 be issued. Proof may include, but is not limited to, copies of
5 warranty deeds, lease or rental agreements, contracts for
6 deeds, or quitclaim deeds.

7 Section 19. Subsection (1) of section 400.414, Florida
8 Statutes, is amended to read:

9 400.414 Denial, revocation, or suspension of license;
10 imposition of administrative fine; grounds.--

11 (1) The agency may deny, revoke, or suspend any
12 license issued under this part, or impose an administrative
13 fine in the manner provided in chapter 120, for any of the
14 following actions by an assisted living facility, for the
15 actions of any person subject to level 2 background screening
16 under s. 400.4174, or for the actions of any facility
17 employee:

18 (a) An intentional or negligent act seriously
19 affecting the health, safety, or welfare of a resident of the
20 facility.

21 (b) The determination by the agency that the owner
22 lacks the financial ability to provide continuing adequate
23 care to residents.

24 (c) Misappropriation or conversion of the property of
25 a resident of the facility.

26 (d) Failure to follow the criteria and procedures
27 provided under part I of chapter 394 relating to the
28 transportation, voluntary admission, and involuntary
29 examination of a facility resident.

30 (e) A citation of any of the following deficiencies as
31 defined in s. 400.419:

- 1 1. One or more cited class I deficiencies.
2 2. Three or more cited class II deficiencies.
3 3. Five or more cited class III deficiencies that have
4 been cited on a single survey and have not been corrected
5 within the times specified ~~One or more class I, three or more~~
6 ~~class II, or five or more repeated or recurring identical or~~
7 ~~similar class III violations that are similar or identical to~~
8 ~~violations which were identified by the agency within the last~~
9 ~~2 years.~~

10 (f) A determination that a person subject to level 2
11 background screening under s. 400.4174(1) does not meet the
12 screening standards of s. 435.04 or that the facility is
13 retaining an employee subject to level 1 background screening
14 standards under s. 400.4174(2) who does not meet the screening
15 standards of s. 435.03 and for whom exemptions from
16 disqualification have not been provided by the agency.

17 (g) A determination that an employee, volunteer,
18 administrator, or owner, or person who otherwise has access to
19 the residents of a facility does not meet the criteria
20 specified in s. 435.03(2), and the owner or administrator has
21 not taken action to remove the person. Exemptions from
22 disqualification may be granted as set forth in s. 435.07. No
23 administrative action may be taken against the facility if the
24 person is granted an exemption.

25 (h) Violation of a moratorium.

26 (i) Failure of the license applicant, the licensee
27 during relicensure, or a licensee that holds a provisional
28 license to meet the minimum license requirements of this part,
29 or related rules, at the time of license application or
30 renewal.

31

1 (j) A fraudulent statement or omission of any material
2 fact on an application for a license or any other document
3 required by the agency, including the submission of a license
4 application that conceals the fact that any board member,
5 officer, or person owning 5 percent or more of the facility
6 may not meet the background screening requirements of s.
7 400.4174, or that the applicant has been excluded, permanently
8 suspended, or terminated from the Medicaid or Medicare
9 programs.

10 (k) An intentional or negligent life-threatening act
11 in violation of the uniform firesafety standards for assisted
12 living facilities or other firesafety standards that threatens
13 the health, safety, or welfare of a resident of a facility, as
14 communicated to the agency by the local authority having
15 jurisdiction or the State Fire Marshal.

16 (l) Exclusion, permanent suspension, or termination
17 from the Medicare or Medicaid programs.

18 (m) Knowingly operating any unlicensed facility or
19 providing without a license any service that must be licensed
20 under this chapter.

21 (n) Any act constituting a ground upon which
22 application for a license may be denied.

23
24 Administrative proceedings challenging agency action under
25 this subsection shall be reviewed on the basis of the facts
26 and conditions that resulted in the agency action.

27 Section 20. Subsection (1) of section 400.417, Florida
28 Statutes, is amended to read:

29 400.417 Expiration of license; renewal; conditional
30 license.--

31

1 (1) Biennial licenses, unless sooner suspended or
2 revoked, shall expire 2 years from the date of issuance.
3 Limited nursing, extended congregate care, and limited mental
4 health licenses shall expire at the same time as the
5 facility's standard license, regardless of when issued. The
6 agency shall notify the facility ~~by certified mail~~ at least
7 120 days prior to expiration that a renewal license is
8 necessary to continue operation. The notification must be
9 provided electronically or by mail delivery. Ninety days prior
10 to the expiration date, an application for renewal shall be
11 submitted to the agency. Fees must be prorated. The failure to
12 file a timely renewal application shall result in a late fee
13 charged to the facility in an amount equal to 50 percent of
14 the current fee.

15 Section 21. Section 400.419, Florida Statutes, is
16 amended to read:

17 400.419 Violations; imposition of administrative
18 finer; grounds.--

19 (1) The agency shall impose an administrative fine in
20 the manner provided in chapter 120 for any of the actions or
21 violations as set forth within this section by an assisted
22 living facility, for the actions of any person subject to
23 level 2 background screening under s. 400.4174, for the
24 actions of any facility employee, or for an intentional or
25 negligent act seriously affecting the health, safety, or
26 welfare of a resident of the facility.

27 (2)~~(1)~~ Each violation of this part and adopted rules
28 shall be classified according to the nature of the violation
29 and the gravity of its probable effect on facility residents.
30 The agency shall indicate the classification on the written
31 notice of the violation as follows:

1 (a) Class "I" violations are those conditions or
2 occurrences related to the operation and maintenance of a
3 facility or to the personal care of residents which the agency
4 determines present an imminent danger to the residents or
5 guests of the facility or a substantial probability that death
6 or serious physical or emotional harm would result therefrom.
7 The condition or practice constituting a class I violation
8 shall be abated or eliminated within 24 hours, unless a fixed
9 period, as determined by the agency, is required for
10 correction. The agency shall impose an administrative fine for
11 a cited class I violation ~~is subject to an administrative fine~~
12 in an amount not less than \$5,000 and not exceeding \$10,000
13 for each violation. A fine may be levied notwithstanding the
14 correction of the violation.

15 (b) Class "II" violations are those conditions or
16 occurrences related to the operation and maintenance of a
17 facility or to the personal care of residents which the agency
18 determines directly threaten the physical or emotional health,
19 safety, or security of the facility residents, other than
20 class I violations. The agency shall impose an administrative
21 fine for a cited class II violation ~~is subject to an~~
22 ~~administrative fine~~ in an amount not less than \$1,000 and not
23 exceeding \$5,000 for each violation. A fine shall be levied
24 notwithstanding the correction of the violation ~~A citation for~~
25 ~~a class II violation must specify the time within which the~~
26 ~~violation is required to be corrected.~~

27 (c) Class "III" violations are those conditions or
28 occurrences related to the operation and maintenance of a
29 facility or to the personal care of residents which the agency
30 determines indirectly or potentially threaten the physical or
31 emotional health, safety, or security of facility residents,

1 other than class I or class II violations. The agency shall
2 impose an administrative fine for a cited class III violation
3 in an amount ~~is subject to an administrative fine of not less~~
4 than \$500 and not exceeding \$1,000 for each violation. A
5 citation for a class III violation must specify the time
6 within which the violation is required to be corrected. If a
7 class III violation is corrected within the time specified, no
8 fine may be imposed, unless it is a repeated offense.

9 (d) Class "IV" violations are those conditions or
10 occurrences related to the operation and maintenance of a
11 building or to required reports, forms, or documents that do
12 not have the potential of negatively affecting residents.
13 These violations are of a type that the agency determines do
14 not threaten the health, safety, or security of residents of
15 the facility. The agency shall impose an administrative fine
16 for a cited class IV violation in an amount ~~A facility that~~
17 ~~does not correct a class IV violation within the time~~
18 ~~specified in the agency-approved corrective action plan is~~
19 ~~subject to an administrative fine of not less than \$100 and~~
20 ~~not exceeding nor more than \$200 for each violation. A~~
21 citation for a class IV violation must specify the time within
22 which the violation is required to be corrected. If a class IV
23 violation is corrected within the time specified, no fine
24 shall be imposed. Any class IV violation that is corrected
25 during the time an agency survey is being conducted will be
26 identified as an agency finding and not as a violation.

27 ~~(3)(2)~~ In determining if a penalty is to be imposed
28 and in fixing the amount of the fine, the agency shall
29 consider the following factors:

30 (a) The gravity of the violation, including the
31 probability that death or serious physical or emotional harm

1 to a resident will result or has resulted, the severity of the
2 action or potential harm, and the extent to which the
3 provisions of the applicable laws or rules were violated.

4 (b) Actions taken by the owner or administrator to
5 correct violations.

6 (c) Any previous violations.

7 (d) The financial benefit to the facility of
8 committing or continuing the violation.

9 (e) The licensed capacity of the facility.

10 (4)~~(3)~~ Each day of continuing violation after the date
11 fixed for termination of the violation, as ordered by the
12 agency, constitutes an additional, separate, and distinct
13 violation.

14 (5)~~(4)~~ Any action taken to correct a violation shall
15 be documented in writing by the owner or administrator of the
16 facility and verified through followup visits by agency
17 personnel. The agency may impose a fine and, in the case of an
18 owner-operated facility, revoke or deny a facility's license
19 when a facility administrator fraudulently misrepresents
20 action taken to correct a violation.

21 (6)~~(5)~~ For fines that are upheld following
22 administrative or judicial review, the violator shall pay the
23 fine, plus interest at the rate as specified in s. 55.03, for
24 each day beyond the date set by the agency for payment of the
25 fine.

26 (7)~~(6)~~ Any unlicensed facility that continues to
27 operate after agency notification is subject to a \$1,000 fine
28 per day.

29 (8)~~(7)~~ Any licensed facility whose owner or
30 administrator concurrently operates an unlicensed facility
31 shall be subject to an administrative fine of \$5,000 per day.

1 ~~(9)(8)~~ Any facility whose owner fails to apply for a
2 change-of-ownership license in accordance with s. 400.412 and
3 operates the facility under the new ownership is subject to a
4 fine of \$5,000.

5 ~~(10)(9)~~ In addition to any administrative fines
6 imposed, the agency may assess a survey fee, equal to the
7 lesser of one half of the facility's biennial license and bed
8 fee or \$500, to cover the cost of conducting initial complaint
9 investigations that result in the finding of a violation that
10 was the subject of the complaint or monitoring visits
11 conducted under s. 400.428(3)(c) to verify the correction of
12 the violations.

13 ~~(11)(10)~~ The agency, as an alternative to or in
14 conjunction with an administrative action against a facility
15 for violations of this part and adopted rules, shall make a
16 reasonable attempt to discuss each violation and recommended
17 corrective action with the owner or administrator of the
18 facility, prior to written notification. The agency, instead
19 of fixing a period within which the facility shall enter into
20 compliance with standards, may request a plan of corrective
21 action from the facility which demonstrates a good faith
22 effort to remedy each violation by a specific date, subject to
23 the approval of the agency.

24 ~~(12)(11)~~ Administrative fines paid by any facility
25 under this section shall be deposited into the Health Care
26 Trust Fund and expended as provided in s. 400.418.

27 ~~(13)(12)~~ The agency shall develop and disseminate an
28 annual list of all facilities sanctioned or fined \$5,000 or
29 more for violations of state standards, the number and class
30 of violations involved, the penalties imposed, and the current
31 status of cases. The list shall be disseminated, at no charge,

1 to the Department of Elderly Affairs, the Department of
2 Health, the Department of Children and Family Services, the
3 area agencies on aging, the Florida Statewide Advocacy
4 Council, and the state and local ombudsman councils. The
5 Department of Children and Family Services shall disseminate
6 the list to service providers under contract to the department
7 who are responsible for referring persons to a facility for
8 residency. The agency may charge a fee commensurate with the
9 cost of printing and postage to other interested parties
10 requesting a copy of this list.

11 Section 22. Subsections (1) and (2) of section
12 400.0239, Florida Statutes, are amended to read:

13 400.0239 Quality of Long-Term Care Facility
14 Improvement Trust Fund.--

15 (1) There is created within the Agency for Health Care
16 Administration a Quality of Long-Term Care Facility
17 Improvement Trust Fund to support activities and programs
18 directly related to improvement of the care of nursing home
19 and assisted living facility residents. The trust fund shall
20 be funded through proceeds generated pursuant to ss. 400.0238
21 and 400.4298, through funds specifically appropriated by the
22 Legislature, ~~and~~ through gifts, endowments, and other
23 charitable contributions allowed under federal and state law,
24 and through federal nursing home civil monetary penalties
25 collected by the Centers for Medicare and Medicaid Services
26 and returned to the state. These funds must be utilized in
27 accordance with federal requirements.

28 (2) Expenditures from the trust fund shall be
29 allowable for direct support of the following:

30 (a) Development and operation of a mentoring program,
31 in consultation with the Department of Health and the

1 Department of Elderly Affairs, for increasing the competence,
2 professionalism, and career preparation of long-term care
3 facility direct care staff, including nurses, nursing
4 assistants, and social service and dietary personnel.

5 (b) Development and implementation of specialized
6 training programs for long-term care facility personnel who
7 provide direct care for residents with Alzheimer's disease and
8 other dementias, residents at risk of developing pressure
9 sores, and residents with special nutrition and hydration
10 needs.

11 (c) Addressing areas of deficient practice identified
12 through regulation or state monitoring.

13 (d)~~(c)~~ Provision of economic and other incentives to
14 enhance the stability and career development of the nursing
15 home direct care workforce, including paid sabbaticals for
16 exemplary direct care career staff to visit facilities
17 throughout the state to train and motivate younger workers to
18 commit to careers in long-term care.

19 (e)~~(d)~~ Promotion and support for the formation and
20 active involvement of resident and family councils in the
21 improvement of nursing home care.

22 (f) Evaluation of special residents' needs in
23 long-term care facilities, including challenges in meeting
24 special residents' needs, appropriateness of placement and
25 setting, and cited deficiencies related to caring for special
26 needs.

27 (g) Other initiatives authorized by the Centers for
28 Medicare and Medicaid Services for the use of federal civil
29 monetary penalties, including projects recommended through the
30 Medicaid "Up-or-Out" Quality of Care Contract Management
31 Program pursuant to s. 400.148.

1 Section 23. Subsection (15) of section 400.141,
2 Florida Statutes, is amended to read:

3 400.141 Administration and management of nursing home
4 facilities.--Every licensed facility shall comply with all
5 applicable standards and rules of the agency and shall:

6 (15) Submit semiannually to the agency, or more
7 frequently if requested by the agency, information regarding
8 facility staff-to-resident ratios, staff turnover, and staff
9 stability, including information regarding certified nursing
10 assistants, licensed nurses, the director of nursing, and the
11 facility administrator. For purposes of this reporting:

12 (a) Staff-to-resident ratios must be reported in the
13 categories specified in s. 400.23(3)(a) and applicable rules.
14 The ratio must be reported as an average for the most recent
15 calendar quarter.

16 (b) Staff turnover must be reported for the most
17 recent 12-month period ending on the last workday of the most
18 recent calendar quarter prior to the date the information is
19 submitted. The turnover rate must be computed quarterly, with
20 the annual rate being the cumulative sum of the quarterly
21 rates. The turnover rate is the total number of terminations
22 or separations experienced during the quarter, excluding any
23 employee terminated during a probationary period of 3 months
24 or less, divided by the total number of staff employed at the
25 end of the period for which the rate is computed, and
26 expressed as a percentage.

27 (c) The formula for determining staff stability is the
28 total number of employees that have been employed for more
29 than 12 months, divided by the total number of employees
30 employed at the end of the most recent calendar quarter, and
31 expressed as a percentage.

1 (d) A nursing facility that has failed to comply with
2 state minimum-staffing requirements for 2 consecutive days is
3 prohibited from accepting new admissions until the facility
4 has achieved the minimum-staffing requirements for a period of
5 6 consecutive days. For the purposes of this paragraph, any
6 person who was a resident of the facility and was absent from
7 the facility for the purpose of receiving medical care at a
8 separate location or was on a leave of absence is not
9 considered a new admission. Failure to impose such an
10 admissions moratorium constitutes a class II deficiency.

11 (e) A nursing facility which does not have a
12 conditional license may be cited for failure to comply with
13 the standards in s. 400.23(3)(a) only if it has failed to meet
14 those standards on 2 consecutive days or if it has failed to
15 meet at least 97 percent of those standards on any one day.

16 (f) A facility which has a conditional license must be
17 in compliance with the standards in s. 400.23(3)(a) at all
18 times.

19
20 Nothing in this section shall limit the agency's ability to
21 impose a deficiency or take other actions if a facility does
22 not have enough staff to meet the residents' needs.

23
24 Facilities that have been awarded a Gold Seal under the
25 program established in s. 400.235 may develop a plan to
26 provide certified nursing assistant training as prescribed by
27 federal regulations and state rules and may apply to the
28 agency for approval of their program.

29 Section 24. Paragraph (b) of subsection (5) of section
30 400.235, Florida Statutes, is amended to read:

31

1 400.235 Nursing home quality and licensure status;
2 Gold Seal Program.--

3 (5) Facilities must meet the following additional
4 criteria for recognition as a Gold Seal Program facility:

5 (b) Evidence financial soundness and stability
6 according to standards adopted by the agency in administrative
7 rule. Such standards must include, but not be limited to,
8 criteria for the use of financial statements that are prepared
9 in accordance with generally accepted accounting principles
10 and that are reviewed or audited by certified public
11 accountants.

12
13 A facility assigned a conditional licensure status may not
14 qualify for consideration for the Gold Seal Program until
15 after it has operated for 30 months with no class I or class
16 II deficiencies and has completed a regularly scheduled
17 relicensure survey.

18 Section 25. Subsections (1), (2), (7), (8), and (9) of
19 section 400.452, Florida Statutes, are amended to read:

20 400.452 Staff training and educational programs; core
21 educational requirement.--

22 (1) The department shall ensure that ~~provide, or cause~~
23 ~~to be provided, training and educational programs for the~~
24 administrators and other assisted living facility staff have
25 met training and education requirements that ~~to better~~ enable
26 them to appropriately respond to the needs of residents, to
27 maintain resident care and facility standards, and to meet
28 licensure requirements.

29 (2) The department shall ~~also~~ establish a core
30 educational requirement ~~to be used in these programs.~~
31 Successful completion of the core educational requirement must

1 include successful completion of a competency test. ~~Programs~~
2 ~~must be provided by the department or by a provider approved~~
3 ~~by the department at least quarterly.~~The core educational
4 requirement must cover at least the following topics:

5 (a) State law and rules relating to assisted living
6 facilities.

7 (b) Resident rights and identifying and reporting
8 abuse, neglect, and exploitation.

9 (c) Special needs of elderly persons, persons with
10 mental illness, and persons with developmental disabilities
11 and how to meet those needs.

12 (d) Nutrition and food service, including acceptable
13 sanitation practices for preparing, storing, and serving food.

14 (e) Medication management, recordkeeping, and proper
15 techniques for assisting residents with self-administered
16 medication.

17 (f) Firesafety requirements, including fire evacuation
18 drill procedures and other emergency procedures.

19 (g) Care of persons with Alzheimer's disease and
20 related disorders.

21 ~~(7) A facility that does not have any residents who~~
22 ~~receive monthly optional supplementation payments must pay a~~
23 ~~reasonable fee for such training and education programs. A~~
24 ~~facility that has one or more such residents shall pay a~~
25 ~~reduced fee that is proportional to the percentage of such~~
26 ~~residents in the facility. Any facility more than 90 percent~~
27 ~~of whose residents receive monthly optional state~~
28 ~~supplementation payments is not required to pay for the~~
29 ~~training and continuing education programs required under this~~
30 ~~section.~~

31

1 ~~(7)(8)~~ If the department or the agency determines that
2 there are problems in a facility that could be reduced through
3 specific staff training or education beyond that already
4 required under this section, the department or the agency may
5 require, and provide, or cause to be provided, the training or
6 education of any personal care staff in the facility.

7 ~~(8)(9)~~ The department shall adopt rules to establish
8 training programs, standards and curriculum for training,
9 staff training requirements, procedures for approving training
10 programs, and training fees.

11 Section 26. Subsections (7), (8), and (9) are added to
12 section 430.502, Florida Statutes, to read:

13 430.502 Alzheimer's disease; memory disorder clinics
14 and day care and respite care programs.--

15 ~~(7)~~ The Agency for Health Care Administration and the
16 department shall seek a federal waiver to implement a Medicaid
17 home and community-based waiver targeted to persons with
18 Alzheimer's disease to test the effectiveness of Alzheimer's
19 specific interventions to delay or to avoid institutional
20 placement.

21 ~~(8)~~ The department will implement the waiver program
22 specified in subsection (7). The agency and the department
23 shall ensure that providers are selected that have a history
24 of successfully serving persons with Alzheimer's disease. The
25 department and the agency shall develop specialized standards
26 for providers and services tailored to persons in the early,
27 middle, and late stages of Alzheimer's disease and designate a
28 level of care determination process and standard that is most
29 appropriate to this population. The department and the agency
30 shall include in the waiver services designed to assist the
31 caregiver in continuing to provide in-home care. The

1 department shall implement this waiver program subject to a
2 specific appropriation or as provided in the General
3 Appropriations Act. The department and the agency shall submit
4 their program design to the President of the Senate and the
5 Speaker of the House of Representatives for consultation
6 during the development process.

7 (9) Authority to continue the waiver program specified
8 in subsection (7) shall be automatically eliminated at the
9 close of the 2008 Regular Session of the Legislature unless
10 further legislative action is taken to continue it prior to
11 such time.

12 Section 27. Subsection (1) of section 400.557, Florida
13 Statutes, is amended to read:

14 400.557 Expiration of license; renewal; conditional
15 license or permit.--

16 (1) A license issued for the operation of an adult day
17 care center, unless sooner suspended or revoked, expires 2
18 years after the date of issuance. The agency shall notify a
19 licensee ~~by certified mail, return receipt requested,~~ at least
20 120 days before the expiration date that license renewal is
21 required to continue operation. The notification must be
22 provided electronically or by mail delivery. At least 90 days
23 prior to the expiration date, an application for renewal must
24 be submitted to the agency. A license shall be renewed, upon
25 the filing of an application on forms furnished by the agency,
26 if the applicant has first met the requirements of this part
27 and of the rules adopted under this part. The applicant must
28 file with the application satisfactory proof of financial
29 ability to operate the center in accordance with the
30 requirements of this part and in accordance with the needs of
31

1 the participants to be served and an affidavit of compliance
2 with the background screening requirements of s. 400.5572.

3 Section 28. Subsection (3) of section 400.619, Florida
4 Statutes, is amended to read:

5 400.619 Licensure application and renewal.--

6 (3) The agency shall notify a licensee at least 120
7 days before the expiration date that license renewal is
8 required to continue operation. The notification must be
9 provided electronically or by mail delivery. Application for a
10 license or annual license renewal must be made on a form
11 provided by the agency, signed under oath, and must be
12 accompanied by a licensing fee of \$100 per year.

13 Section 29. Subsection (4) of section 400.980, Florida
14 Statutes, is reenacted and amended to read:

15 400.980 Health care services pools.--

16 (4) Each applicant for registration must comply with
17 the following requirements:

18 (a) Upon receipt of a completed, signed, and dated
19 application, the agency shall require background screening, in
20 accordance with the level 1 standards for screening set forth
21 in chapter 435, of every individual who will have contact with
22 patients. The agency shall require background screening of the
23 managing employee or other similarly titled individual who is
24 responsible for the operation of the entity, and of the
25 financial officer or other similarly titled individual who is
26 responsible for the financial operation of the entity,
27 including billings for services in accordance with the level 2
28 standards for background screening as set forth in chapter
29 435.

30 (b) The agency may require background screening of any
31 other individual who is affiliated with the applicant if the

1 agency has a reasonable basis for believing that he or she has
2 been convicted of a crime or has committed any other offense
3 prohibited under the level 2 standards for screening set forth
4 in chapter 435.

5 (c) Proof of compliance with the level 2 background
6 screening requirements of chapter 435 which has been submitted
7 within the previous 5 years in compliance with any other
8 health care or assisted living licensure requirements of this
9 state is acceptable in fulfillment of paragraph (a).

10 (d) A provisional registration may be granted to an
11 applicant when each individual required by this section to
12 undergo background screening has met the standards for the
13 Department of Law Enforcement background check but the agency
14 has not yet received background screening results from the
15 Federal Bureau of Investigation. A standard registration may
16 be granted to the applicant upon the agency's receipt of a
17 report of the results of the Federal Bureau of Investigation
18 background screening for each individual required by this
19 section to undergo background screening which confirms that
20 all standards have been met, or upon the granting of a
21 disqualification exemption by the agency as set forth in
22 chapter 435. Any other person who is required to undergo level
23 2 background screening may serve in his or her capacity
24 pending the agency's receipt of the report from the Federal
25 Bureau of Investigation. However, the person may not continue
26 to serve if the report indicates any violation of background
27 screening standards and if a disqualification exemption has
28 not been requested of and granted by the agency as set forth
29 in chapter 435.

30 (e) Each applicant must submit to the agency, with its
31 application, a description and explanation of any exclusions,

1 permanent suspensions, or terminations of the applicant from
2 the Medicare or Medicaid programs. Proof of compliance with
3 the requirements for disclosure of ownership and controlling
4 interests under the Medicaid or Medicare programs may be
5 accepted in lieu of this submission.

6 (f) Each applicant must submit to the agency a
7 description and explanation of any conviction of an offense
8 prohibited under the level 2 standards of chapter 435 which
9 was committed by a member of the board of directors of the
10 applicant, its officers, or any individual owning 5 percent or
11 more of the applicant. This requirement does not apply to a
12 director of a not-for-profit corporation or organization who
13 serves solely in a voluntary capacity for the corporation or
14 organization, does not regularly take part in the day-to-day
15 operational decisions of the corporation or organization,
16 receives no remuneration for his or her services on the
17 corporation's or organization's board of directors, and has no
18 financial interest and no family members having a financial
19 interest in the corporation or organization, if the director
20 and the not-for-profit corporation or organization include in
21 the application a statement affirming that the director's
22 relationship to the corporation satisfies the requirements of
23 this paragraph.

24 (g) A registration may not be granted to an applicant
25 if the applicant or managing employee has been found guilty
26 of, regardless of adjudication, or has entered a plea of nolo
27 contendere or guilty to, any offense prohibited under the
28 level 2 standards for screening set forth in chapter 435,
29 unless an exemption from disqualification has been granted by
30 the agency as set forth in chapter 435.

31

1 ~~(h) The provisions of this section which require an~~
2 ~~applicant for registration to undergo background screening~~
3 ~~shall stand repealed on June 30, 2001, unless reviewed and~~
4 ~~saved from repeal through reenactment by the Legislature.~~

5 (h)(i) Failure to provide all required documentation
6 within 30 days after a written request from the agency will
7 result in denial of the application for registration.

8 (i)(j) The agency must take final action on an
9 application for registration within 60 days after receipt of
10 all required documentation.

11 (j)(k) The agency may deny, revoke, or suspend the
12 registration of any applicant or registrant who:

13 1. Has falsely represented a material fact in the
14 application required by paragraph (e) or paragraph (f), or has
15 omitted any material fact from the application required by
16 paragraph (e) or paragraph (f); or

17 2. Has had prior action taken against the applicant
18 under the Medicaid or Medicare program as set forth in
19 paragraph (e).

20 3. Fails to comply with this section or applicable
21 rules.

22 4. Commits an intentional, reckless, or negligent act
23 that materially affects the health or safety of a person
24 receiving services.

25 Section 30. Section 408.061, Florida Statutes, is
26 amended to read:

27 408.061 Data collection; uniform systems of financial
28 reporting; information relating to physician charges;
29 confidential information; immunity.--

30 (1) The agency may require the submission by health
31 care facilities, health care providers, and health insurers of

1 data necessary to carry out the agency's duties.

2 Specifications for data to be collected under this section
3 shall be developed by the agency with the assistance of
4 technical advisory panels including representatives of
5 affected entities, consumers, purchasers, and such other
6 interested parties as may be determined by the agency.

7 (a) Data to be submitted by health care facilities may
8 include, but are not limited to: case-mix data, patient
9 admission or discharge data with patient and provider-specific
10 identifiers included, actual charge data by diagnostic groups,
11 financial data, accounting data, operating expenses, expenses
12 incurred for rendering services to patients who cannot or do
13 not pay, interest charges, depreciation expenses based on the
14 expected useful life of the property and equipment involved,
15 and demographic data. Data may be obtained from documents such
16 as, but not limited to: leases, contracts, debt instruments,
17 itemized patient bills, medical record abstracts, and related
18 diagnostic information.

19 (b) Data to be submitted by health care providers may
20 include, but are not limited to: Medicare and Medicaid
21 participation, types of services offered to patients, amount
22 of revenue and expenses of the health care provider, and such
23 other data which are reasonably necessary to study utilization
24 patterns.

25 (c) Data to be submitted by health insurers may
26 include, but are not limited to: claims, premium,
27 administration, and financial information.

28 (d) Data required to be submitted by health care
29 facilities, health care providers, or health insurers shall
30 not include specific provider contract reimbursement
31 information. However, such specific provider reimbursement

1 data shall be reasonably available for onsite inspection by
2 the agency as is necessary to carry out the agency's
3 regulatory duties. Any such data obtained by the agency as a
4 result of onsite inspections may not be used by the state for
5 purposes of direct provider contracting and are confidential
6 and exempt from the provisions of s. 119.07(1) and s. 24(a),
7 Art. I of the State Constitution.

8 (e) A requirement to submit data shall be adopted by
9 rule if the submission of data is being required of all
10 members of any type of health care facility, health care
11 provider, or health insurer. Rules are not required, however,
12 for the submission of data for a special study mandated by the
13 Legislature or when information is being requested for a
14 single health care facility, health care provider, or health
15 insurer.

16 (2) The agency shall, by rule, after consulting with
17 appropriate professional and governmental advisory bodies and
18 holding public hearings and considering existing and proposed
19 systems of accounting and reporting utilized by health care
20 facilities, specify a uniform system of financial reporting
21 for each type of facility based on a uniform chart of accounts
22 developed after considering any chart of accounts developed by
23 the national association for such facilities and generally
24 accepted accounting principles. Such systems shall, to the
25 extent feasible, use existing accounting systems and shall
26 minimize the paperwork required of facilities. This provision
27 shall not be construed to authorize the agency to require
28 health care facilities to adopt a uniform accounting system.
29 As a part of such uniform system of financial reporting, the
30 agency may require the filing of any information relating to
31 the cost to the provider and the charge to the consumer of any

1 service provided in such facility, except the cost of a
2 physician's services which is billed independently of the
3 facility.

4 (3) When more than one licensed facility is operated
5 by the reporting organization, the information required by
6 this section shall be reported for each facility separately.

7 (4)~~(a)~~ Within 120 days after the end of its fiscal
8 year, each health care facility, excluding continuing care
9 facilities and nursing homes as defined in s. 408.07(14) and
10 (36), shall file with the agency, on forms adopted by the
11 agency and based on the uniform system of financial reporting,
12 its actual financial experience for that fiscal year,
13 including expenditures, revenues, and statistical measures.
14 Such data may be based on internal financial reports which are
15 certified to be complete and accurate by the provider.
16 However, hospitals' actual financial experience shall be their
17 audited actual experience. ~~Nursing homes that do not~~
18 ~~participate in the Medicare or Medicaid programs shall also~~
19 ~~submit audited actual experience.~~ Every nursing home shall
20 submit to the agency, in a format designated by the agency, a
21 statistical profile of the nursing home residents. The agency,
22 in conjunction with the Department of Elderly Affairs and the
23 Department of Health, shall review these statistical profiles
24 and develop recommendations for the types of residents who
25 might more appropriately be placed in their homes or other
26 noninstitutional settings.

27 ~~(b) Each nursing home shall also submit a schedule of~~
28 ~~the charges in effect at the beginning of the fiscal year and~~
29 ~~any changes that were made during the fiscal year. A nursing~~
30 ~~home which is certified under Title XIX of the Social Security~~
31 ~~Act and files annual Medicaid cost reports may substitute~~

1 ~~copies of such reports and any Medicaid audits to the agency~~
2 ~~in lieu of a report and audit required under this subsection.~~
3 ~~For such facilities, the agency may require only information~~
4 ~~in compliance with this chapter that is not contained in the~~
5 ~~Medicaid cost report. Facilities that are certified under~~
6 ~~Title XVIII, but not Title XIX, of the Social Security Act~~
7 ~~must submit a report as developed by the agency. This report~~
8 ~~shall be substantially the same as the Medicaid cost report~~
9 ~~and shall not require any more information than is contained~~
10 ~~in the Medicare cost report unless that information is~~
11 ~~required of all nursing homes. The audit under Title XVIII~~
12 ~~shall satisfy the audit requirement under this subsection.~~

13 (5) In addition to information submitted in accordance
14 with subsection (4), each nursing home shall track and file
15 with the agency, on a form adopted by the agency, data related
16 to each resident's admission, discharge, or conversion to
17 Medicaid; health and functional status; plan of care; and
18 other information pertinent to the resident's placement in a
19 nursing home.

20 ~~(6) Any nursing home which assesses residents a~~
21 ~~separate charge for personal laundry services shall submit to~~
22 ~~the agency data on the monthly charge for such services,~~
23 ~~excluding drycleaning. For facilities that charge based on the~~
24 ~~amount of laundry, the most recent schedule of charges and the~~
25 ~~average monthly charge shall be submitted to the agency.~~

26 (6)(7) The agency may require other reports based on
27 the uniform system of financial reporting necessary to
28 accomplish the purposes of this chapter.

29 (7)(8) Portions of patient records obtained or
30 generated by the agency containing the name, residence or
31 business address, telephone number, social security or other

1 identifying number, or photograph of any person or the spouse,
2 relative, or guardian of such person, or any other identifying
3 information which is patient-specific or otherwise identifies
4 the patient, either directly or indirectly, are confidential
5 and exempt from the provisions of s. 119.07(1) and s. 24(a),
6 Art. I of the State Constitution.

7 (8)~~(9)~~ The identity of any health care provider,
8 health care facility, or health insurer who submits any data
9 which is proprietary business information to the agency
10 pursuant to the provisions of this section shall remain
11 confidential and exempt from the provisions of s. 119.07(1)
12 and s. 24(a), Art. I of the State Constitution. As used in
13 this section, "proprietary business information" shall
14 include, but not be limited to, information relating to
15 specific provider contract reimbursement information;
16 information relating to security measures, systems, or
17 procedures; and information concerning bids or other
18 contractual data, the disclosure of which would impair efforts
19 to contract for goods or services on favorable terms or would
20 injure the affected entity's ability to compete in the
21 marketplace. Notwithstanding the provisions of this
22 subsection, any information obtained or generated pursuant to
23 the provisions of former s. 407.61, either by the former
24 Health Care Cost Containment Board or by the Agency for Health
25 Care Administration upon transfer to that agency of the duties
26 and functions of the former Health Care Cost Containment
27 Board, is not confidential and exempt from the provisions of
28 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
29 Such proprietary business information may be used in published
30 analyses and reports or otherwise made available for public
31 disclosure in such manner as to preserve the confidentiality

1 of the identity of the provider. This exemption shall not
2 limit the use of any information used in conjunction with
3 investigation or enforcement purposes under the provisions of
4 s. 456.073.

5 (9)~~(10)~~ No health care facility, health care provider,
6 health insurer, or other reporting entity or its employees or
7 agents shall be held liable for civil damages or subject to
8 criminal penalties either for the reporting of patient data to
9 the agency or for the release of such data by the agency as
10 authorized by this chapter.

11 (10)~~(11)~~ The agency shall be the primary source for
12 collection and dissemination of health care data. No other
13 agency of state government may gather data from a health care
14 provider licensed or regulated under this chapter without
15 first determining if the data is currently being collected by
16 the agency and affirmatively demonstrating that it would be
17 more cost-effective for an agency of state government other
18 than the agency to gather the health care data. The director
19 shall ensure that health care data collected by the divisions
20 within the agency is coordinated. It is the express intent of
21 the Legislature that all health care data be collected by a
22 single source within the agency and that other divisions
23 within the agency, and all other agencies of state government,
24 obtain data for analysis, regulation, and public dissemination
25 purposes from that single source. Confidential information may
26 be released to other governmental entities or to parties
27 contracting with the agency to perform agency duties or
28 functions as needed in connection with the performance of the
29 duties of the receiving entity. The receiving entity or party
30 shall retain the confidentiality of such information as
31 provided for herein.

1 ~~(11)~~(12) The agency shall cooperate with local health
2 councils and the state health planning agency with regard to
3 health care data collection and dissemination and shall
4 cooperate with state agencies in any efforts to establish an
5 integrated health care database.

6 ~~(12)~~(13) It is the policy of this state that
7 philanthropic support for health care should be encouraged and
8 expanded, especially in support of experimental and innovative
9 efforts to improve the health care delivery system.

10 ~~(13)~~(14) For purposes of determining reasonable costs
11 of services furnished by health care facilities, unrestricted
12 grants, gifts, and income from endowments shall not be
13 deducted from any operating costs of such health care
14 facilities, and, in addition, the following items shall not be
15 deducted from any operating costs of such health care
16 facilities:

17 (a) An unrestricted grant or gift, or income from such
18 a grant or gift, which is not available for use as operating
19 funds because of its designation by the health care facility's
20 governing board.

21 (b) A grant or similar payment which is made by a
22 governmental entity and which is not available, under the
23 terms of the grant or payment, for use as operating funds.

24 (c) The sale or mortgage of any real estate or other
25 capital assets of the health care facility which the health
26 care facility acquired through a gift or grant and which is
27 not available for use as operating funds under the terms of
28 the gift or grant or because of its designation by the health
29 care facility's governing board, except for recovery of the
30 appropriate share of gains and losses realized from the
31 disposal of depreciable assets.

1 Section 31. Section 408.062, Florida Statutes, is
2 amended to read:

3 408.062 Research, analyses, studies, and reports.--

4 (1) The agency shall have the authority to conduct
5 research, analyses, and studies relating to health care costs
6 and access to and quality of health care services as access
7 and quality are affected by changes in health care costs. Such
8 research, analyses, and studies shall include, but not be
9 limited to, research and analysis relating to:

10 (a) The financial status of any health care facility
11 or facilities subject to the provisions of this chapter.

12 (b) The impact of uncompensated charity care on health
13 care facilities and health care providers.

14 (c) The state's role in assisting to fund indigent
15 care.

16 (d) The availability and affordability of health
17 insurance for small businesses.

18 (e) Total health care expenditures in the state
19 according to the sources of payment and the type of
20 expenditure.

21 (f) The quality of health services, using techniques
22 such as small area analysis, severity adjustments, and
23 risk-adjusted mortality rates.

24 (g) The development of physician payment systems which
25 are capable of taking into account the amount of resources
26 consumed and the outcomes produced in the delivery of care.

27 (h) The impact of subacute admissions on hospital
28 revenues and expenses for purposes of calculating adjusted
29 admissions as defined in s. 408.07.

30 ~~(2) The agency shall evaluate data from nursing home~~
31 ~~financial reports and shall document and monitor:~~

1 ~~(a) Total revenues, annual change in revenues, and~~
2 ~~revenues by source and classification, including contributions~~
3 ~~for a resident's care from the resident's resources and from~~
4 ~~the family and contributions not directed toward any specific~~
5 ~~resident's care.~~

6 ~~(b) Average resident charges by geographic region,~~
7 ~~payor, and type of facility ownership.~~

8 ~~(c) Profit margins by geographic region and type of~~
9 ~~facility ownership.~~

10 ~~(d) Amount of charity care provided by geographic~~
11 ~~region and type of facility ownership.~~

12 ~~(e) Resident days by payor category.~~

13 ~~(f) Experience related to Medicaid conversion as~~
14 ~~reported under s. 408.061.~~

15 ~~(g) Other information pertaining to nursing home~~
16 ~~revenues and expenditures.~~

17

18 ~~The findings of the agency shall be included in an annual~~
19 ~~report to the Governor and Legislature by January 1 each year.~~

20 (2)(3) The agency may assess annually the caesarean
21 section rate in Florida hospitals using the analysis
22 methodology that the agency determines most appropriate. To
23 assist the agency in determining the impact of this chapter on
24 Florida hospitals' caesarean section rates, each provider
25 hospital, as defined in s. 383.336, shall notify the agency of
26 the date of implementation of the practice parameters and the
27 date of the first meeting of the hospital peer review board
28 created pursuant to this chapter. The agency shall use these
29 dates in monitoring any change in provider hospital caesarean
30 section rates. An annual report based on this monitoring and
31 assessment shall be submitted to the Governor, the Speaker of

1 the House of Representatives, and the President of the Senate
2 by the agency, with the first annual report due January 1,
3 1993.

4 (3)~~(4)~~ The agency may also prepare such summaries and
5 compilations or other supplementary reports based on the
6 information analyzed by the agency under this section, as will
7 advance the purposes of this chapter.

8 (4)~~(5)~~(a) The agency may conduct data-based studies
9 and evaluations and make recommendations to the Legislature
10 and the Governor concerning exemptions, the effectiveness of
11 limitations of referrals, restrictions on investment interests
12 and compensation arrangements, and the effectiveness of public
13 disclosure. Such analysis may include, but need not be limited
14 to, utilization of services, cost of care, quality of care,
15 and access to care. The agency may require the submission of
16 data necessary to carry out this duty, which may include, but
17 need not be limited to, data concerning ownership, Medicare
18 and Medicaid, charity care, types of services offered to
19 patients, revenues and expenses, patient-encounter data, and
20 other data reasonably necessary to study utilization patterns
21 and the impact of health care provider ownership interests in
22 health-care-related entities on the cost, quality, and
23 accessibility of health care.

24 (b) The agency may collect such data from any health
25 facility as a special study.

26 Section 32. Subsection (2) of section 408.831, Florida
27 Statutes, is renumbered as subsection (3) and a new subsection
28 (2) is added to said section to read:

29 408.831 Denial, suspension, or revocation of a
30 license, registration, certificate, or application.--

31

1 (2) In reviewing any application requesting a change
2 of ownership or change of the licensee, registrant, or
3 certificate holder, the transferor shall, prior to agency
4 approval of the change, repay or make arrangements to repay
5 any amounts owed to the agency. Should the transferor fail to
6 repay or make arrangements to repay the amounts owed to the
7 agency, the issuance of a license, registration, or
8 certificate to the transferee shall be delayed until repayment
9 or until arrangements for repayment are made.

10 Section 33. Subsection (1) of section 409.9116,
11 Florida Statutes, is amended to read:

12 409.9116 Disproportionate share/financial assistance
13 program for rural hospitals.--In addition to the payments made
14 under s. 409.911, the Agency for Health Care Administration
15 shall administer a federally matched disproportionate share
16 program and a state-funded financial assistance program for
17 statutory rural hospitals. The agency shall make
18 disproportionate share payments to statutory rural hospitals
19 that qualify for such payments and financial assistance
20 payments to statutory rural hospitals that do not qualify for
21 disproportionate share payments. The disproportionate share
22 program payments shall be limited by and conform with federal
23 requirements. Funds shall be distributed quarterly in each
24 fiscal year for which an appropriation is made.
25 Notwithstanding the provisions of s. 409.915, counties are
26 exempt from contributing toward the cost of this special
27 reimbursement for hospitals serving a disproportionate share
28 of low-income patients.

29 (1) The following formula shall be used by the agency
30 to calculate the total amount earned for hospitals that
31

1 participate in the rural hospital disproportionate share
2 program or the financial assistance program:

3

4
$$\text{TAERH} = (\text{CCD} + \text{MDD}) / \text{TPD}$$

5

6 Where:

7 CCD = total charity care-other, plus charity
8 care-Hill-Burton, minus 50 percent of unrestricted tax revenue
9 from local governments, and restricted funds for indigent
10 care, divided by gross revenue per adjusted patient day;
11 however, if CCD is less than zero, then zero shall be used for
12 CCD.

13 MDD = Medicaid inpatient days plus Medicaid HMO
14 inpatient days.

15 TPD = total inpatient days.

16 TAERH = total amount earned by each rural hospital.

17

18 In computing the total amount earned by each rural hospital,
19 the agency must use the most recent actual data reported in
20 accordance with s. 408.061(4)~~(a)~~.

21 Section 34. This act shall take effect upon becoming a
22 law.

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