

By the Committees on Ways and Means; Transportation and Economic Development Appropriations; Health Care; Community Affairs; Domestic Security; and Senators Diaz de la Portilla and Wise

576-2411-06

1 A bill to be entitled
2 An act relating to emergency management;
3 amending s. 252.355, F.S.; specifying
4 additional entities and agencies that are
5 required to provide registration information to
6 persons with disabilities or special needs for
7 purposes of inclusion within the registry of
8 persons with special needs maintained by local
9 emergency management agencies; providing that
10 the Department of Community Affairs is the
11 designated lead agency responsible for
12 community education and outreach to the general
13 public, including persons with special needs,
14 regarding registration as a person with special
15 needs, special needs shelters, and general
16 information regarding shelter stays; providing
17 that special needs shelters must allow persons
18 with special needs to bring service animals
19 into special needs shelters; revising
20 provisions with respect to the required
21 notification of residential utility customers
22 of the availability of the special needs
23 registration program; providing that specified
24 confidential and exempt information relating to
25 the roster of persons with special needs in
26 special needs shelters be provided to local law
27 enforcement; creating s. 252.3568, F.S.;
28 requiring the Division of Emergency Management
29 to address strategies for the evacuation of
30 persons with pets in the shelter component of
31 the state comprehensive emergency management

1 plan; creating s. 252.357, F.S.; requiring the
2 Florida Comprehensive Emergency Management Plan
3 to permit the Agency for Health Care
4 Administration to make initial contact with
5 each nursing home and assisted living facility
6 in a disaster area; requiring the agency to
7 annually publish an emergency telephone number
8 that may be used by nursing homes and assisted
9 living facilities to contact the agency;
10 amending s. 252.385, F.S., relating to public
11 shelter space; requiring the Division of
12 Emergency Management of the Department of
13 Community Affairs to biennially prepare and
14 submit a statewide emergency shelter plan to
15 the Governor and the Cabinet for approval;
16 providing plan requirements; requiring the
17 Department of Health to provide specified
18 assistance to the division; revising the list
19 of those facilities that are excluded as being
20 suitable for use as public hurricane evacuation
21 shelters; requiring local emergency management
22 agencies to coordinate with public facilities
23 to determine readiness prior to activation;
24 amending s. 381.0303, F.S.; providing for the
25 operation of special needs shelters; providing
26 that local Children's Medical Services offices
27 shall assume lead responsibility for specified
28 coordination with respect to the development of
29 a plan for the staffing and medical management
30 of pediatric special needs shelters; requiring
31 that such plans conform to the local

1 comprehensive emergency management plan;
2 requiring county governments to assist the
3 Department of Health with nonmedical staffing
4 and operation of special needs shelters;
5 requiring county health departments and
6 emergency management agencies to coordinate
7 such efforts to ensure appropriate staffing;
8 providing that the appropriate county health
9 department, Children's Medical Services office,
10 and local emergency management agency shall
11 jointly determine the responsibility for
12 medical supervision in a special needs shelter;
13 providing notification requirements; requiring
14 the emergency management agency and the local
15 health department to coordinate efforts to
16 ensure appropriate designation, operation, and
17 closure of special needs shelters; requiring
18 the Secretary of Elderly Affairs to convene
19 multiagency special needs shelter discharge
20 planning teams to assist local areas that are
21 severely impacted by a natural or manmade
22 disaster that requires the use of special needs
23 shelters; providing duties and responsibilities
24 of such discharge planning teams; providing for
25 the inclusion of specified state agency
26 representatives on each discharge planning
27 team; revising provisions relating to
28 reimbursement of health care practitioners;
29 providing for eligibility of specified health
30 care facilities for reimbursement when a
31 multiagency special needs shelter discharge

1 | planning team discharges persons with special
2 | needs to such receiving facilities; providing
3 | procedures and requirements with respect to
4 | such reimbursement; requiring the department to
5 | specify by rule expenses that are reimbursable
6 | and the rate of reimbursement for services;
7 | revising provisions that prescribe means of and
8 | procedures for reimbursement; disallowing
9 | specified reimbursements; revising provisions
10 | with respect to the organization, role, duties,
11 | and composition of the special needs shelter
12 | interagency committee; requiring the department
13 | to adopt specified rules with respect to
14 | special needs shelters; amending ss. 400.492,
15 | 400.497, 400.506, 400.610, and 400.934, F.S.;
16 | revising requirements with respect to the
17 | comprehensive emergency management plans of
18 | home health agencies, nurse registries, and
19 | hospices, and providing requirements with
20 | respect to home medical equipment providers, to
21 | include the means by which continuing services
22 | will be provided to patients who evacuate to
23 | special needs shelters; authorizing the
24 | establishment of links to local emergency
25 | operations centers for specified purposes;
26 | revising requirements of a county health
27 | department with respect to review of a
28 | comprehensive emergency management plan
29 | submitted by a home health agency, nurse
30 | registry, or hospice; providing requirements
31 | upon failure to submit a plan or requested

1 information to the department; providing for
2 imposition of a fine; revising requirements of
3 the Department of Health with respect to review
4 of the plan of a home health agency or hospice
5 that operates in more than one county;
6 providing that the preparation and maintenance
7 of a comprehensive emergency management plan by
8 a home medical equipment provider is a
9 requirement for licensure and must meet minimum
10 criteria established by the Agency for Health
11 Care Administration; providing plan
12 requirements; providing that the plan is
13 subject to review and approval by the county
14 health department; requiring each home medical
15 equipment provider to maintain a current
16 prioritized list of patients who need continued
17 services during an emergency; amending s.
18 400.925, F.S.; defining "life-supporting or
19 life-sustaining equipment" for purposes of part
20 X of ch. 400, F.S., relating to home medical
21 equipment providers; amending s. 400.935, F.S.;
22 requiring the Agency for Health Care
23 Administration to adopt rules with respect to
24 the comprehensive emergency management plan
25 prepared by a home medical equipment services
26 provider; amending s. 408.831, F.S.; providing
27 that entities regulated or licensed by the
28 Agency for Health Care Administration may
29 exceed their licensed capacity to act as
30 receiving facilities under specified
31 circumstances; providing requirements while

1 such entities are in an overcapacity status;
2 providing for issuance of an inactive license
3 to such licensees under specified conditions;
4 providing requirements and procedures with
5 respect to the issuance and reactivation of an
6 inactive license; providing fees; requiring
7 certain health insurance companies to waive
8 restrictions on filling prescriptions during a
9 declared State of Emergency; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 252.355, Florida Statutes, is
15 amended to read:

16 252.355 Registry of persons with special needs;
17 notice.--

18 (1) In order to meet the special needs of persons who
19 would need assistance during evacuations and sheltering
20 because of physical, mental, cognitive impairment, or sensory
21 disabilities, each local emergency management agency in the
22 state shall maintain a registry of persons with special needs
23 located within the jurisdiction of the local agency. The
24 registration shall identify those persons in need of
25 assistance and plan for resource allocation to meet those
26 identified needs. To assist the local emergency management
27 agency in identifying such persons, home health agencies,
28 hospices, nurse registries, home medical equipment providers,
29 the Department of Children and Family Services, Department of
30 Health, Agency for Health Care Administration, Department of
31 Education, Agency for Persons with Disabilities, ~~Labor and~~

1 ~~Employment Security~~, and Department of Elderly Affairs shall
2 provide registration information to all of their special needs
3 clients and to all persons with special needs who receive
4 services ~~incoming clients as a part of the intake process~~. The
5 registry shall be updated annually. The registration program
6 shall give persons with special needs the option of
7 preauthorizing emergency response personnel to enter their
8 homes during search and rescue operations if necessary to
9 assure their safety and welfare following disasters.

10 (2) The Department of Community Affairs shall be the
11 designated lead agency responsible for community education and
12 outreach to the public, including special needs clients,
13 regarding registration and special needs shelters and general
14 information regarding shelter stays.

15 (3) A person with special needs must be allowed to
16 bring his or her service animal into a special needs shelter
17 in accordance with s. 413.08.

18 ~~(4)(a)(2)~~ On or before May 1 of each year each
19 electric utility in the state shall annually notify
20 residential customers in its service area of the availability
21 of the registration program available through their local
22 emergency management agency by:-

23 1. An initial notification upon the activation of new
24 residential service with the electric utility, followed by one
25 annual notification between January 1 and May 31; or

26 2. Two separate annual notifications between January 1
27 and May 31.

28 (b) The notification may be made by any available
29 means, including, but not limited to, written, electronic, or
30 verbal notification, and may be made concurrently with any
31

1 other notification to residential customers required by law or
2 rule.

3 ~~(5)(3)~~ All records, data, information, correspondence,
4 and communications relating to the registration of persons
5 with special needs as provided in subsection (1) are
6 confidential and exempt from the provisions of s. 119.07(1),
7 except that such information shall be available to other
8 emergency response agencies, as determined by the local
9 emergency management director. Local law enforcement agencies
10 shall be given complete shelter roster information upon
11 request.

12 ~~(6)(4)~~ All appropriate agencies and community-based
13 service providers, including home health care providers,
14 hospices, nurse registries, and home medical equipment
15 providers, shall assist emergency management agencies by
16 collecting registration information for persons with special
17 needs as part of program intake processes, establishing
18 programs to increase the awareness of the registration
19 process, and educating clients about the procedures that may
20 be necessary for their safety during disasters. Clients of
21 state or federally funded service programs with physical,
22 mental, cognitive impairment, or sensory disabilities who need
23 assistance in evacuating, or when in shelters, must register
24 as persons with special needs.

25 Section 2. Section 252.3568, Florida Statutes, is
26 created to read:

27 252.3568 Emergency sheltering of persons with
28 pets.--In accordance with s. 252.35, the division shall
29 address strategies for the evacuation of persons with pets in
30 the shelter component of the state comprehensive emergency
31 management plan and shall include the requirement for similar

1 strategies in its standards and requirements for local
2 comprehensive emergency management plans. The Department of
3 Agriculture and Consumer Services shall assist the division in
4 determining strategies regarding this activity.

5 Section 3. Section 252.357, Florida Statutes, is
6 created to read:

7 252.357 Monitoring of nursing homes and assisted
8 living facilities during disaster.--The Florida Comprehensive
9 Emergency Management Plan shall permit the Agency for Health
10 Care Administration, working from the agency's offices or in
11 the Emergency Operations Center, ESF-8, to make initial
12 contact with each nursing home and assisted living facility in
13 the disaster area. The agency, by July 15, 2006, and annually
14 thereafter, shall publish on the Internet an emergency
15 telephone number that may be used by nursing homes and
16 assisted living facilities to contact the agency on a schedule
17 established by the agency to report requests for assistance.
18 The agency may also provide the telephone number to each
19 facility when it makes the initial facility call.

20 Section 4. Subsections (2) and (4) of section 252.385,
21 Florida Statutes, are amended to read:

22 252.385 Public shelter space.--

23 (2)(a) The division shall administer a program to
24 survey existing schools, universities, community colleges, and
25 other state-owned, municipally owned, and county-owned public
26 buildings and any private facility that the owner, in writing,
27 agrees to provide for use as a public hurricane evacuation
28 shelter to identify those that are appropriately designed and
29 located to serve as such shelters. The owners of the
30 facilities must be given the opportunity to participate in the
31 surveys. The state university boards of trustees ~~Board of~~

1 ~~Regents~~, district school boards, community college boards of
2 trustees, and the Department of Education are responsible for
3 coordinating and implementing the survey of public schools,
4 universities, and community colleges with the division or the
5 local emergency management agency.

6 (b) By January 31 of each even-numbered year, the
7 division shall prepare and submit a statewide emergency
8 shelter plan to the Governor and Cabinet for approval, subject
9 to the requirements for approval in s. 1013.37(2). The plan
10 shall identify the general location and square footage of
11 special needs shelters, by regional planning council region,
12 during the next 5 years. The plan shall also include
13 information on the availability of shelters that accept pets.
14 The Department of Health shall assist the division in
15 determining the estimated need for special needs shelter
16 space and the adequacy of facilities to meet the needs of
17 persons with special needs based on information from the
18 registries of persons with special needs and other
19 information.

20 (4)(a) Public facilities, including schools,
21 postsecondary education facilities, and other facilities owned
22 or leased by the state or local governments, but excluding
23 hospitals, hospice care facilities, assisted living
24 facilities, and ~~or~~ nursing homes, which are suitable for use
25 as public hurricane evacuation shelters shall be made
26 available at the request of the local emergency management
27 agencies. The local emergency management agency shall
28 coordinate with these entities to ensure that designated
29 facilities are ready to activate prior to a specific hurricane
30 or disaster. Such agencies shall coordinate with the
31 appropriate school board, university, community college, or

1 local governing board when requesting the use of such
2 facilities as public hurricane evacuation shelters.

3 (b) The Department of Management Services shall
4 incorporate provisions for the use of suitable leased public
5 facilities as public hurricane evacuation shelters into lease
6 agreements for state agencies. Suitable leased public
7 facilities include leased public facilities that are solely
8 occupied by state agencies and have at least 2,000 square feet
9 of net floor area in a single room or in a combination of
10 rooms having a minimum of 400 square feet in each room. The
11 net square footage of floor area shall ~~must~~ be determined by
12 subtracting from the gross square footage the square footage
13 of spaces such as mechanical and electrical rooms, storage
14 rooms, open corridors, restrooms, kitchens, science or
15 computer laboratories, shop or mechanical areas,
16 administrative offices, records vaults, and crawl spaces.

17 (c) The Department of Management Services shall, in
18 consultation with local and state emergency management
19 agencies, assess Department of Management Services facilities
20 to identify the extent to which each facility has public
21 hurricane evacuation shelter space. The Department of
22 Management Services shall submit proposed facility retrofit
23 projects that incorporate hurricane protection enhancements to
24 the department for assessment and inclusion in the annual
25 report prepared in accordance with subsection (3).

26 Section 5. Section 381.0303, Florida Statutes, is
27 amended to read:

28 (Substantial rewording of section. See
29 s. 381.0303, F.S., for present text.)
30 381.0303 Special needs shelters.--
31

1 (1) PURPOSE.--The purpose of this section is to
2 provide for the operation and closure of special needs
3 shelters and to designate the Department of Health, through
4 its county health departments, as the lead agency for
5 coordination of the recruitment of health care practitioners,
6 as defined in s. 456.001(4), to staff special needs shelters
7 in times of emergency or disaster and to provide resources to
8 the department to carry out this responsibility. However,
9 nothing in this section prohibits a county health department
10 from entering into an agreement with a local emergency
11 management agency to assume the lead responsibility for
12 recruiting health care practitioners.

13 (2) SPECIAL NEEDS SHELTER PLAN; STAFFING; STATE AGENCY
14 ASSISTANCE.--If funds have been appropriated to support
15 disaster coordinator positions in county health departments:

16 (a) The department shall assume lead responsibility
17 for the coordination of local medical and health care
18 providers, the American Red Cross, and other interested
19 parties in developing a plan for the staffing and medical
20 management of special needs shelters. The local Children's
21 Medical Services offices shall assume lead responsibility for
22 the coordination of local medical and health care providers,
23 the American Red Cross, and other interested parties in
24 developing a plan for the staffing and medical management of
25 pediatric special needs shelters. Plans must conform to the
26 local comprehensive emergency management plan.

27 (b) County health departments shall, in conjunction
28 with the local emergency management agencies, have the lead
29 responsibility for coordination of the recruitment of health
30 care practitioners to staff local special needs shelters.
31 County health departments shall assign their employees to work

1 in special needs shelters when those employees are needed to
2 protect the health and safety of persons with special needs.
3 County governments shall assist the department with nonmedical
4 staffing and the operation of special needs shelters. The
5 local health department and emergency management agency shall
6 coordinate these efforts to ensure appropriate staffing in
7 special needs shelters.

8 (c) The appropriate county health department,
9 Children's Medical Services office, and local emergency
10 management agency shall jointly decide who has responsibility
11 for medical supervision in each special needs shelter.

12 (d) Local emergency management agencies shall be
13 responsible for the designation and operation of special needs
14 shelters during times of emergency or disaster and the closure
15 of the facilities following an emergency or disaster. The
16 local health department and emergency management agency shall
17 coordinate these efforts to ensure the appropriate designation
18 and operation of special needs shelters. County health
19 departments shall assist the local emergency management agency
20 with regard to the management of medical services in special
21 needs shelters.

22 (e) The Secretary of Elderly Affairs, or his or her
23 designee, shall convene, at any time that he or she deems
24 appropriate and necessary, a multiagency special needs shelter
25 discharge planning team to assist local areas that are
26 severely impacted by a natural or manmade disaster that
27 requires the use of special needs shelters. Multiagency
28 special needs shelter discharge planning teams shall provide
29 assistance to local emergency management agencies with the
30 continued operation or closure of the shelters, as well as
31 with the discharge of special needs clients to alternate

1 facilities if necessary. Local emergency management agencies
2 may request the assistance of a multiagency special needs
3 shelter discharge planning team by alerting statewide
4 emergency management officials of the necessity for additional
5 assistance in their area. The Secretary of Elderly Affairs is
6 encouraged to proactively work with other state agencies prior
7 to any natural disasters for which warnings are provided to
8 ensure that multiagency special needs shelter discharge
9 planning teams are ready to assemble and deploy rapidly upon a
10 determination by state emergency management officials that a
11 disaster area requires additional assistance. The Secretary of
12 Elderly Affairs may call upon any state agency or office to
13 provide staff to assist a multiagency special needs shelter
14 discharge planning team. Unless the secretary determines that
15 the nature or circumstances surrounding the disaster do not
16 warrant participation from a particular agency's staff, each
17 multiagency special needs shelter discharge planning team
18 shall include at least one representative from each of the
19 following state agencies:

- 20 1. Department of Elderly Affairs.
- 21 2. Department of Health.
- 22 3. Department of Children and Family Services.
- 23 4. Department of Veterans' Affairs.
- 24 5. Department of Community Affairs.
- 25 6. Agency for Health Care Administration.
- 26 7. Agency for Persons with Disabilities.

27 (3) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS AND
28 FACILITIES.--

29 (a) The department shall upon request reimburse, in
30 accordance with paragraph (b):

31

1 1. Health care practitioners, as defined in s.
2 456.001, provided the practitioner is not providing care to a
3 patient under an existing contract, and emergency medical
4 technicians and paramedics licensed under chapter 401 for
5 medical care provided at the request of the department in
6 special needs shelters or at other locations during times of
7 emergency or a declared disaster. Reimbursement for health
8 care practitioners, except for physicians licensed under
9 chapter 458 or chapter 459, shall be based on the average
10 hourly rate that such practitioners were paid according to the
11 most recent survey of Florida hospitals conducted by the
12 Florida Hospital Association or other nationally recognized or
13 state-recognized data source.

14 2. Health care facilities, such as hospitals, nursing
15 homes, assisted living facilities, and community residential
16 homes, if, upon closure of a special needs shelter, a
17 multiagency special needs shelter discharge planning team
18 determines that it is necessary to discharge persons with
19 special needs to other health care facilities. The receiving
20 facilities are eligible for reimbursement for services
21 provided to the individuals for up to 90 days. A facility must
22 show proof of a written request from a representative of an
23 agency serving on the multiagency special needs shelter
24 discharge planning team that the individual for whom the
25 facility is seeking reimbursement for services rendered was
26 referred to that facility from a special needs shelter. The
27 department shall specify by rule which expenses are
28 reimbursable and the rate of reimbursement for each service.

29 (b) Reimbursement is subject to the availability of
30 federal funds and shall be requested on forms prepared by the
31 department. If a Presidential Disaster Declaration has been

1 issued, the department shall request federal reimbursement of
2 eligible expenditures. The department may not provide
3 reimbursement to facilities under this subsection for services
4 provided to a person with special needs if, during the period
5 of time in which the services were provided, the individual
6 was enrolled in another state-funded program, such as Medicaid
7 or another similar program, was covered under a policy of
8 health insurance as defined in s. 624.603, or was a member of
9 a health maintenance organization or prepaid health clinic as
10 defined in chapter 641, which would otherwise pay for the same
11 services. Travel expense and per diem costs shall be
12 reimbursed pursuant to s. 112.061.

13 (4) HEALTH CARE PRACTITIONER REGISTRY.--The department
14 may use the registries established in ss. 401.273 and 456.38
15 when health care practitioners are needed to staff special
16 needs shelters or to assist with other disaster-related
17 activities.

18 (5) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.--The
19 Secretary of Health may establish a special needs shelter
20 interagency committee and serve as, or appoint a designee to
21 serve as, the committee's chair. The department shall provide
22 any necessary staff and resources to support the committee in
23 the performance of its duties. The committee shall address and
24 resolve problems related to special needs shelters not
25 addressed in the state comprehensive emergency medical plan
26 and shall consult on the planning and operation of special
27 needs shelters.

28 (a) The committee shall:

29 1. Develop, negotiate, and regularly review any
30 necessary interagency agreements.

31

1 2. Undertake other such activities as the department
2 deems necessary to facilitate the implementation of this
3 section.

4 3. Submit recommendations to the Legislature as
5 necessary.

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

27 (c) Meetings of the committee shall be held in
28 Tallahassee, and members of the committee shall serve at the
29 expense of the agencies or organizations they represent. The
30 committee shall make every effort to use teleconference or
31

1 video conference capabilities in order to ensure statewide
2 input and participation.

3 (6) RULES.--The department has the authority to adopt
4 rules necessary to implement this section. Rules shall
5 include:

6 (a) The definition of a "person with special needs,"
7 including eligibility criteria for individuals with physical,
8 mental, cognitive impairment, or sensory disabilities and the
9 services a person with special needs can expect to receive in
10 a special needs shelter.

11 (b) The process for special needs shelter health care
12 practitioners and facility reimbursement for services provided
13 in a disaster.

14 (c) Guidelines for special needs shelter staffing
15 levels to provide services.

16 (d) The definition of and standards for special needs
17 shelter supplies and equipment, including durable medical
18 equipment.

19 (e) Standards for the special needs shelter
20 registration process, including guidelines for addressing the
21 needs of unregistered persons in need of a special needs
22 shelter.

23 (f) Standards for addressing the needs of families
24 where only one dependent is eligible for admission to a
25 special needs shelter and the needs of adults with special
26 needs who are caregivers for individuals without special
27 needs.

28 (g) The requirement of the county health departments
29 to seek the participation of hospitals, nursing homes,
30 assisted living facilities, home health agencies, hospice
31 providers, nurse registries, home medical equipment providers,

1 dialysis centers, and other health and medical emergency
2 preparedness stakeholders in pre-event planning activities.

3 (7) EMERGENCY MANAGEMENT PLANS.--The submission of
4 emergency management plans to county health departments by
5 home health agencies, nurse registries, hospice programs, and
6 home medical equipment providers is conditional upon receipt
7 of an appropriation by the department to establish disaster
8 coordinator positions in county health departments unless the
9 secretary of the department and a local county commission
10 jointly determine to require that such plans be submitted
11 based on a determination that there is a special need to
12 protect public health in the local area during an emergency.

13 Section 6. Section 400.492, Florida Statutes, is
14 amended to read:

15 400.492 Provision of services during an
16 emergency.--Each home health agency shall prepare and maintain
17 a comprehensive emergency management plan that is consistent
18 with the standards adopted by national or state accreditation
19 organizations and consistent with the local special needs
20 plan. The plan shall be updated annually and shall provide for
21 continuing home health services during an emergency that
22 interrupts patient care or services in the patient's home. The
23 plan shall include the means by which the home health agency
24 will continue to provide staff to perform the same type and
25 quantity of services to their patients who evacuate to special
26 needs shelters that were being provided to those patients
27 prior to evacuation. The plan shall describe how the home
28 health agency establishes and maintains an effective response
29 to emergencies and disasters, including: notifying staff when
30 emergency response measures are initiated; providing for
31 communication between staff members, county health

1 departments, and local emergency management agencies,
2 including a backup system; identifying resources necessary to
3 continue essential care or services or referrals to other
4 organizations subject to written agreement; and prioritizing
5 and contacting patients who need continued care or services.

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

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

28 (3) Home health agencies shall not be required to
29 continue to provide care to patients in emergency situations
30 that are beyond their control and that make it impossible to
31 provide services, such as when roads are impassable or when

1 patients do not go to the location specified in their patient
2 records. Home health agencies may establish links to local
3 emergency operations centers to determine a mechanism by which
4 to approach specific areas within a disaster area in order for
5 the agency to reach its clients. Home health agencies shall
6 demonstrate a good faith effort to comply with the
7 requirements of this subsection by documenting attempts of
8 staff to follow procedures outlined in the home health
9 agency's comprehensive emergency management plan, and by the
10 patient's record, which support a finding that the provision
11 of continuing care has been attempted for those patients who
12 have been identified as needing care by the home health agency
13 and registered under s. 252.355, in the event of an emergency
14 or disaster under subsection (1).

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

19 Section 7. Subsection (8) of section 400.497, Florida
20 Statutes, is amended to read:

21 400.497 Rules establishing minimum standards.--The
22 agency shall adopt, publish, and enforce rules to implement
23 this part, including, as applicable, ss. 400.506 and 400.509,
24 which must provide reasonable and fair minimum standards
25 relating to:

26 (8) Preparation of a comprehensive emergency
27 management plan pursuant to s. 400.492.

28 (a) The Agency for Health Care Administration shall
29 adopt rules establishing minimum criteria for the plan and
30 plan updates, with the concurrence of the Department of Health
31 and in consultation with the Department of Community Affairs.

1 (b) The rules must address the requirements in s.
2 400.492. In addition, the rules shall provide for the
3 maintenance of patient-specific medication lists that can
4 accompany patients who are transported from their homes.

5 (c) The plan is subject to review and approval by the
6 county health department. During its review, the county health
7 department shall contact state and local health and medical
8 stakeholder when necessary. ~~ensure that the following~~
9 ~~agencies, at a minimum, are given the opportunity to review~~
10 ~~the plan:~~

- 11 1. ~~The local emergency management agency.~~
- 12 2. ~~The Agency for Health Care Administration.~~
- 13 3. ~~The local chapter of the American Red Cross or~~
14 ~~other lead sheltering agency.~~
- 15 4. ~~The district office of the Department of Children~~
16 ~~and Family Services.~~

17
18 The county health department shall complete its review to
19 ensure that the plan is in accordance with the criteria in the
20 Agency for Health Care Administration rules within 90 60 days
21 after receipt of the plan and shall either approve the plan or
22 advise the home health agency of necessary revisions. If the
23 home health agency fails to submit a plan or fails to submit
24 the requested information or revisions to the county health
25 department within 30 days after written notification from the
26 county health department, the county health department shall
27 notify the Agency for Health Care Administration. The agency
28 shall notify the home health agency that its failure
29 constitutes a deficiency, subject to a fine of \$5,000 per
30 occurrence. If the plan is not submitted, information is not
31

1 provided, or revisions are not made as requested, the agency
2 may impose the fine.

3 (d) For any home health agency that operates in more
4 than one county, the Department of Health shall review the
5 plan, after consulting with state and local health and medical
6 stakeholders when necessary ~~all of the county health~~
7 ~~departments, the agency, and all the local chapters of the~~
8 ~~American Red Cross or other lead sheltering agencies in the~~
9 ~~areas of operation for that particular home health agency.~~ The
10 department ~~of Health~~ shall complete its review within 90 days
11 after receipt of the plan and shall ~~either~~ approve the plan or
12 advise the home health agency of necessary revisions. The
13 department ~~of Health~~ shall make every effort to avoid imposing
14 differing requirements on a home health agency that operates
15 in more than one county as a result of differing or
16 conflicting comprehensive plan requirements of the ~~based on~~
17 ~~differences between counties in which~~ ~~on~~ the home health
18 agency operates.

19 (e) The requirements in this subsection do not apply
20 to:

21 1. A facility that is certified under chapter 651 and
22 has a licensed home health agency used exclusively by
23 residents of the facility; or

24 2. A retirement community that consists of residential
25 units for independent living and either a licensed nursing
26 home or an assisted living facility, and has a licensed home
27 health agency used exclusively by the residents of the
28 retirement community, provided the comprehensive emergency
29 management plan for the facility or retirement community
30 provides for continuous care of all residents with special
31 needs during an emergency.

1 Section 8. Subsection (16) of section 400.506, Florida
2 Statutes, is amended to read:

3 400.506 Licensure of nurse registries; requirements;
4 penalties.--

5 (16) Each nurse registry shall prepare and maintain a
6 comprehensive emergency management plan that is consistent
7 with the criteria in this subsection and with the local
8 special needs plan. The plan shall be updated annually. The
9 plan shall include the means by which the nurse registry will
10 continue to provide the same type and quantity of services to
11 its patients who evacuate to special needs shelters which were
12 being provided to those patients prior to evacuation. The plan
13 shall specify how the nurse registry shall facilitate the
14 provision of continuous care by persons referred for contract
15 to persons who are registered pursuant to s. 252.355 during an
16 emergency that interrupts the provision of care or services in
17 private residencies. Nurse registries may establish links to
18 local emergency operations centers to determine a mechanism by
19 which to approach specific areas within a disaster area in
20 order for a provider to reach its clients. Nurse registries
21 shall demonstrate a good-faith effort to comply with the
22 requirements of this subsection by documenting attempts of
23 staff to follow procedures outlined in the nurse registry's
24 comprehensive emergency management plan which support a
25 finding that the provision of continuing care has been
26 attempted for patients identified as needing care by the nurse
27 registry and registered under s. 252.355 in the event of an
28 emergency under s. 400.506(1).

29 (a) All persons referred for contract who care for
30 persons registered pursuant to s. 252.355 must include in the
31 patient record a description of how care will be continued

1 during a disaster or emergency that interrupts the provision
2 of care in the patient's home. It shall be the responsibility
3 of the person referred for contract to ensure that continuous
4 care is provided.

5 (b) Each nurse registry shall maintain a current
6 prioritized list of patients in private residences who are
7 registered pursuant to s. 252.355 and are under the care of
8 persons referred for contract and who need continued services
9 during an emergency. This list shall indicate, for each
10 patient, if the client is to be transported to a special needs
11 shelter and if the patient is receiving skilled nursing
12 services. Nurse registries shall make this list available to
13 county health departments and to local emergency management
14 agencies upon request.

15 (c) Each person referred for contract who is caring
16 for a patient who is registered pursuant to s. 252.355 shall
17 provide a list of the patient's medication and equipment needs
18 to the nurse registry. Each person referred for contract shall
19 make this information available to county health departments
20 and to local emergency management agencies upon request.

21 (d) Each person referred for contract shall not be
22 required to continue to provide care to patients in emergency
23 situations that are beyond the person's control and that make
24 it impossible to provide services, such as when roads are
25 impassable or when patients do not go to the location
26 specified in their patient records.

27 (e) The comprehensive emergency management plan
28 required by this subsection is subject to review and approval
29 by the county health department. During its review, the county
30 health department shall contact state and local health and
31 medical stakeholders when necessary ~~ensure that, at a minimum,~~

1 ~~the local emergency management agency, the Agency for Health~~
2 ~~Care Administration, and the local chapter of the American Red~~
3 ~~Cross or other lead sheltering agency are given the~~
4 ~~opportunity to review the plan.~~ The county health department
5 shall complete its review to ensure that the plan complies
6 with the criteria in the Agency for Health Care Administration
7 rules within 90 ~~60~~ days after receipt of the plan and shall
8 either approve the plan or advise the nurse registry of
9 necessary revisions. If a nurse registry fails to submit a
10 plan or fails to submit requested information or revisions to
11 the county health department within 30 days after written
12 notification from the county health department, the county
13 health department shall notify the Agency for Health Care
14 Administration. The agency shall notify the nurse registry
15 that its failure constitutes a deficiency, subject to a fine
16 of \$5,000 per occurrence. If the plan is not submitted,
17 information is not provided, or revisions are not made as
18 requested, the agency may impose the fine.

19 (f) The Agency for Health Care Administration shall
20 adopt rules establishing minimum criteria for the
21 comprehensive emergency management plan and plan updates
22 required by this subsection, with the concurrence of the
23 Department of Health and in consultation with the Department
24 of Community Affairs.

25 Section 9. Subsection (1) of section 400.610, Florida
26 Statutes, is amended to read:

27 400.610 Administration and management of a hospice.--

28 (1) A hospice shall have a clearly defined organized
29 governing body, consisting of a minimum of seven persons who
30 are representative of the general population of the community
31 served. The governing body shall have autonomous authority and

1 responsibility for the operation of the hospice and shall meet
2 at least quarterly. The governing body shall:

3 (a) Adopt an annual plan for the operation of the
4 hospice, which shall include a plan for providing for
5 uncompensated care and philanthropic community activities.

6 (b)1. Prepare and maintain a comprehensive emergency
7 management plan that provides for continuing hospice services
8 in the event of an emergency that is consistent with local
9 special needs plans. The plan shall include provisions for
10 ensuring continuing care to hospice patients who go to special
11 needs shelters. The plan shall include the means by which the
12 hospice provider will continue to provide staff to provide the
13 same type and quantity of services to their patients who
14 evacuate to special needs shelters which were being provided
15 to those patients prior to evacuation. The plan is subject to
16 review and approval by the county health department, except as
17 provided in subparagraph 2. During its review, the county
18 health department shall contact state and local health and
19 medical stakeholders when necessary ~~ensure that the~~
20 ~~department, the agency, and the local chapter of the American~~
21 ~~Red Cross or other lead sheltering agency have an opportunity~~
22 ~~to review and comment on the plan.~~ The county health
23 department shall complete its review to ensure that the plan
24 complies with criteria in rules of the Department of Elderly
25 Affairs within 90 60 days after receipt of the plan and shall
26 either approve the plan or advise the hospice of necessary
27 revisions. Hospice providers may establish links to local
28 emergency operations centers to determine a mechanism by which
29 to approach specific areas within a disaster area in order for
30 the provider to reach its clients. A hospice shall demonstrate
31 a good-faith effort to comply with the requirements of this

1 paragraph by documenting attempts of staff to follow
2 procedures as outlined in the hospice's comprehensive
3 emergency management plan and to provide continuing care for
4 those hospice clients who have been identified as needing
5 alternative caregiver services in the event of an emergency.

6 2. For any hospice that operates in more than one
7 county, the Department of Health during its review shall
8 contact state and local health and medical stakeholders when
9 necessary review the plan, after consulting with all of the
10 county health departments, the agency, and all the local
11 chapters of the American Red Cross or other lead sheltering
12 agency in the areas of operation for that particular hospice.
13 The Department of Health shall complete its review to ensure
14 that the plan complies with criteria in rules of the
15 Department of Elderly Affairs within 90 days after receipt of
16 the plan and shall ~~either~~ approve the plan or advise the
17 hospice of necessary revisions. The Department of Health shall
18 make every effort to avoid imposing ~~on the hospice~~ differing
19 requirements on a hospice that operates in more than one
20 county as a result of differing or conflicting comprehensive
21 plan requirements of the based on differences between counties
22 in which the hospice operates.

23 (c) Adopt an annual budget.

24 (d) Appoint a director who shall be responsible for
25 the day-to-day management and operation of the hospice and who
26 shall serve as the liaison between the governing body and the
27 hospice staff.

28 (e) Undertake such additional activities as necessary
29 to ensure that the hospice is complying with the requirements
30 for hospice services as set forth in this part.

31

1 Section 10. Present subsections (13) through (16) of
2 section 400.925, Florida Statutes, are redesignated as
3 subsections (14) through (17) respectively, and a new
4 subsection (13) is added to that section, to read:

5 400.925 Definitions.--As used in this part, the term:

6 (13) "Life-supporting or life-sustaining equipment"
7 means a device that is essential to, or that yields
8 information that is essential to, the restoration or
9 continuation of a bodily function important to the
10 continuation of human life. Life- supporting or
11 life-sustaining equipment includes apnea monitors, enteral
12 feeding pumps, infusion pumps, portable home dialysis
13 equipment, and ventilator equipment and supplies for all
14 related equipment, including oxygen equipment and related
15 respiratory equipment.

16 Section 11. Subsections (20), (21), and (22) are added
17 to section 400.934, Florida Statutes, to read:

18 400.934 Minimum standards.--As a requirement of
19 licensure, home medical equipment providers shall:

20 (20)(a) Prepare and maintain a comprehensive emergency
21 management plan that meets minimum criteria established by
22 agency rule under s. 400.935. The plan shall be updated
23 annually and shall provide for continuing home medical
24 equipment services for life-supporting or life-sustaining
25 equipment, as defined in 400.925, during an emergency that
26 interrupts home medical equipment services in a patient's
27 home. The plan shall include:

28 1. The means by which the home medical equipment
29 provider will continue to provide equipment to perform the
30 same type and quantity of services to its patients who
31

1 evacuate to special needs shelters which were being provided
2 to those patients prior to evacuation.

3 2. The means by which the home medical equipment
4 provider establishes and maintains an effective response to
5 emergencies and disasters, including plans for:

6 a. Notification of staff when emergency response
7 measures are initiated.

8 b. Communication between staff members, county health
9 departments, and local emergency management agencies, which
10 includes provisions for a backup communications system.

11 c. Identification of resources necessary to continue
12 essential care or services or referrals to other organizations
13 subject to written agreement.

14 d. Contacting and prioritizing patients in need of
15 continued medical equipment services and supplies.

16 (b) The plan is subject to review and approval by the
17 county health department. During its review, the county health
18 department shall contact state and local health and medical
19 stakeholders when necessary. The county health department
20 shall complete its review to ensure that the plan is in
21 accordance with the criteria in the Agency for Health Care
22 Administration rules within 90 days after receipt of the plan.
23 If a home medical equipment provider fails to submit a plan or
24 fails to submit requested information or revisions to the
25 county health department within 30 days after written
26 notification from the county health department, the county
27 health department shall notify the Agency for Health Care
28 Administration. The agency shall notify the home medical
29 equipment provider that such failure constitutes a deficiency,
30 subject to a fine of \$5,000 per occurrence. If the plan is not
31

1 submitted, information is not provided, or revisions are not
2 made as requested, the agency may impose the fine.

3 (21) Each home medical equipment provider shall
4 maintain a current prioritized list of patients who need
5 continued services during an emergency. The list shall
6 indicate the means by which services shall be continued for
7 each patient in the event of an emergency or disaster, whether
8 the patient is to be transported to a special needs shelter,
9 and whether the patient has life-supporting or life-sustaining
10 equipment, including the specific type of equipment and
11 related supplies. The list shall be furnished to county health
12 departments and local emergency management agencies upon
13 request.

14 (22) Home medical equipment providers may establish
15 links to local emergency operations centers to determine a
16 mechanism by which to approach specific areas within a
17 disaster area in order for the provider to reach its patients.

18 Section 12. Subsection (11) is added to section
19 400.935, Florida Statutes, to read:

20 400.935 Rules establishing minimum standards.--The
21 agency shall adopt, publish, and enforce rules to implement
22 this part, which must provide reasonable and fair minimum
23 standards relating to:

24 (11) Preparation of the comprehensive emergency
25 management plan under s. 400.934 and the establishment of
26 minimum criteria for the plan, including the maintenance of
27 patient equipment and supply lists that can accompany patients
28 who are transported from their homes. Such rules shall be
29 formulated in consultation with the Department of Health and
30 the Department of Community Affairs.

31

1 Section 13. Section 408.831, Florida Statutes, is
2 amended to read:

3 408.831 Denial, suspension, or revocation of a
4 license, registration, certificate, or application.--

5 (1) In addition to any other remedies provided by law,
6 the agency may deny each application or suspend or revoke each
7 license, registration, or certificate of entities regulated or
8 licensed by it:

9 (a) If the applicant, licensee, registrant, or
10 certificateholder, or, in the case of a corporation,
11 partnership, or other business entity, if any officer,
12 director, agent, or managing employee of that business entity
13 or any affiliated person, partner, or shareholder having an
14 ownership interest equal to 5 percent or greater in that
15 business entity, has failed to pay all outstanding fines,
16 liens, or overpayments assessed by final order of the agency
17 or final order of the Centers for Medicare and Medicaid
18 Services, not subject to further appeal, unless a repayment
19 plan is approved by the agency; or

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

21 (2) In reviewing any application requesting a change
22 of ownership or change of the licensee, registrant, or
23 certificateholder, the transferor shall, prior to agency
24 approval of the change, repay or make arrangements to repay
25 any amounts owed to the agency. Should the transferor fail to
26 repay or make arrangements to repay the amounts owed to the
27 agency, the issuance of a license, registration, or
28 certificate to the transferee shall be delayed until repayment
29 or until arrangements for repayment are made.

30 (3) An entity subject to this section may exceed its
31 licensed capacity to act as a receiving facility in accordance

1 with an emergency operations plan for clients of evacuating
2 providers from a geographic area where an evacuation order has
3 been issued by a local authority having jurisdiction. While in
4 an overcapacity status, each provider must furnish or arrange
5 for appropriate care and services to all clients. In addition,
6 the agency may approve requests for overcapacity beyond 15
7 days, which approvals may be based upon satisfactory
8 justification and need as provided by the receiving and
9 sending facilities.

10 (4)(a) An inactive license may be issued to a licensee
11 subject to this section when the provider is located in a
12 geographic area where a state of emergency was declared by the
13 Governor if the provider:

14 1. Suffered damage to its operation during that state
15 of emergency.

16 2. Is currently licensed.

17 3. Does not have a provisional license.

18 4. Will be temporarily unable to provide services but
19 is reasonably expected to resume services within 12 months.

20 (b) An inactive license may be issued for a period not
21 to exceed 12 months but may be renewed by the agency for up to
22 12 additional months upon demonstration to the agency of
23 progress toward reopening. A request by a licensee for an
24 inactive license or to extend the previously approved inactive
25 period must be submitted in writing to the agency, accompanied
26 by written justification for the inactive license, which
27 states the beginning and ending dates of inactivity and
28 includes a plan for the transfer of any clients to other
29 providers and appropriate licensure fees. Upon agency
30 approval, the licensee shall notify clients of any necessary
31 discharge or transfer as required by authorizing statutes or

1 applicable rules. The beginning of the inactive licensure
2 period shall be the date the provider ceases operations. The
3 end of the inactive period shall become the licensee
4 expiration date, and all licensure fees must be current, paid
5 in full, and may be prorated. Reactivation of an inactive
6 license requires the prior approval by the agency of a renewal
7 application, including payment of licensure fees and agency
8 inspections indicating compliance with all requirements of
9 this part and applicable rules and statutes.

10 ~~(5)(3)~~ This section provides standards of enforcement
11 applicable to all entities licensed or regulated by the Agency
12 for Health Care Administration. This section controls over any
13 conflicting provisions of chapters 39, 381, 383, 390, 391,
14 393, 394, 395, 400, 408, 468, 483, and 641 or rules adopted
15 pursuant to those chapters.

16 Section 14. Emergency preparedness-prescription
17 medication refills.--All health insurers, managed care
18 organizations, and other entities that are licensed by the
19 Office of Insurance Regulation and provide prescription
20 medication coverage as part of a policy or contract shall
21 waive time restrictions on prescription medication refills,
22 which includes suspension of electronic "refill too soon"
23 edits to pharmacies, to enable insureds or subscribers to
24 refill prescriptions in advance, if there are authorized
25 refills remaining, and shall authorize payment to pharmacies
26 for at least a thirty day supply of any prescription
27 medication, regardless of the date upon which the prescription
28 had most recently been filled by a pharmacist, when the
29 following conditions occur:

30 (1) The person seeking the prescription medication
31 refill resides in a county that:

1 (a) Is under a hurricane warning issued by the
2 National Weather Service;

3 (b) Is declared to be under a state of emergency in an
4 executive order issued by the Governor; or

5 (c) Has activated its emergency operations center and
6 its emergency management plan.

7 (2) The prescription medication refill is requested
8 within 30 days after the origination date of the conditions
9 stated in this section or until such conditions are terminated
10 by the issuing authority or no longer exists. The time period
11 for the waiver of prescription medication refills may be
12 extended in 15- or 30-day increments by emergency orders
13 issued by the Office of Insurance Regulation.

14
15 This section does not excuse or exempt an insured or
16 subscriber from compliance with all other terms of the policy
17 or contract providing prescription medication coverage.

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

19
20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
21 COMMITTEE SUBSTITUTE FOR
22 CS/CS/CS/CS Senate Bill 1058

23 The committee substitute for Senate Bill 1058 revises s.
24 252.357, F.S., to include assisted living facilities, in
25 addition to nursing homes, as facilities within a disaster
26 area that will receive initial contact from the Agency for
27 Health Care Administration along with a process for requesting
28 assistance.
29
30
31