

HB 1083

2011

1                   A bill to be entitled  
2           An act relating to the Agency for Persons with  
3           Disabilities; amending s. 393.125, F.S.; providing that  
4           final order authority rests with the Agency for Persons  
5           with Disabilities after a hearing on Medicaid programs  
6           administered by the Agency for Health Care Administration  
7           is conducted by the Department of Children and Family  
8           Services; creating s. 393.35, F.S.; establishing a direct-  
9           support organization for the Agency for Persons with  
10          Disabilities; providing definitions; providing for  
11          appointment of members to the board of directors and terms  
12          of office; requiring the direct-support organization to  
13          operate under contract; providing contract requirements;  
14          authorizing the agency to use its property, facilities,  
15          and personal services for the direct-support organization;  
16          requiring the director of the Agency for Persons with  
17          Disabilities to approve any transaction or agreement  
18          between the agency's direct-support organization and any  
19          other direct-support organizations; requiring the direct-  
20          support organization to provide an annual financial audit;  
21          amending s. 393.506, F.S.; requiring an unlicensed direct  
22          service provider who administers medications or supervises  
23          the self-administration of medications to be assessed  
24          annually for competency in all allowed routes of  
25          administration before assisting with that route; providing  
26          an effective date.

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

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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Section 1. Paragraph (a) of subsection (1) of section 393.125, Florida Statutes, is amended to read:

393.125 Hearing rights.—

(1) REVIEW OF AGENCY DECISIONS.—

(a) For Medicaid programs administered by the agency, any developmental services applicant or client, or his or her parent, guardian advocate, or authorized representative, may request a hearing in accordance with federal law and rules applicable to Medicaid cases and has the right to request an administrative hearing pursuant to ss. 120.569 and 120.57. These hearings shall be provided by the Department of Children and Family Services pursuant to s. 409.285 and shall follow procedures consistent with federal law and rules applicable to Medicaid cases. At the conclusion of the hearing, the department shall submit its recommended order to the agency as provided in s. 120.57(1)(k) and the agency shall issue the final order as provided in s. 120.57(1)(l).

Section 2. Section 393.35, Florida Statutes, is created to read:

393.35 Direct-support organization.—

(1) DIRECT-SUPPORT ORGANIZATION ESTABLISHED.—The agency may establish a direct-support organization to provide assistance, funding, and support for the agency in carrying out its mission. This section governs the creation, use, powers, and duties of the direct-support organization.

(2) DEFINITIONS.—As used in this section, the term:

56 (a) "Direct-support organization" means an organization  
 57 that is:

58 1. A Florida corporation, not for profit, incorporated  
 59 under chapter 617, and approved by the Department of State;

60 2. Organized and operated exclusively to obtain funds; to  
 61 request and receive grants, gifts, and bequests of moneys; to  
 62 acquire, receive, hold, invest, and administer in its own name  
 63 securities, funds, or property; and to make expenditures to or  
 64 for the direct or indirect benefit of the agency and persons in  
 65 this state who have been diagnosed with a developmental  
 66 disability; and

67 3. Determined by the agency to be operating in a manner  
 68 consistent with the goals and purposes of the agency and in the  
 69 best interests of the state.

70 (b) "Personal services" means full-time or part-time  
 71 personnel.

72 (c) "Director" means the director of the Agency for  
 73 Persons with Disabilities.

74 (3) BOARD OF DIRECTORS.—The direct-support organization  
 75 shall be governed by a board of directors.

76 (a) The board of directors shall consist of no fewer than  
 77 five members appointed by the director. Networks and  
 78 partnerships in this state involved in issues related to  
 79 developmental disabilities may recommend nominees to the  
 80 director.

81 (b) The term of office of each board member shall be 3  
 82 years, except that the terms of the initial appointees shall be  
 83 for 1 year, 2 years, or 3 years each in order to achieve

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84 staggered terms. A member may be reappointed when his or her  
85 term expires. The director or his or her designee shall serve as  
86 an ex officio member of the board of directors.

87 (c) Members must be current residents of this state. A  
88 majority of the members must be highly knowledgeable about the  
89 agency, its programs, and its mission. The director may remove  
90 any member of the board for cause and with the approval of a  
91 majority of the members of the board of directors. The director  
92 shall appoint a replacement for any vacancy that occurs.

93 (4) CONTRACT.—A direct-support organization shall operate  
94 under a written contract with the agency. The written contract  
95 shall provide for:

96 (a) Certification by the agency that the direct-support  
97 organization is complying with the terms of the contract and is  
98 doing so consistent with the goals and purposes of the agency  
99 and in the best interests of the state. This certification shall  
100 be made annually and reported in the official minutes of a  
101 meeting of the direct-support organization.

102 (b) The reversion of moneys and property held by the  
103 direct-support organization:

104 1. To the agency if the direct-support organization is no  
105 longer approved to operate for the agency;

106 2. To the agency if the direct-support organization ceases  
107 to exist; or

108 3. To the state if the agency ceases to exist.

109 (c) The disclosure of the material provisions of the  
110 contract and the distinction between the agency and the direct-  
111 support organization to donors of gifts, contributions, or

112 bequests, including such disclosure on all promotional and  
 113 fundraising publications.

114 (5) USE OF PROPERTY.—

115 (a) The agency may permit the use of property, facilities,  
 116 and personal services of the agency by the direct-support  
 117 organization, subject to this section.

118 (b) The agency may prescribe by contract any condition  
 119 with which the direct-support organization must comply in order  
 120 to use property, facilities, or personal services of the agency.

121 (c) The agency may not permit the use of its property,  
 122 facilities, or personal services by any direct-support  
 123 organization organized under this section which does not provide  
 124 equal employment opportunities to all persons regardless of  
 125 race, color, national origin, gender, age, or religion.

126 (6) ACTIVITIES; RESTRICTIONS.—Any transaction or agreement  
 127 between the direct-support organization organized under this  
 128 section and another direct-support organization or other entity  
 129 must be approved by the director.

130 (7) ANNUAL BUDGETS AND REPORTS.—

131 (a) The fiscal year of the direct-support organization  
 132 shall begin on July 1 of each year and end on June 30 of the  
 133 following year.

134 (b) The direct-support organization shall submit to the  
 135 agency its federal Internal Revenue Service Application for  
 136 Recognition of Exemption form and its federal Internal Revenue  
 137 Service Return of Organization Exempt from Income Tax form.

138           (8) ANNUAL AUDIT.—The direct-support organization shall  
 139 provide for an annual financial audit in accordance with s.  
 140 215.981.

141           Section 3. Subsection (2) of section 393.506, Florida  
 142 Statutes, is amended to read:

143           393.506 Administration of medication.—

144           (2)(a) In order to supervise the self-administration of  
 145 medication or to administer medications as provided in  
 146 subsection (1), a direct service provider must satisfactorily  
 147 complete a training course of not less than 4 hours in  
 148 medication administration and be found competent to supervise  
 149 the self-administration of medication by a client or to  
 150 administer medication to a client in a safe and sanitary manner.  
 151 Competency must be assessed and validated at least annually in  
 152 an onsite setting and must include personally observing the  
 153 direct service provider satisfactorily:

154           1.(a) Supervising the self-administration of medication by  
 155 a client; and

156           2.(b) Administering medication to a client.

157           (b) Competency in all routes of medication administration  
 158 as provided in subsection (1) must be assessed and validated at  
 159 least annually in an onsite setting with an actual client except  
 160 for the topical, transdermal, and otic routes, which may be  
 161 validated by simulation during the required training course, and  
 162 do not require annual revalidation.

163           Section 4. This act shall take effect July 1, 2011.