

By Senators Diaz de la Portilla and Wise

36-679-06

See HB 89

1 A bill to be entitled
2 An act relating to emergency management;
3 amending s. 252.355, F.S.; specifying
4 additional agencies that are required to
5 provide registration information to special
6 needs clients and persons with disabilities or
7 special needs who receive services from such
8 agencies for purposes of inclusion within the
9 registry of persons with special needs
10 maintained by local emergency management
11 agencies; providing that the Department of
12 Community Affairs shall be the designated lead
13 agency responsible for community education and
14 outreach to the general public, including
15 special needs clients, regarding registration
16 as a person with special needs, special needs
17 shelters, and general information regarding
18 shelter stays; requiring the department to
19 disseminate educational and outreach
20 information through local emergency management
21 offices; requiring the department to coordinate
22 community education and outreach related to
23 special needs shelters with specified agencies
24 and entities; providing that specified
25 confidential and exempt information relating to
26 registration of persons with special needs be
27 provided to the Department of Health; amending
28 s. 381.0303, F.S.; providing for the operation,
29 maintenance, and closure of special needs
30 shelters; removing a condition of specified
31 funding as a prerequisite to the assumption of

1 | lead responsibility by the Department of Health
2 | for specified coordination with respect to the
3 | development of a plan for the staffing and
4 | medical management of special needs shelters;
5 | providing that the local Children's Medical
6 | Services offices shall assume lead
7 | responsibility for specified coordination with
8 | respect to the development of a plan for the
9 | staffing and medical management of pediatric
10 | special needs shelters; requiring such plans to
11 | conform to the local comprehensive emergency
12 | management plan; requiring county governments
13 | to assist in the process of coordinating the
14 | recruitment of health care practitioners to
15 | staff local special needs shelters; providing
16 | that the appropriate county health department,
17 | Children's Medical Services office, and local
18 | emergency management agency shall jointly
19 | determine the responsibility for medical
20 | supervision in a special needs shelter;
21 | providing that state employees with a
22 | preestablished role in disaster response may be
23 | called upon to serve in times of disaster in
24 | specified capacities; requiring the Secretary
25 | of Elderly Affairs to convene a multiagency
26 | emergency special needs shelter response team
27 | or teams to assist local areas that are
28 | severely impacted by a natural or manmade
29 | disaster that requires the use of special needs
30 | shelters; providing duties and responsibilities
31 | of multiagency response teams; authorizing

1 local emergency management agencies to request
2 the assistance of a multiagency response team;
3 providing for the inclusion of specified state
4 agency representatives on each multiagency
5 response team; authorizing hospitals and
6 nursing homes that are used to shelter special
7 needs persons during or after an evacuation to
8 submit invoices for reimbursement to the
9 Department of Health; requiring the department
10 to specify by rule expenses that are
11 reimbursable and the rate of reimbursement for
12 services; prescribing means of and procedures
13 for reimbursement; providing eligibility for
14 reimbursement of health care facilities to
15 which special needs shelter clients have been
16 discharged by a multiagency response team upon
17 closure of a special needs shelter; providing
18 requirements with respect to such
19 reimbursement; prescribing means of and
20 procedures for reimbursement; disallowing
21 specified reimbursements; revising the role of
22 the special needs shelter interagency committee
23 with respect to the planning and operation of
24 special needs shelters; providing required
25 functions of the committee; providing that the
26 committee shall recommend guidelines to
27 establish a statewide database to collect and
28 disseminate special needs registration
29 information; revising the composition of the
30 special needs shelter interagency committee;
31 requiring the inclusion of specified rules with

1 respect to special needs shelters and specified
2 minimum standards therefor; providing
3 requirements with respect to emergency
4 management plans submitted by a home health
5 agency, nurse registry, or hospice to a county
6 health department for review; removing a
7 condition of specified funding as a
8 prerequisite to the submission of such plans;
9 amending s. 252.385, F.S.; requiring the
10 Division of Emergency Management of the
11 Department of Community Affairs to prepare and
12 submit a statewide emergency shelter plan to
13 the Governor and the Cabinet for approval;
14 providing plan requirements; requiring the
15 Department of Health to assist the division in
16 determining the estimated need for special
17 needs shelter space; requiring inspection of
18 public hurricane evacuation shelter facilities
19 by local emergency management agencies prior to
20 activation of such facilities; amending s.
21 400.492, F.S.; providing that nurse registries,
22 hospices, and durable medical equipment
23 providers shall prepare and maintain a
24 comprehensive emergency management plan;
25 providing that home health, hospice, and
26 durable medical equipment provider agencies
27 shall not be required to continue to provide
28 care to patients in emergency situations that
29 are beyond their control and that make it
30 impossible to provide services; authorizing
31 home health agencies, nurse registries,

1 hospices, and durable medical equipment
2 providers to establish links to local emergency
3 operations centers to determine a mechanism to
4 approach areas within a disaster area in order
5 for the agency to reach its clients; providing
6 that the presentation of home care or hospice
7 clients to the special needs shelter without
8 the home health agency or hospice making a good
9 faith effort to provide services in the shelter
10 setting constitutes abandonment of the client;
11 requiring regulatory review in such cases;
12 amending s. 408.831, F.S.; providing that
13 entities regulated or licensed by the Agency
14 for Health Care Administration may exceed their
15 licensed capacity to act as a receiving
16 facility under specified circumstances;
17 providing requirements while such entities are
18 in an overcapacity status; providing for
19 issuance of an inactive license to such
20 licensees under specified conditions; providing
21 requirements and procedures with respect to the
22 issuance and reactivation of an inactive
23 license; providing fees; creating s. 252.357,
24 F.S.; requiring the Florida Comprehensive
25 Emergency Management Plan to permit the Agency
26 for Health Care Administration to initially
27 contact nursing homes in disaster areas for
28 specified monitoring purposes; requiring the
29 agency to publish an emergency telephone number
30 for use by nursing homes; providing an
31 effective date.

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

2

3 Section 1. Section 252.355, Florida Statutes, is
4 amended to read:

5 252.355 Registry of persons with special needs;
6 notice.--

7 (1) In order to meet the special needs of clients
8 ~~persons~~ who would need assistance during evacuations and
9 sheltering because of physical, mental, cognitive impairment,
10 or sensory disabilities, each local emergency management
11 agency in the state shall maintain a registry of persons with
12 special needs located within the jurisdiction of the local
13 agency. The registration shall identify those persons in need
14 of assistance and plan for resource allocation to meet those
15 identified needs. To assist the local emergency management
16 agency in identifying such persons, the Department of Children
17 and Family Services, Department of Health, Agency for Health
18 Care Administration, Department of Education, Agency for
19 Persons with Disabilities, ~~Department of Labor and Employment~~
20 ~~Security,~~ and Department of Elderly Affairs shall provide
21 registration information to all of their special needs clients
22 and to all people with disabilities or special needs who
23 receive services incoming clients as a part of the intake
24 ~~process.~~ The registry shall be updated annually. The
25 registration program shall give persons with special needs the
26 option of preauthorizing emergency response personnel to enter
27 their homes during search and rescue operations if necessary
28 to assure their safety and welfare following disasters.

29 (2) The Department of Community Affairs shall be the
30 designated lead agency responsible for community education and
31 outreach to the general public, including special needs

1 clients, regarding registration and special needs shelters and
2 general information regarding shelter stays. The Department of
3 Community Affairs shall disseminate such educational and
4 outreach information through the local emergency management
5 offices. The department shall coordinate the development of
6 curriculum and dissemination of all community education and
7 outreach related to special needs shelters with the
8 Clearinghouse on Disability Information of the Governor's
9 Working Group on the Americans with Disabilities Act, the
10 Department of Children and Family Services, the Department of
11 Health, the Agency for Health Care Administration, the
12 Department of Education, the Agency for Persons with
13 Disabilities, and the Department of Elderly Affairs.

14 ~~(3)(2)~~ On or before May 1 of each year each electric
15 utility in the state shall annually notify residential
16 customers in its service area of the availability of the
17 registration program available through their local emergency
18 management agency.

19 ~~(4)(3)~~ All records, data, information, correspondence,
20 and communications relating to the registration of persons
21 with special needs as provided in subsection (1) are
22 confidential and exempt from the provisions of s. 119.07(1),
23 except that such information shall be available to other
24 emergency response agencies, as determined by the local
25 emergency management director, and shall be provided to the
26 Department of Health in the furtherance of their duties and
27 responsibilities.

28 ~~(5)(4)~~ All appropriate agencies and community-based
29 service providers, including home health care providers, and
30 hospices, shall assist emergency management agencies by
31 collecting registration information for persons with special

1 | needs as part of program intake processes, establishing
2 | programs to increase the awareness of the registration
3 | process, and educating clients about the procedures that may
4 | be necessary for their safety during disasters. Clients of
5 | state or federally funded service programs with physical,
6 | mental, cognitive impairment, or sensory disabilities who need
7 | assistance in evacuating, or when in shelters, must register
8 | as persons with special needs.

9 | Section 2. Section 381.0303, Florida Statutes, is
10 | amended to read:

11 | 381.0303 ~~Health practitioner recruitment for~~ Special
12 | needs shelters.--

13 | (1) PURPOSE.--The purpose of this section is to
14 | provide for the operation, maintenance, and closure of special
15 | needs shelters and to designate the Department of Health,
16 | through its county health departments, as the lead agency for
17 | coordination of the recruitment of health care practitioners,
18 | as defined in s. 456.001(4), to staff special needs shelters
19 | in times of emergency or disaster and to provide resources to
20 | the department to carry out this responsibility. However,
21 | nothing in this section prohibits a county health department
22 | from entering into an agreement with a local emergency
23 | management agency to assume the lead responsibility for
24 | recruiting health care practitioners.

25 | (2) SPECIAL NEEDS SHELTER PLAN; STAFFING; CLOSURE;
26 | STATE AGENCY ASSISTANCE AND STAFFING.--~~Provided funds have~~
27 | ~~been appropriated to support medical services disaster~~
28 | ~~coordinator positions in county health departments,~~

29 | (a) The department shall assume lead responsibility
30 | for the ~~local~~ coordination of local medical and health care
31 | providers, the American Red Cross, and other interested

1 parties in developing a plan for the staffing and medical
2 management of special needs shelters. The local Children's
3 Medical Services offices shall assume lead responsibility for
4 the local coordination of local medical and health care
5 providers, the American Red Cross, and other interested
6 parties in developing a plan for the staffing and medical
7 management of pediatric special needs shelters. Plans shall
8 conform to ~~The plan shall be in conformance with~~ the local
9 comprehensive emergency management plan.

10 ~~(b)(a)~~ County health departments shall, in conjunction
11 with the local emergency management agencies, have the lead
12 responsibility for coordination of the recruitment of health
13 care practitioners to staff local special needs shelters.
14 County health departments shall assign their employees to work
15 in special needs shelters when those employees are needed to
16 protect the health and safety of special needs clients ~~of~~
17 patients. County governments shall assist in this process.

18 ~~(c)(b)~~ The appropriate county health department,
19 Children's Medical Services office, and local emergency
20 management agency shall jointly decide ~~determine~~ who has
21 responsibility for medical supervision in each ~~a~~ special needs
22 shelter and shall notify the department of their decision.

23 ~~(d)(e)~~ Local emergency management agencies shall be
24 responsible for the designation and operation of special needs
25 shelters during times of emergency or disaster and the closure
26 of the facilities following an emergency or disaster. County
27 health departments shall assist the local emergency management
28 agency with regard to the management of medical services in
29 special needs shelters.

30 (e) State employees with a preestablished role in
31 disaster response may be called upon to serve in times of

1 disaster commensurate with their knowledge, skills, and
2 abilities and any needed activities related to the situation.

3 (f) The Secretary of Elderly Affairs, or his or her
4 designee, shall convene, at any time that he or she deems
5 appropriate and necessary, a multiagency emergency special
6 needs shelter response team or teams to assist local areas
7 that are severely impacted by a natural or manmade disaster
8 that requires the use of special needs shelters. Multiagency
9 response teams shall provide assistance to local emergency
10 management agencies with the continued operation or closure of
11 the shelters, as well as with the discharge of special needs
12 clients to alternate facilities if necessary. Local emergency
13 management agencies may request the assistance of a
14 multiagency response team by alerting statewide emergency
15 management officials of the necessity for additional
16 assistance in their area. The Secretary of Elderly Affairs is
17 encouraged to proactively work with other state agencies prior
18 to any natural disasters for which warnings are provided to
19 ensure that multiagency response teams are ready to assemble
20 and deploy rapidly upon a determination by state emergency
21 management officials that a disaster area requires additional
22 assistance. The Secretary of Elderly Affairs may call upon any
23 state agency or office to provide staff to assist a
24 multiagency response team or teams. Unless the secretary
25 determines that the nature of or circumstances surrounding the
26 disaster do not warrant participation from a particular
27 agency's staff, each multiagency response team shall include
28 at least one representative from each of the following state
29 agencies:

30 1. Department of Elderly Affairs.

31 2. Department of Health.

1 3. Department of Children and Family Services.

2 4. Department of Veterans' Affairs.

3 5. Department of Community Affairs.

4 6. Agency for Health Care Administration.

5 7. Agency for Persons with Disabilities.

6 (3) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS AND
7 FACILITIES.--

8 (a) The Department of Health shall upon request
9 reimburse, subject to the availability of funds for this
10 purpose, health care practitioners, as defined in s. 456.001,
11 provided the practitioner is not providing care to a patient
12 under an existing contract, and emergency medical technicians
13 and paramedics licensed under ~~pursuant to~~ chapter 401, for
14 medical care provided at the request of the department in
15 special needs shelters or at other locations during times of
16 emergency or a declared major disaster. Reimbursement for
17 health care practitioners, except for physicians licensed
18 under ~~pursuant to~~ chapter 458 or chapter 459, shall be based
19 on the average hourly rate that such practitioners were paid
20 according to the most recent survey of Florida hospitals
21 conducted by the Florida Hospital Association. Reimbursement
22 shall be requested on forms prepared by the Department of
23 Health and shall be paid as specified in paragraph (d).

24 (b) Hospitals and nursing homes that are used to
25 shelter special needs clients during or after an evacuation
26 may submit invoices for reimbursement to the department. The
27 department shall develop a form for reimbursement and shall
28 specify by rule which expenses are reimbursable and the rate
29 of reimbursement for each service. Reimbursement for the
30 services described in this paragraph shall be paid as
31 specified in paragraph (d).

1 (c) If, upon closure of a special needs shelter, a
2 multiagency response team determines that it is necessary to
3 discharge special needs shelter clients to other health care
4 facilities, such as nursing homes, assisted living facilities,
5 and community residential group homes, the receiving
6 facilities shall be eligible for reimbursement for services
7 provided to the clients for up to 90 days. Any facility
8 eligible for reimbursement under this paragraph shall submit
9 invoices for reimbursement on forms developed by the
10 department. A facility must show proof of a written request
11 from a representative of an agency serving on the multiagency
12 response team that the client for whom the facility is seeking
13 reimbursement for services rendered was referred to that
14 facility from a special needs shelter. Reimbursement for the
15 services described in this paragraph shall be paid as
16 specified in paragraph (d).

17 (d) If a Presidential Disaster Declaration has been
18 issued ~~made,~~ and the Federal Government makes funds available,
19 the department shall use those ~~such~~ funds for reimbursement of
20 eligible expenditures. In other situations, or if federal
21 funds do not fully compensate the department for
22 reimbursements permissible under ~~reimbursement made pursuant~~
23 ~~to~~ this section, the department shall process a budget
24 amendment to obtain reimbursement from unobligated,
25 unappropriated moneys in the General Revenue Fund. The
26 department shall not provide reimbursement to facilities under
27 this subsection for services provided to a special needs
28 client if, during the period of time in which the services
29 were provided, the client was enrolled in another state-funded
30 program, such as Medicaid or another similar program, which
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1 would otherwise pay for the same services. Travel expense and
2 per diem costs shall be reimbursed pursuant to s. 112.061.

3 (4) HEALTH CARE PRACTITIONER REGISTRY.--The department
4 may use the registries established in ss. 401.273 and 456.38
5 when health care practitioners are needed to staff special
6 needs shelters or to staff disaster medical assistance teams.

7 (5) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.--The
8 Secretary ~~Department~~ of Health may establish a special needs
9 shelter interagency committee and serve as or appoint a
10 designee to serve as the committee's chair. The department
11 shall provide any necessary staff and resources to support the
12 committee in the performance of its duties, ~~to be chaired and~~
13 ~~staffed by the department.~~ The committee shall resolve
14 problems related to special needs shelters not addressed in
15 the state comprehensive emergency medical plan and shall
16 consult on ~~serve as an oversight committee to monitor~~ the
17 planning and operation of special needs shelters.

18 (a) The committee shall ~~may~~:

19 1. Develop and negotiate any necessary interagency
20 agreements.

21 2. Undertake other such activities as the department
22 deems necessary to facilitate the implementation of this
23 section.

24 3. Submit recommendations to the Legislature as
25 necessary. Such recommendations shall include, but not be
26 limited to, the following:

27 a. Defining "special needs shelter."

28 b. Defining "special needs client."

29 c. Development of a uniform registration form for
30 special needs clients.

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1 d. Improving public awareness regarding the
2 registration process.

3 e. Improving overall communications with special needs
4 clients both before and after a disaster.

5 f. Recommending the construction or designation of
6 additional special needs shelters in underserved areas of the
7 state and the necessity of upgrading, modifying, or
8 retrofitting existing special needs shelters.

9 g. Recommending guidelines to establish a statewide
10 database designed to collect and disseminate timely and
11 appropriate special needs registration information.

12 (b) The special needs shelter interagency committee
13 shall be composed of representatives of emergency management,
14 health, medical, and social services organizations. Membership
15 shall include, but shall not be limited to, representatives of
16 the Departments of Health, Community Affairs, Children and
17 Family Services, Elderly Affairs, ~~Labor and Employment~~
18 ~~Security~~, and Education; the Agency for Health Care
19 Administration; the Florida Medical Association; the Florida
20 Osteopathic Medical Association; Associated Home Health
21 Industries of Florida, Inc.; the Florida Nurses Association;
22 the Florida Health Care Association; the Florida Assisted
23 Living Affiliation Association; the Florida Hospital
24 Association; the Florida Statutory Teaching Hospital Council;
25 the Florida Association of Homes for the Aging; the Florida
26 Emergency Preparedness Association; the American Red Cross;
27 Florida Hospices and Palliative Care, Inc.; the Association of
28 Community Hospitals and Health Systems; the Florida
29 Association of Health Maintenance Organizations; the Florida
30 League of Health Systems; Private Care Association; ~~and~~ the
31

1 Salvation Army; the Florida Association of Aging Services
2 Providers; and the AARP.

3 (c) Meetings of the committee shall be held in
4 Tallahassee, and members of the committee shall serve at the
5 expense of the agencies or organizations they represent. The
6 committee shall make every effort to use teleconference or
7 video conference capabilities in order to ensure statewide
8 input and participation.

9 (6) RULES.--The department has the authority to adopt
10 rules necessary to implement this section. Rules ~~shall~~ may
11 include a definition of a special needs ~~client~~ patient,
12 ~~specify~~ physician reimbursement, and the designation of
13 ~~designate which~~ county health departments that will have
14 responsibility for the implementation of subsections (2) and
15 (3). Standards for special needs shelters adopted by rule
16 shall include minimum standards relating to:

17 (a) Staffing levels for provision of services to
18 assist individuals with activities of daily living.

19 (b) Provision of transportation services.

20 (c) Compliance with applicable service animal laws.

21 (d) Eligibility criteria that include individuals with
22 physical, cognitive, and psychiatric disabilities.

23 (e) Provision of support and services for individuals
24 with physical, cognitive, and psychiatric disabilities.

25 (f) Standardized applications that include specific
26 eligibility criteria and the services an individual with
27 special needs can expect to receive.

28 (g) Procedures for addressing the needs of
29 unregistered individuals in need of shelter.

30 (h) Requirements that the special needs shelter
31 location meets the Florida Accessibility Code for Building

1 Construction. If the location fails to meet the standards, a
2 plan must be provided describing how compliance will be
3 achieved.

4 (i) Procedures for addressing the needs of families
5 that are eligible for special needs shelter services. Specific
6 procedures shall be developed to address the needs of families
7 with multiple dependents where only one dependent is eligible
8 for the special needs shelter. Specific procedures shall be
9 developed to address the needs of adults with special needs
10 who are caregivers for individuals without special needs.

11 (j) Standards for special needs shelters, including
12 staffing, onsite emergency power, transportation services,
13 supplies, including durable medical equipment, and any other
14 recommendations for minimum standards as determined by the
15 committee.

16 ~~(7) REVIEW OF EMERGENCY MANAGEMENT PLANS; CONTINUITY~~
17 ~~OF CARE.--Each emergency management plan submitted to a county~~
18 ~~health department by a home health agency pursuant to s.~~
19 ~~400.497, by a nurse registry pursuant to s. 400.506, or by a~~
20 ~~hospice pursuant to s. 400.610 shall specify the~~
21 ~~organization's functional staffing plan for special needs~~
22 ~~shelters to ensure continuity of care and services to its~~
23 ~~clients during and after the disaster or emergency situation.~~
24 ~~The submission of Emergency management plans to county health~~
25 ~~departments by home health agencies pursuant to s.~~
26 ~~400.497(8)(c) and (d) and by nurse registries pursuant to s.~~
27 ~~400.506(16)(c) and by hospice programs pursuant to s.~~
28 ~~400.610(1)(b) is conditional upon the receipt of an~~
29 ~~appropriation by the department to establish medical services~~
30 ~~disaster coordinator positions in county health departments~~
31 ~~unless the secretary of the department and a local county~~

1 ~~commission jointly determine to require such plans to be~~
2 ~~submitted based on a determination that there is a special~~
3 ~~need to protect public health in the local area during an~~
4 ~~emergency.~~

5 Section 3. Subsections (2) and (4) of section 252.385,
6 Florida Statutes, are amended to read:

7 252.385 Public shelter space.--

8 (2)(a) The division shall administer a program to
9 survey existing schools, universities, community colleges, and
10 other state-owned, municipally owned, and county-owned public
11 buildings and any private facility that the owner, in writing,
12 agrees to provide for use as a public hurricane evacuation
13 shelter to identify those that are appropriately designed and
14 located to serve as such shelters. The owners of the
15 facilities must be given the opportunity to participate in the
16 surveys. The Board of Regents, district school boards,
17 community college boards of trustees, and the Department of
18 Education are responsible for coordinating and implementing
19 the survey of public schools, universities, and community
20 colleges with the division or the local emergency management
21 agency.

22 (b) By January 31 of each even-numbered year, the
23 Division of Emergency Management of the Department of
24 Community Affairs shall prepare and submit a statewide
25 emergency shelter plan to the Governor and the Cabinet for
26 approval, subject to the requirements for approval provided in
27 s. 1013.37(2). The plan must also identify the general
28 location and square footage of special needs shelters, by
29 regional planning council region, during the next 5 years. The
30 Department of Health shall assist the division in determining
31 the estimated need for special needs shelter space based on

1 information from the special needs registration database and
2 other factors.

3 (4)(a) Public facilities, including schools,
4 postsecondary education facilities, and other facilities owned
5 or leased by the state or local governments, but excluding
6 hospitals or nursing homes, which are suitable for use as
7 public hurricane evacuation shelters shall be made available
8 at the request of the local emergency management agencies. The
9 local emergency management agency shall inspect a designated
10 facility to determine its readiness prior to activating such
11 facility for a specific hurricane or disaster. Such agencies
12 shall coordinate with the appropriate school board,
13 university, community college, or local governing board when
14 requesting the use of such facilities as public hurricane
15 evacuation shelters.

16 (b) The Department of Management Services shall
17 incorporate provisions for the use of suitable leased public
18 facilities as public hurricane evacuation shelters into lease
19 agreements for state agencies. Suitable leased public
20 facilities include leased public facilities that are solely
21 occupied by state agencies and have at least 2,000 square feet
22 of net floor area in a single room or in a combination of
23 rooms having a minimum of 400 square feet in each room. The
24 net square footage of floor area must be determined by
25 subtracting from the gross square footage the square footage
26 of spaces such as mechanical and electrical rooms, storage
27 rooms, open corridors, restrooms, kitchens, science or
28 computer laboratories, shop or mechanical areas,
29 administrative offices, records vaults, and crawl spaces.

30 (c) The Department of Management Services shall, in
31 consultation with local and state emergency management

1 agencies, assess Department of Management Services facilities
2 to identify the extent to which each facility has public
3 hurricane evacuation shelter space. The Department of
4 Management Services shall submit proposed facility retrofit
5 projects that incorporate hurricane protection enhancements to
6 the department for assessment and inclusion in the annual
7 report prepared in accordance with subsection (3).

8 Section 4. Section 400.492, Florida Statutes, is
9 amended to read:

10 400.492 Provision of services during an
11 emergency.--Each home health agency, nurse registry, hospice,
12 or durable medical equipment provider shall prepare and
13 maintain a comprehensive emergency management plan that is
14 consistent with the standards adopted by national
15 accreditation organizations and consistent with the local
16 special needs plan. The plan shall be updated annually and
17 shall provide for continuing home health, nurse registry,
18 hospice, or durable medical equipment services during an
19 emergency that interrupts patient care or services in the
20 patient's home. The plan shall describe how the home health
21 agency, nurse registry, hospice, or durable medical equipment
22 provider establishes and maintains an effective response to
23 emergencies and disasters, including: notifying staff when
24 emergency response measures are initiated; providing for
25 communication between staff members, county health
26 departments, and local emergency management agencies,
27 including a backup system; identifying resources necessary to
28 continue essential care or services or referrals to other
29 organizations subject to written agreement; and prioritizing
30 and contacting patients who need continued care or services.

31

1 (1) Each patient record for patients who are listed in
2 the registry established pursuant to s. 252.355 shall include
3 a description of how care or services will be continued in the
4 event of an emergency or disaster. The home health agency
5 shall discuss the emergency provisions with the patient and
6 the patient's caregivers, including where and how the patient
7 is to evacuate, procedures for notifying the home health
8 agency in the event that the patient evacuates to a location
9 other than the shelter identified in the patient record, and a
10 list of medications and equipment which must either accompany
11 the patient or will be needed by the patient in the event of
12 an evacuation.

13 (2) Each home health agency shall maintain a current
14 prioritized list of patients who need continued services
15 during an emergency. The list shall indicate how services
16 shall be continued in the event of an emergency or disaster
17 for each patient and if the patient is to be transported to a
18 special needs shelter, and shall indicate if the patient is
19 receiving skilled nursing services and the patient's
20 medication and equipment needs. The list shall be furnished to
21 county health departments and to local emergency management
22 agencies, upon request.

23 (3) Home health, hospice, and durable medical
24 equipment provider agencies shall not be required to continue
25 to provide care to patients in emergency situations that are
26 beyond their control and that make it impossible to provide
27 services, such as when roads are impassable or when patients
28 do not go to the location specified in their patient records.
29 Home health agencies, nurse registries, hospices, and durable
30 medical equipment providers may establish links to local
31 emergency operations centers to determine a mechanism to

1 approach areas within the disaster area in order for the
2 agency to reach its clients. The presentation of home care or
3 hospice clients to a special needs shelter without the home
4 health agency or hospice making a good faith effort to provide
5 services in the shelter setting will constitute abandonment of
6 the client and will result in regulatory review.

7 (4) Notwithstanding the provisions of s. 400.464(2) or
8 any other provision of law to the contrary, a home health
9 agency may provide services in a special needs shelter located
10 in any county.

11 Section 5. Section 408.831, Florida Statutes, is
12 amended to read:

13 408.831 Denial, suspension, or revocation of a
14 license, registration, certificate, or application.--

15 (1) In addition to any other remedies provided by law,
16 the agency may deny each application or suspend or revoke each
17 license, registration, or certificate of entities regulated or
18 licensed by it:

19 (a) If the applicant, licensee, registrant, or
20 certificateholder, or, in the case of a corporation,
21 partnership, or other business entity, if any officer,
22 director, agent, or managing employee of that business entity
23 or any affiliated person, partner, or shareholder having an
24 ownership interest equal to 5 percent or greater in that
25 business entity, has failed to pay all outstanding fines,
26 liens, or overpayments assessed by final order of the agency
27 or final order of the Centers for Medicare and Medicaid
28 Services, not subject to further appeal, unless a repayment
29 plan is approved by the agency; or

30 (b) For failure to comply with any repayment plan.
31

1 (2) In reviewing any application requesting a change
2 of ownership or change of the licensee, registrant, or
3 certificateholder, 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 (3) Entities subject to this section may exceed their
11 licensed capacity to act as a receiving facility in accordance
12 with an emergency operations plan for clients of evacuating
13 providers from a geographic area where an evacuation order has
14 been issued by a local authority having jurisdiction. While in
15 an overcapacity status, each provider must furnish or arrange
16 for appropriate care and services to all clients. Overcapacity
17 status in excess of 15 days shall require compliance with all
18 firesafety requirements or their equivalency as approved by
19 state and local authorities, whichever is applicable. In
20 addition, the agency shall approve requests for overcapacity
21 beyond 15 days, which approvals shall be based upon
22 satisfactory justification and need as provided by the
23 receiving and sending facility.

24 (4) An inactive license may be issued to a licensee
25 subject to this section when the provider is located in a
26 geographic area where a state of emergency was declared by the
27 Governor of Florida if the provider:

28 (a) Suffered damage to the provider's operation during
29 that state of emergency.

30 (b) Is currently licensed.

31 (c) Does not have a provisional license.

1 (d) Will be temporarily unable to provide services but
2 is reasonably expected to resume services within 12 months.

3
4 An inactive license may be issued for a period not to exceed
5 12 months but may be renewed by the agency for up to 6
6 additional months upon demonstration to the agency of progress
7 toward reopening. A request by a licensee for an inactive
8 license or to extend the previously approved inactive period
9 must be submitted in writing to the agency, accompanied by
10 written justification for the inactive license which states
11 the beginning and ending dates of inactivity and includes a
12 plan for the transfer of any clients to other providers and
13 appropriate licensure fees. Upon agency approval, the licensee
14 shall notify clients of any necessary discharge or transfer as
15 required by authorizing statutes or applicable rules. The
16 beginning of the inactive licensure period shall be the date
17 the provider ceases operations. The end of the inactive period
18 shall become the licensee expiration date, and all licensure
19 fees must be current or paid in full and may be prorated.
20 Reactivation of an inactive license requires the prior
21 approval by the agency of a renewal application, including
22 payment of licensure fees and agency inspections indicating
23 compliance with all requirements of this part and applicable
24 rules and statutes.

25 ~~(5)(3)~~ This section provides standards of enforcement
26 applicable to all entities licensed or regulated by the Agency
27 for Health Care Administration. This section controls over any
28 conflicting provisions of chapters 39, 381, 383, 390, 391,
29 393, 394, 395, 400, 408, 468, 483, and 641 or rules adopted
30 pursuant to those chapters.
31

1 Section 6. Section 252.357, Florida Statutes, is
2 created to read:

3 252.357 Monitoring of nursing homes during
4 disaster.--The Florida Comprehensive Emergency Management Plan
5 shall permit the Agency for Health Care Administration,
6 working from the agency's offices or in the Emergency
7 Operations Center, ESF-8, to make initial contact with each
8 nursing home in the disaster area. The agency, by July 15,
9 2005, and annually thereafter, shall publish on the Internet
10 an emergency telephone number that can be used by nursing
11 homes to contact the agency on a schedule established by the
12 agency to report requests for assistance. The agency may also
13 provide the telephone number to each facility when it makes
14 the initial facility call.

15 Section 7. This act shall take effect July 1, 2006.
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