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1 A bill to be entitled
2 An act relating to child care facilities; amending s.
3 402.281, F.S.; providing that certain child care
4 facilities, large family child care homes, and family
5 day care homes that are accredited by a nationally
6 recognized accrediting association may apply to the
7 Department of Children and Family Services to receive
8 a "Gold Seal Quality Care" designation; requiring the
9 department to use certain standards and to consult
10 with specified organizations when developing the Gold
11 Seal Quality Care program standards; requiring the
12 department to notify accrediting associations if the
13 department proposes to revise the Gold Seal Quality
14 Care program standards; requiring each accrediting
15 association to notify the department within a stated
16 time of its intent to revise its accreditation
17 standards or discontinue participation in the Gold
18 Seal Quality Care program; requiring an accrediting
19 association that intends to revise its accreditation
20 standards to do so within 90 days after notification
21 from the department; amending s. 402.302, F.S.;
22 revising and providing definitions; providing for
23 certain household children to be included in
24 calculations regarding the capacity of licensed family
25 day care homes and large family child care homes;
26 providing conditions for supervision of household
27 children of operators of family day care homes and
28 large family child care homes; amending s. 402.305,
29 F.S.; prohibiting a person under the age of 18 from

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30 being the operator of a child care facility; requiring
31 the department to address minimum age requirements for
32 before-school and after-school care; providing
33 exceptions; stating the minimum educational standards
34 for child care facility employees; providing
35 exceptions; requiring employees who do not meet the
36 minimum educational standards by a specified date to
37 do so within 1 year; requiring child care staff to
38 possess specified credentials; amending s. 402.318,
39 F.S.; revising advertising requirements applicable to
40 child care facilities; providing penalties; reenacting
41 s. 1007.23(5), F.S., relating to child development
42 associate credentials, to incorporate the amendment
43 made to s. 402.305, F.S., in a reference thereto;
44 providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Section 402.281, Florida Statutes, is amended to
49 read:

50 402.281 Gold Seal Quality Care program.—

51 (1) Child care facilities, large family child care homes,
52 or family day care homes that are accredited by a nationally
53 recognized accrediting association whose standards substantially
54 meet or exceed the National Association for the Education of
55 Young Children (NAEYC), the National Association of Family Child
56 Care, or and the National Early Childhood Program Accreditation
57 Commission, as applicable, may apply to the department to shall
58 receive a separate "Gold Seal Quality Care" designation ~~to~~

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59 ~~operate as a gold seal child care facility, large family child~~
60 ~~care home, or family day care home.~~

61 (2) In developing the Gold Seal Quality Care program
62 standards, the department shall use the current standards of
63 each accrediting association, as applicable, specified in
64 subsection (1) and consult with the Department of Education, the
65 Agency for Workforce Innovation, the Florida Head Start
66 Directors Association, the Florida Association of Child Care
67 Management, the Florida Family Day Care Association, the Florida
68 Children's Forum, ~~the State Coordinating Council for School~~
69 ~~Readiness Programs,~~ the Early Childhood Association of Florida,
70 the National Association for Child Development Education,
71 providers receiving exemptions under s. 402.316, and parents,
72 for the purpose of approving the accrediting associations.

73 (a) Upon the adoption of additional or revised standards by
74 any accrediting association specified in subsection (1), the
75 department shall notify each accrediting association that has
76 been approved to participate in the Gold Seal Quality Care
77 program of the applicable changes and of the department's intent
78 to revise the Gold Seal Quality Care program standards
79 accordingly.

80 (b) Upon such notification, each accrediting association
81 must, within 30 days, notify the department of its intent to
82 revise its accreditation standards or discontinue participation
83 in the Gold Seal Quality Care program.

84 1. Upon notification by an accrediting association that it
85 intends to discontinue participation in the Gold Seal Quality
86 Care program, the department shall notify any participating
87 child care provider accredited by that association that the

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88 provider must obtain accreditation from another Gold Seal
89 accrediting association by the time the provider's current
90 accreditation expires in order to maintain designation as a Gold
91 Seal Quality Care provider.

92 2. An accrediting association that intends to revise its
93 accreditation standards must do so within 90 days after the
94 notification provided pursuant to paragraph (a) and must ensure
95 that each provider accredited by that association is in
96 compliance with the revised accreditation standards upon the
97 provider's renewal of accreditation.

98 (3) In order to obtain and maintain a designation as a Gold
99 Seal Quality Care provider, a child care facility, large family
100 child care home, or family day care home must meet the following
101 additional criteria:

102 (a) The child care provider must not have had any class I
103 violations, as defined by rule, within the 2 years preceding its
104 application for designation as a Gold Seal Quality Care
105 provider. Commission of a class I violation shall be grounds for
106 termination of the designation as a Gold Seal Quality Care
107 provider until the provider has no class I violations for a
108 period of 2 years.

109 (b) The child care provider must not have had three or more
110 class II violations, as defined by rule, within the 2 years
111 preceding its application for designation as a Gold Seal Quality
112 Care provider. Commission of three or more class II violations
113 within a 2-year period shall be grounds for termination of the
114 designation as a Gold Seal Quality Care provider until the
115 provider has no class II violations for a period of 1 year.

116 (c) The child care provider must not have been cited for

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117 the same class III violation, as defined by rule, three or more
118 times within the 2 years preceding its application for
119 designation as a Gold Seal Quality Care provider. Commission of
120 the same class III violation three or more times during a 2-year
121 period shall be grounds for termination of the designation as a
122 Gold Seal Quality Care provider until the provider has no class
123 III violations for a period of 1 year.

124 (4) The Department of Children and Family Services shall
125 adopt rules pursuant to ~~under~~ ss. 120.536(1) and 120.54 which
126 provide criteria and procedures for reviewing and approving
127 accrediting associations for participation in the Gold Seal
128 Quality Care program, conferring and revoking designations of
129 Gold Seal Quality Care providers, and classifying violations.

130 Section 2. Section 402.302, Florida Statutes, is amended to
131 read:

132 402.302 Definitions.—As used in this chapter, the term:

133 (1) "Child care" means the care, protection, and
134 supervision of a child, for a period of less than 24 hours a day
135 on a regular basis, which supplements parental care, enrichment,
136 and health supervision for the child, in accordance with his or
137 her individual needs, and for which a payment, fee, or grant is
138 made for care.

139 (2) "Child care facility" includes any child care center or
140 child care arrangement which provides child care for more than
141 five children unrelated to the operator and which receives a
142 payment, fee, or grant for any of the children receiving care,
143 wherever operated, and whether or not operated for profit. The
144 following are not included:

145 (a) Public schools and nonpublic schools and their integral

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146 programs, except as provided in s. 402.3025;

147 (b) Summer camps having children in full-time residence;

148 (c) Summer day camps;

149 (d) Bible schools normally conducted during vacation
150 periods; and

151 (e) Operators of transient establishments, as defined in
152 chapter 509, which provide child care services solely for the
153 guests of their establishment or resort, provided that all child
154 care personnel of the establishment are screened according to
155 the level 2 screening requirements of chapter 435.

156 (3) "Child care personnel" means all owners, operators,
157 employees, and volunteers working in a child care facility. The
158 term does not include persons who work in a child care facility
159 after hours when children are not present or parents of children
160 in Head Start. For purposes of screening, the term includes any
161 member, over the age of 12 years, of a child care facility
162 operator's family, or person, over the age of 12 years, residing
163 with a child care facility operator if the child care facility
164 is located in or adjacent to the home of the operator or if the
165 family member of, or person residing with, the child care
166 facility operator has any direct contact with the children in
167 the facility during its hours of operation. Members of the
168 operator's family or persons residing with the operator who are
169 between the ages of 12 years and 18 years shall not be required
170 to be fingerprinted but shall be screened for delinquency
171 records. For purposes of screening, the term shall also include
172 persons who work in child care programs which provide care for
173 children 15 hours or more each week in public or nonpublic
174 schools, summer day camps, family day care homes, or those

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175 programs otherwise exempted under s. 402.316. The term does not
176 include public or nonpublic school personnel who are providing
177 care during regular school hours, or after hours for activities
178 related to a school's program for grades kindergarten through
179 12. A volunteer who assists on an intermittent basis for less
180 than 40 hours per month is not included in the term "personnel"
181 for the purposes of screening and training, provided that the
182 volunteer is under direct and constant supervision by persons
183 who meet the personnel requirements of s. 402.305(2). Students
184 who observe and participate in a child care facility as a part
185 of their required coursework shall not be considered child care
186 personnel, provided such observation and participation are on an
187 intermittent basis and the students are under direct and
188 constant supervision of child care personnel.

189 (4) "Department" means the Department of Children and
190 Family Services.

191 (5) "Drop-in child care" means child care provided
192 occasionally in a child care facility in a shopping mall or
193 business establishment where a child is in care for no more than
194 a 4-hour period and the parent remains on the premises of the
195 shopping mall or business establishment at all times. Drop-in
196 child care arrangements shall meet all requirements for a child
197 care facility unless specifically exempted.

198 (6) "Evening child care" means child care provided during
199 the evening hours and may encompass the hours of 6:00 p.m. to
200 7:00 a.m. to accommodate parents who work evenings and late-
201 night shifts.

202 (7) "Family day care home" means an occupied residence in
203 which child care is regularly provided for children from at

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204 least two unrelated families and which receives a payment, fee,
205 or grant for any of the children receiving care, whether or not
206 operated for profit. Household children under 13 years of age,
207 when on the premises of the family day care home or on a field
208 trip with children enrolled in child care, shall be included in
209 the overall capacity of the licensed home. A family day care
210 home shall be allowed to provide care for one of the following
211 groups of children, which shall include household ~~those~~ children
212 under 13 years of age ~~who are related to the caregiver:~~

213 (a) A maximum of four children from birth to 12 months of
214 age.

215 (b) A maximum of three children from birth to 12 months of
216 age, and other children, for a maximum total of six children.

217 (c) A maximum of six preschool children if all are older
218 than 12 months of age.

219 (d) A maximum of 10 children if no more than 5 are
220 preschool age and, of those 5, no more than 2 are under 12
221 months of age.

222 (8) "Household children" means children who are related by
223 blood, marriage, or legal adoption to, or who are the legal
224 wards of, the family day care home operator, the large family
225 child care home operator, or an adult household member who
226 permanently or temporarily resides in the home. Supervision of
227 the operator's household children shall be left to the
228 discretion of the operator unless those children receive
229 subsidized child care to be in the home.

230 (9) ~~(8)~~ "Large family child care home" means an occupied
231 residence in which child care is regularly provided for children
232 from at least two unrelated families, which receives a payment,

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233 fee, or grant for any of the children receiving care, whether or
234 not operated for profit, and which has at least two full-time
235 child care personnel on the premises during the hours of
236 operation. One of the two full-time child care personnel must be
237 the owner or occupant of the residence. A large family child
238 care home must first have operated as a licensed family day care
239 home for 2 years, with an operator who has had a child
240 development associate credential or its equivalent for 1 year,
241 before seeking licensure as a large family child care home.
242 Household children under 13 years of age, when on the premises
243 of the large family child care home or on a field trip with
244 children enrolled in child care, shall be included in the
245 overall capacity of the licensed home. A large family child care
246 home shall be allowed to provide care for one of the following
247 groups of children, which shall include household ~~those~~ children
248 under 13 years of age ~~who are related to the caregiver:~~

249 (a) A maximum of 8 children from birth to 24 months of age.
250 (b) A maximum of 12 children, with no more than 4 children
251 under 24 months of age.

252 (10)~~(9)~~ "Indoor recreational facility" means an indoor
253 commercial facility which is established for the primary purpose
254 of entertaining children in a planned fitness environment
255 through equipment, games, and activities in conjunction with
256 food service and which provides child care for a particular
257 child no more than 4 hours on any one day. An indoor
258 recreational facility must be licensed as a child care facility
259 under s. 402.305, but is exempt from the minimum outdoor-square-
260 footage-per-child requirement specified in that section, if the
261 indoor recreational facility has, at a minimum, 3,000 square

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262 feet of usable indoor floor space.

263 (11)~~(10)~~ "Local licensing agency" means any agency or
264 individual designated by the county to license child care
265 facilities.

266 (12)~~(11)~~ "Operator" means any onsite person ultimately
267 responsible for the overall operation of a child care facility,
268 whether or not he or she is the owner or administrator of such
269 facility.

270 (13)~~(12)~~ "Owner" means the person who is licensed to
271 operate the child care facility.

272 (14)~~(13)~~ "Screening" means the act of assessing the
273 background of child care personnel and volunteers and includes,
274 but is not limited to, employment history checks, local criminal
275 records checks through local law enforcement agencies,
276 fingerprinting for all purposes and checks in this subsection,
277 statewide criminal records checks through the Department of Law
278 Enforcement, and federal criminal records checks through the
279 Federal Bureau of Investigation.

280 (15)~~(14)~~ "Secretary" means the Secretary of Children and
281 Family Services.

282 (16)~~(15)~~ "Substantial compliance" means that level of
283 adherence which is sufficient to safeguard the health, safety,
284 and well-being of all children under care. Substantial
285 compliance is greater than minimal adherence but not to the
286 level of absolute adherence. Where a violation or variation is
287 identified as the type which impacts, or can be reasonably
288 expected within 90 days to impact, the health, safety, or well-
289 being of a child, there is no substantial compliance.

290 (17)~~(16)~~ "Weekend child care" means child care provided

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291 between the hours of 6 p.m. on Friday and 6 a.m. on Monday.

292 Section 3. Paragraphs (c) and (f) of subsection (2) and
293 subsection (3) of section 402.305, Florida Statutes, are
294 amended, and paragraph (g) is added to subsection (2) of that
295 section, to read:

296 402.305 Licensing standards; child care facilities.—

297 (2) PERSONNEL.—Minimum standards for child care personnel
298 shall include minimum requirements as to:

299 (c) Minimum age requirements. The ~~Such~~ minimum standards
300 must ~~shall~~ prohibit a person under the age of 21 from being the
301 operator of a child care facility and a person under the age of
302 18 ~~16~~ from being employed at such facility unless he or she ~~such~~
303 ~~person~~ is under direct and constant supervision of screened and
304 trained staff who are 18 years of age or older and he or she is
305 not counted for the purposes of calculating ~~computing~~ the staff-
306 to-child ~~personnel-to-child~~ ratio. The standards established for
307 before-school and after-school care pursuant to paragraph (1)(c)
308 must address minimum age requirements.

309 (f) ~~By January 1, 2000,~~ A credential for child care
310 facility directors. ~~By January 1, 2004,~~ The credential is the
311 ~~shall be a~~ required minimum standard for licensing child care
312 facility directors.

313 (g) Minimum education standards for child care personnel.
314 Minimum education standards shall prohibit persons who have not
315 obtained a high school diploma or high school equivalency
316 diploma under s. 1003.435 from being employed as child care
317 personnel unless such a person is:

318 1. Under the direct and constant supervision of screened
319 and trained staff and is not counted for purposes of calculating

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320 the staff-to-child ratio;

321 2. Not serving in an instructional position and is not
322 counted for purposes of calculating the staff-to-child ratio; or

323 3. Employed in an instructional position on July 1, 2010,
324 and has 10 or more continuous years of documented experience
325 working with children in a child care setting or in a public
326 school.

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328 Those child care personnel who are employed by a child care
329 facility on July 1, 2010, who do not possess the minimum
330 educational requirements set forth in this paragraph and who are
331 not exempt from the requirements of this paragraph must complete
332 the educational requirements by July 1, 2011. Persons who do not
333 complete the appropriate educational requirements are prohibited
334 from employment as child care personnel until such time as they
335 are in compliance with this paragraph.

336 (3) MINIMUM STAFF CREDENTIALS.—If a facility operates for 8
337 or more hours per week ~~By July 1, 1996,~~ for every 20 children in
338 the a licensed child care facility, beginning with the first
339 child if the facility operates 8 hours or more per week, one of
340 the child care personnel in the facility must have:

341 (a) A current child development associate credential;

342 (b) A current child care professional credential, unless
343 the department determines that such child care professional
344 credential is not equivalent to or greater than a child
345 development associate credential; or

346 (c) A current credential that is equivalent to or greater
347 than the credential required in paragraph (a) or paragraph (b).

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349 The department shall establish by rule those hours of operation,
350 such as during rest periods and transitional periods, when this
351 subsection does not apply.

352 Section 4. Section 402.318, Florida Statutes, is amended to
353 read:

354 402.318 Advertisement.—No person, as defined in s. 1.01(3),
355 shall advertise or publish an advertisement for a child care
356 facility, family day care home, or large family child care home
357 without including within such advertisement the state or local
358 agency license number or registration number of such facility or
359 home. Violation of this section is a misdemeanor of the first
360 degree, punishable as provided in s. 775.082 or s. 775.083.

361 Section 5. For the purpose of incorporating the amendment
362 made by this act to section 402.305, Florida Statutes, in a
363 reference thereto, subsection (5) of section 1007.23, Florida
364 Statutes, is reenacted to read:

365 1007.23 Statewide articulation agreement.—

366 (5) The articulation agreement must guarantee the
367 articulation of 9 credit hours toward a postsecondary degree in
368 early childhood education for programs approved by the State
369 Board of Education and the Board of Governors which:

370 (a) Award a child development associate credential issued
371 by the National Credentialing Program of the Council for
372 Professional Recognition or award a credential approved under s.
373 1002.55(3)(c)1.b. or s. 402.305(3)(c) as being equivalent to the
374 child development associate credential; and

375 (b) Include training in emergent literacy which meets or
376 exceeds the minimum standards for training courses for
377 prekindergarten instructors of the Voluntary Prekindergarten

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378 Education Program in s. 1002.59.

379 Section 6. This act shall take effect July 1, 2010.