

By Senator Sobel

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1 A bill to be entitled
2 An act relating to children and adults who have
3 extensive medical needs; creating s. 400.336, F.S.;
4 creating a specialty license for certain medical
5 facilities that have centers in the facility which
6 specialize in caring for children; requiring the
7 facility to display the specialty license; authorizing
8 the Agency for Health Care Administration to develop a
9 specialized survey process; providing standards and
10 requirements for licensure; requiring the center to
11 maintain an emergency medication kit; providing
12 requirements for the physical environment of the
13 center; providing an exemption; providing admission
14 criteria for the center; providing requirements for an
15 individualized plan of care for each child; requiring
16 a center to notify the local district school board
17 that there is a school-aged child residing in the
18 center; providing notice requirements for the center
19 regarding a child's education program; providing that
20 the failure or inability of a school district to
21 provide an educational program according to the
22 child's ability to participate does not obligate the
23 center to supply or furnish an educational program or
24 create a cause of action against the school district
25 for failure or inability to provide an educational
26 program; providing that the act does not prohibit,
27 restrict, or prevent the parents or legal guardians of
28 a child from providing a private educational program;
29 requiring the center to have a discharge plan for each

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30 child; providing requirements for discharge; requiring
31 the center to provide medical and dental services;
32 providing minimum nursing staffing requirements;
33 requiring the center to develop, implement, and
34 maintain an annual written staff education plan for
35 all employees who work with children which includes
36 preservice and inservice programs; providing
37 requirements for the programs; requiring employees of
38 a center to receive instruction on the prevention and
39 control of infection, the prevention of accident, and
40 safety awareness; amending s. 409.905, F.S.; requiring
41 the agency to pay Medicaid's prevailing rate only for
42 bed-hold days if the facility or a children's
43 specialty care center has an occupancy rate of 95
44 percent or greater; amending s. 409.906, F.S.;

45 authorizing the agency to provide home and community-
46 based services for children and adults who are
47 medically fragile; specifying eligibility criteria;
48 providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Section 400.336, Florida Statutes, is created to
53 read:

54 400.336 Specialty license.—There is created a specialty
55 license for a facility licensed under this part which maintains
56 a separate center within the facility for children ages birth to
57 21 years. This specialty license shall be called the Children's
58 Special Care Center license, or CSCC license, and shall be

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59 displayed next to the facility's license issued under s. 400.23.
60 The agency may develop a specialized survey process for
61 licensure of a center under this section.

62 (1) REQUIREMENTS.—In order to qualify for the CSCC license,
63 a facility must maintain a separate, distinct center within the
64 licensed facility for the care of children. In addition, the
65 facility must meet the requirements of part II of chapter 408
66 and the standards and criteria of this section. A facility
67 operating a children's area that is recognized by the agency as
68 of July 1, 2013, is eligible for the CSCC license.

69 (a) An application for a CSCC license must be made under
70 oath and must contain the following information:

71 1. The location of the center, which must conform to local
72 zoning codes.

73 2. The total number of beds in the center.

74 3. The number of staff members who are qualified, by
75 training or experience, to properly care for the type and number
76 of children who will reside in the center. The application must
77 be accompanied by documentation showing that the facility
78 employs sufficient qualified staff for the proper care of the
79 children at the center.

80 (b) The center must maintain an emergency medication kit of
81 pediatric medications that are determined by the facility's
82 medical director, in consultation with the facility's director
83 of nursing, the facility-contracted pediatric physician, and a
84 pharmacist who has pediatric expertise.

85 (c) The center must be in compliance with the Florida
86 Building Code as required by the agency. All furniture and
87 adaptive equipment must be physically appropriate to the

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88 developmental and medical needs of children. Other equipment and
89 supplies must be made available to meet the needs of children as
90 prescribed or recommended in a child's individualized plan of
91 care. Indoor and outdoor activity areas must be provided to
92 encourage exploration and maximize the child's capabilities, to
93 accommodate mobile and nonmobile children, and to support a
94 range of activities for children of all ages.

95 (d) The facility may be exempted from the standards of this
96 section for the services of patients:

- 97 1. Who are between 18 and 21 years of age; and
- 98 2. Whose physician determines that minimum standards of
99 care based on age are not necessary.

100 (2) ADMISSION CRITERIA.—

101 (a) A child who is admitted to the center must be in need
102 of skilled care or be medically fragile as determined by the
103 child's multidisciplinary assessment team.

104 (b) The child's parents or guardians, family members, and
105 the agency's nurse care coordinator shall be directly involved
106 with the center in the placement decision. The placement
107 decision must be authorized by the child's physician.

108 (c) Upon a child's admission, an interdisciplinary care
109 plan team as provided in subsection (3) shall conduct a
110 standardized assessment of the child's family connectedness and
111 the level of cognition, development, social emotion, education,
112 behavior, function, physical health, and therapeutic needs. The
113 assessment shall be updated at least quarterly and must include
114 an evaluation of the least restrictive setting possible for the
115 child upon discharge and the services needed to support the
116 child and his or her family in that least restrictive setting.

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117 (3) PLAN OF CARE.-

118 (a) Each child shall have an individualized plan of care,
119 based on the assessment in subsection (2), which shall be
120 reviewed quarterly or when there is a significant change in the
121 child's physical or mental condition. The interdisciplinary care
122 plan team as provided in paragraph (b), in conjunction with the
123 child's parents or guardians, family members, and the agency's
124 nurse care coordinator, shall develop, implement, maintain, and
125 evaluate the child's individualized plan of care.

126 (b) The interdisciplinary care plan team must include
127 experts in medical care, early childhood development, education,
128 therapies, and mental health, for the purposes of developing the
129 child's individualized plan of care. If a child receives
130 services from a community agency or organization, that agency or
131 organization shall be invited to attend care plan meetings for
132 that child.

133 (c) An individualized plan of care must include:

134 1. The physician's orders, diagnosis, results of the
135 child's physical examination, the child's medical history, and
136 rehabilitative or restorative needs.

137 2. A preliminary nursing evaluation, with the physician's
138 orders, for immediate care, which must be completed at the time
139 of admission.

140 3. Findings of a comprehensive, accurate, reproducible, and
141 standardized assessment as described in subsection (2) regarding
142 the child's functional capability.

143 4. Necessary pediatric equipment and supplies that must be
144 made available.

145 (d) Parents, guardians, or family members shall receive on

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146 a quarterly basis a status of the cognitive, developmental,
147 social, educational, emotional, behavioral, functioning,
148 therapeutic, and physical health needs of the child.

149 (e) For each child age 3 to 22 years, the center shall
150 notify the district school board that there is a school-aged
151 child residing in the center.

152 1. The center shall notify the parents or guardians if the
153 district school board fails to develop an education program for
154 the child.

155 2. The center shall work with the parents or guardians on
156 an ongoing basis to determine if further action can be taken to
157 meet the educational needs of the child.

158 3. The center shall notify the agency if the child does not
159 have an individualized education plan.

160
161 The failure or inability of a school district to provide an
162 educational program according to the child's ability to
163 participate does not obligate the center to supply or furnish an
164 educational program or create a cause of action against the
165 school district for failure or inability to provide an
166 educational program. This section does not prohibit, restrict,
167 or prevent the parents or guardians of the child from providing
168 a private educational program that meets applicable state laws.

169 (4) DISCHARGE PLANNING.—

170 (a) The assessment upon a child's admission as provided in
171 subsection (2) and the individualized plan of care as provided
172 in subsection (3) must include plans to discharge the child to a
173 less restrictive setting. The center shall identify outside
174 referrals appropriate for discharge planning purposes.

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175 (b) If the child is from age birth to 3 years, the
176 discharge process must also include a request to the appropriate
177 entity for an Individualized Family Service Plan under the
178 Individuals with Disabilities Education Act.

179 (c) If the center anticipates discharging a child as
180 determined through the interdisciplinary care plan team process,
181 the child must have a discharge summary and a detailed
182 postdischarge plan of care as provided in (d).

183 (d) The center shall provide to the parents, legal
184 guardians, or other caretakers instruction on how the center has
185 cared for the child, how to provide needed interventions during
186 transition and after discharge, and how to interpret responses
187 to care in order to facilitate a smooth transition from the
188 center to the home or other placement. At the time of discharge,
189 a detailed postdischarge plan of care must accompany the child
190 and must include the services and supports needed to meet the
191 child's medical needs in order to safely remain in the home.

192 (5) MEDICAL AND DENTAL SERVICES.—A center shall make
193 available medical and dental services for the children it
194 serves.

195 (a)1. The center shall contract with a physician who serves
196 as a consultant and liaison between the center and the medical
197 community for quality and appropriateness of services to
198 children. The physician must be licensed under chapter 458 or
199 chapter 459 and have:

200 a. A board certification or subcertification in pediatrics
201 by a specialty board recognized by the American Board of Medical
202 Specialties or the American Association of Physician
203 Specialists; or

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204 b. A certificate in pediatrics by the American Osteopathic
205 Association.

206 2. The center shall ensure that a board-certified pediatric
207 physician is available for routine and emergency consultation to
208 meet the child's needs.

209 3. Each child shall be under the care of a physician who
210 shall maintain responsibility for the overall medical management
211 and therapeutic plan of care of the child and be available for
212 face-to-face consultations and collaboration with the facility's
213 medical director and director of nursing.

214 4. The physician or his or her designee shall:

215 a. Evaluate and document the status of the child's
216 condition.

217 b. Review and update the plan of care.

218 c. Prepare orders as needed.

219 d. Countersign verbal orders.

220 (b) The center shall maintain or contract with a qualified
221 dietitian who has knowledge, expertise, and experience in the
222 nutritional management of medically involved children and who
223 shall evaluate the needs and special diet of each child.

224 (c) The center shall maintain or contract with a pharmacist
225 licensed under chapter 465 who is familiar with pediatric
226 medications and dosages and who is knowledgeable of pediatric
227 pharmaceutical procedures.

228 (d) The center shall maintain or contract with a dentist
229 licensed under chapter 466 as needed for pediatric dental
230 services.

231 (6) NURSING SERVICES.—

232 (a) The following minimum staffing requirements for nursing

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233 services apply for children younger than 21 years of age who
234 reside in the center. These standards apply in lieu of the
235 requirements contained in s. 400.23(3) for nursing home
236 facilities licensed under part II of chapter 400.

237 1. For each child younger than 21 years of age who requires
238 skilled care:

239 a. A minimum combined average of 3.9 hours of direct care
240 per child per day must be provided by licensed nurses,
241 respiratory therapists, respiratory care practitioners, and
242 certified nursing assistants.

243 b. A minimum licensed nursing staffing of 1.0 hour of
244 direct care per child per day must be provided.

245 c. No more than 1.5 hours of certified nursing assistant
246 care per child per day may be counted in determining the minimum
247 direct care hours required.

248 d. One registered nurse must be on duty on the site 24
249 hours per day at the center.

250 2. For each child under 21 years of age who are medically
251 fragile:

252 a. A minimum combined average of 5 hours of direct care per
253 child per day must be provided by licensed nurses, respiratory
254 therapists, respiratory care practitioners, and certified
255 nursing assistants.

256 b. A minimum licensed nursing staffing of 1.7 hours of
257 direct care per child per day must be provided.

258 c. No more than 1.5 hours of certified nursing assistant
259 care per child per day may be counted in determining the minimum
260 direct care hours required.

261 d. One registered nurse must be on duty on the site 24

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262 hours per day at the center.

263 (b) At least one licensed health care staff person that has
264 current life support certification for children must be at the
265 center at all times.

266 (c) An early childhood specialist must be on staff or under
267 contract to work with children as determined necessary by the
268 individualized plan of care.

269 (7) STAFF EDUCATION.—

270 (a) The center shall develop, implement, and maintain an
271 annual written staff education plan for all employees who work
272 with children which includes preservice and inservice programs.
273 These programs must include child development, with an
274 understanding of the social, emotional, and developmental needs
275 of children, and an understanding of the needs for support for
276 the children's parents or guardians.

277 (b) All employees of the center shall receive instruction
278 on safety awareness, accident prevention, and the prevention and
279 control of infection.

280 Section 2. Subsection (8) of section 409.905, Florida
281 Statutes, is amended to read:

282 409.905 Mandatory Medicaid services.—The agency may make
283 payments for the following services, which are required of the
284 state by Title XIX of the Social Security Act, furnished by
285 Medicaid providers to recipients who are determined to be
286 eligible on the dates on which the services were provided. Any
287 service under this section shall be provided only when medically
288 necessary and in accordance with state and federal law.
289 Mandatory services rendered by providers in mobile units to
290 Medicaid recipients may be restricted by the agency. Nothing in

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291 this section shall be construed to prevent or limit the agency
292 from adjusting fees, reimbursement rates, lengths of stay,
293 number of visits, number of services, or any other adjustments
294 necessary to comply with the availability of moneys and any
295 limitations or directions provided for in the General
296 Appropriations Act or chapter 216.

297 (8) NURSING FACILITY SERVICES.—The agency shall pay for 24-
298 hour-a-day nursing and rehabilitative services for a recipient
299 in a nursing facility licensed under part II of chapter 400 or
300 in a rural hospital, as defined in s. 395.602, or in a Medicare
301 certified skilled nursing facility operated by a hospital, as
302 defined by s. 395.002(10), that is licensed under part I of
303 chapter 395, and in accordance with provisions set forth in s.
304 409.908(2)(a), which services are ordered by and provided under
305 the direction of a licensed physician. However, if a nursing
306 facility has been destroyed or otherwise made uninhabitable by
307 natural disaster or other emergency and another nursing facility
308 is not available, the agency must pay for similar services
309 temporarily in a hospital licensed under part I of chapter 395
310 provided federal funding is approved and available. The agency
311 shall pay Medicaid's prevailing rate only for bed-hold days if
312 the facility or a children's specialty care center has an
313 occupancy rate of 95 percent or greater. The agency may ~~is~~
314 ~~authorized to~~ seek any federal waivers to implement this policy.

315 Section 3. Paragraph (e) is added to subsection (13) of
316 section 409.906, Florida Statutes, to read:

317 409.906 Optional Medicaid services.—Subject to specific
318 appropriations, the agency may make payments for services which
319 are optional to the state under Title XIX of the Social Security

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320 Act and are furnished by Medicaid providers to recipients who
321 are determined to be eligible on the dates on which the services
322 were provided. Any optional service that is provided shall be
323 provided only when medically necessary and in accordance with
324 state and federal law. Optional services rendered by providers
325 in mobile units to Medicaid recipients may be restricted or
326 prohibited by the agency. Nothing in this section shall be
327 construed to prevent or limit the agency from adjusting fees,
328 reimbursement rates, lengths of stay, number of visits, or
329 number of services, or making any other adjustments necessary to
330 comply with the availability of moneys and any limitations or
331 directions provided for in the General Appropriations Act or
332 chapter 216. If necessary to safeguard the state's systems of
333 providing services to elderly and disabled persons and subject
334 to the notice and review provisions of s. 216.177, the Governor
335 may direct the Agency for Health Care Administration to amend
336 the Medicaid state plan to delete the optional Medicaid service
337 known as "Intermediate Care Facilities for the Developmentally
338 Disabled." Optional services may include:

339 (13) HOME AND COMMUNITY-BASED SERVICES.—

340 (e) The agency may seek federal approval for and may
341 implement through a Medicaid waiver, a waiver amendment, or a
342 state plan amendment for the provision of in-home or medical
343 group home services and supports, to provide a child and the
344 child's family an alternative to admittance to a skilled nursing
345 facility. For a child who receives these services and supports,
346 the services and supports shall continue after the age of 21
347 years. Eligibility for these services and supports is limited
348 to:

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- 349 1. A child who is younger than 21 years of age whose
350 condition meets the medically fragile level of care; or
- 351 2. An adult 21 years of age or older who received the
352 supports and services as a child and whose medically fragile
353 condition continues.
- 354
- 355 The implementation of this paragraph is contingent upon funding.
- 356 Section 4. This act shall take effect upon becoming a law.