By the Committee on Appropriations

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1 A bill to be entitled
2 An act relating to health; amending s. 210.201, F.S.;
3 providing an appropriation to the Board of Directors
4 of the H. Lee Moffitt Cancer Center and Research
5 Institute for a specified purpose; authorizing such
6 appropriation to be used to secure certain financing;
7 providing construction; amending s. 381.02035, F.S.;
8 authorizing pharmacists and wholesalers employed by or
9 under contract with forensic facilities managed by the
10 Agency for Persons with Disabilities to import
11 prescription drugs under the Canadian Prescription
12 Drug Importation Program for dispensing to clients in
13 such facilities; amending s. 394.9082, F.S.; requiring
14 that the Department of Children and Families'
15 contracts with managing entities be made available on
16 the department's website; requiring the department to
17 conduct a specified review of managing entities every
18 2 years; requiring the department to submit the review
19 to the Governor and the Legislature by a specified
20 date; requiring managing entities to provide notice to
21 providers before removing the provider from the
22 provider network; amending s. 408.062, F.S.; deleting
23 a requirement that the Agency for Health Care
24 Administration collect and publish on its website
25 certain data related to the retail prices of specified
26 prescribed medicines; amending s. 409.908, F.S.;
27 requiring the agency to base its rate of payments for
28 nursing home care in its Title XIX Long-Term Care
29 Reimbursement Plan in accordance with specified

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30 minimum wage requirements; providing an effective
31 date.
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33 Be It Enacted by the Legislature of the State of Florida:
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35 Section 1. Section 210.201, Florida Statutes, is amended to
36 read:
37 210.201 H. Lee Moffitt Cancer Center and Research Institute
38 facilities; establishment; funding.—
39 (1) The Board of Directors of the H. Lee Moffitt Cancer
40 Center and Research Institute shall construct, furnish, and
41 equip, and shall covenant to complete, the cancer research and
42 clinical and related facilities of the H. Lee Moffitt Cancer
43 Center and Research Institute funded with proceeds from the
44 Cigarette Tax Collection Trust Fund pursuant to s. 210.20.
45 Moneys transferred to the Board of Directors of the H. Lee
46 Moffitt Cancer Center and Research Institute pursuant to s.
47 210.20 may be used to secure financing to pay costs related to
48 constructing, furnishing, equipping, operating, and maintaining
49 cancer research and clinical and related facilities; furnishing,
50 equipping, operating, and maintaining other leased or owned
51 properties; and paying costs incurred in connection with
52 purchasing, financing, operating, and maintaining such
53 equipment, facilities, and properties as provided in s. 210.20.
54 Such financing may include the issuance of tax-exempt bonds or
55 other forms of indebtedness by a local authority, municipality,
56 or county pursuant to parts II and III of chapter 159. Such
57 bonds shall not constitute state bonds for purposes of s. 11,
58 Art. VII of the State Constitution, but shall constitute bonds

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59 of a ~~“~~local agency~~,”~~ as defined in s. 159.27(4). The cigarette
60 tax dollars pledged to facilities pursuant to s. 210.20 may be
61 replaced annually by the Legislature from tobacco litigation
62 settlement proceeds.
63 (2) Beginning in the 2022-2023 fiscal year, and annually
64 through the 2052-2053 fiscal year, the sum of $20 million is
65 appropriated and shall be transferred to the Board of Directors
66 of the H. Lee Moffitt Cancer Center and Research Institute for
67 construction and development of Moffitt’s Pasco County life
68 sciences park. Moneys transferred to the Board of Directors of
69 the H. Lee Moffitt Cancer Center and Research Institute pursuant
70 to this subsection may be used to secure financing to pay costs
71 related to the construction and development of Moffitt’s Pasco
72 County life sciences park. Such financing may include the
73 issuance of tax-exempt bonds or other forms of indebtedness by a
74 local authority, municipality, or county pursuant to parts II
75 and III of chapter 159. Such bonds shall not constitute state
76 bonds for purposes of s. 11, Art. VII of the State Constitution,
77 but shall constitute bonds of a local agency as defined in s.
78 159.27(4).
79 Section 2. Paragraph (f) is added to subsection (7) of
80 section 381.02035, Florida Statutes, to read:
81 381.02035 Canadian Prescription Drug Importation Program.—
82 (7) ELIGIBLE IMPORTERS.—The following entities may import
83 prescription drugs from an eligible Canadian supplier under the
84 program:
85 (f) A pharmacist or wholesaler employed by or under
86 contract with a forensic facility, as defined in s. 916.106,
87 that is managed by the Agency for Persons with Disabilities, for

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88 dispensing to clients treated in such facility.
89 Section 3. Paragraph (i) of subsection (5) of section
90 394.9082, Florida Statutes, is amended, and paragraphs (k) and
91 (l) are added to subsection (4) of that section, to read:
92 394.9082 Behavioral health managing entities.—
93 (4) CONTRACT WITH MANAGING ENTITIES.—
94 (k) The department's contracts with managing entities must
95 be made available in a publicly accessible format on the
96 department's website.
97 (l) Every 2 years, the department shall conduct a
98 comprehensive, multiyear review of the revenues, expenditures,
99 and financial positions of managing entities covering the most
100 recent 2 consecutive fiscal years. The review must include a
101 comprehensive system-of-care analysis. The department shall
102 submit the review to the Governor, the President of the Senate,
103 and the Speaker of the House of Representatives by November 1 of
104 every other year, beginning in 2023.
105 (5) MANAGING ENTITY DUTIES.—A managing entity shall:
106 (i) Develop a comprehensive provider network of qualified
107 providers to deliver behavioral health services. The managing
108 entity is not required to competitively procure network
109 providers but shall publicize opportunities to join the provider
110 network and evaluate providers in the network to determine if
111 they may remain in the network. A managing entity must provide
112 notice to a provider before the provider is removed from the
113 network. The managing entity shall publish these processes on
114 its website. The managing entity shall ensure continuity of care
115 for clients if a provider ceases to provide a service or leaves
116 the network.

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117 Section 4. Paragraph (h) of subsection (1) of section
118 408.062, Florida Statutes, is amended to read:
119 408.062 Research, analyses, studies, and reports.—
120 (1) The agency shall conduct research, analyses, and
121 studies relating to health care costs and access to and quality
122 of health care services as access and quality are affected by
123 changes in health care costs. Such research, analyses, and
124 studies shall include, but not be limited to:
125 ~~(h) The collection of a statistically valid sample of data~~
126 ~~on the retail prices charged by pharmacies for the 300 most~~
127 ~~frequently prescribed medicines from any pharmacy licensed by~~
128 ~~this state. If the drug is available generically, price data~~
129 ~~shall be reported for the generic drug and price data of a~~
130 ~~brand-named drug for which the generic drug is the equivalent~~
131 ~~shall be reported. The agency shall make available on its~~
132 ~~Internet website for each pharmacy drug prices for a 30-day~~
133 ~~supply at a standard dose. The data collected shall be reported~~
134 ~~for each drug by pharmacy and by metropolitan statistical area~~
135 ~~or region and updated monthly.~~
136 Section 5. Subsection (2) of section 409.908, Florida
137 Statutes, is amended to read:
138 409.908 Reimbursement of Medicaid providers.—Subject to
139 specific appropriations, the agency shall reimburse Medicaid
140 providers, in accordance with state and federal law, according
141 to methodologies set forth in the rules of the agency and in
142 policy manuals and handbooks incorporated by reference therein.
143 These methodologies may include fee schedules, reimbursement
144 methods based on cost reporting, negotiated fees, competitive
145 bidding pursuant to s. 287.057, and other mechanisms the agency

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146 considers efficient and effective for purchasing services or
147 goods on behalf of recipients. If a provider is reimbursed based
148 on cost reporting and submits a cost report late and that cost
149 report would have been used to set a lower reimbursement rate
150 for a rate semester, then the provider’s rate for that semester
151 shall be retroactively calculated using the new cost report, and
152 full payment at the recalculated rate shall be effected
153 retroactively. Medicare-granted extensions for filing cost
154 reports, if applicable, shall also apply to Medicaid cost
155 reports. Payment for Medicaid compensable services made on
156 behalf of Medicaid-eligible persons is subject to the
157 availability of moneys and any limitations or directions
158 provided for in the General Appropriations Act or chapter 216.
159 Further, nothing in this section shall be construed to prevent
160 or limit the agency from adjusting fees, reimbursement rates,
161 lengths of stay, number of visits, or number of services, or
162 making any other adjustments necessary to comply with the
163 availability of moneys and any limitations or directions
164 provided for in the General Appropriations Act, provided the
165 adjustment is consistent with legislative intent.
166 (2)(a)1. Reimbursement to nursing homes licensed under part
167 II of chapter 400 and state-owned-and-operated intermediate care
168 facilities for the developmentally disabled licensed under part
169 VIII of chapter 400 must be made prospectively.
170 2. Unless otherwise limited or directed in the General
171 Appropriations Act, reimbursement to hospitals licensed under
172 part I of chapter 395 for the provision of swing-bed nursing
173 home services must be made on the basis of the average statewide
174 nursing home payment, and reimbursement to a hospital licensed

175 under part I of chapter 395 for the provision of skilled nursing
176 services must be made on the basis of the average nursing home
177 payment for those services in the county in which the hospital
178 is located. When a hospital is located in a county that does not
179 have any community nursing homes, reimbursement shall be
180 determined by averaging the nursing home payments in counties
181 that surround the county in which the hospital is located.
182 Reimbursement to hospitals, including Medicaid payment of
183 Medicare copayments, for skilled nursing services shall be
184 limited to 30 days, unless a prior authorization has been
185 obtained from the agency. Medicaid reimbursement may be extended
186 by the agency beyond 30 days, and approval must be based upon
187 verification by the patient's physician that the patient
188 requires short-term rehabilitative and recuperative services
189 only, in which case an extension of no more than 15 days may be
190 approved. Reimbursement to a hospital licensed under part I of
191 chapter 395 for the temporary provision of skilled nursing
192 services to nursing home residents who have been displaced as
193 the result of a natural disaster or other emergency may not
194 exceed the average county nursing home payment for those
195 services in the county in which the hospital is located and is
196 limited to the period of time which the agency considers
197 necessary for continued placement of the nursing home residents
198 in the hospital.
199 (b) Subject to any limitations or directions in the General
200 Appropriations Act, the agency shall establish and implement a
201 state Title XIX Long-Term Care Reimbursement Plan for nursing
202 home care in order to provide care and services in conformance
203 with the applicable state and federal laws, rules, regulations,

204 and quality and safety standards and to ensure that individuals
205 eligible for medical assistance have reasonable geographic
206 access to such care.
207 1. The agency shall amend the long-term care reimbursement
208 plan and cost reporting system to create direct care and
209 indirect care subcomponents of the patient care component of the
210 per diem rate. These two subcomponents together shall equal the
211 patient care component of the per diem rate. Separate prices
212 shall be calculated for each patient care subcomponent,
213 initially based on the September 2016 rate setting cost reports
214 and subsequently based on the most recently audited cost report
215 used during a rebasing year. The direct care subcomponent of the
216 per diem rate for any providers still being reimbursed on a cost
217 basis shall be limited by the cost-based class ceiling, and the
218 indirect care subcomponent may be limited by the lower of the
219 cost-based class ceiling, the target rate class ceiling, or the
220 individual provider target. The ceilings and targets apply only
221 to providers being reimbursed on a cost-based system. Effective
222 October 1, 2018, a prospective payment methodology shall be
223 implemented for rate setting purposes with the following
224 parameters:
225 a. Peer Groups, including:
226 (I) North-SMMC Regions 1-9, less Palm Beach and Okeechobee
227 Counties; and
228 (II) South-SMMC Regions 10-11, plus Palm Beach and
229 Okeechobee Counties.
230 b. Percentage of Median Costs based on the cost reports
231 used for September 2016 rate setting:
232 (I) Direct Care Costs..........................100 percent.

233 (II) Indirect Care Costs.........................92 percent.
234 (III) Operating Costs............................86 percent.
235 c. Floors:
236 (I) Direct Care Component........................95 percent.
237 (II) Indirect Care Component...................92.5 percent.
238 (III) Operating Component............................None.
239 d. Pass-through Payments.....................Real Estate and
240 ....Personal Property
241 ....Taxes and Property Insurance.
242 e. Quality Incentive Program Payment
243 Pool.......................................6 percent of September
244 ....2016 non-property related
245 ....payments of included facilities.
246 f. Quality Score Threshold to Quality for Quality Incentive
247 Payment...................20th percentile of included facilities.
248 g. Fair Rental Value System Payment Parameters:
249 (I) Building Value per Square Foot based on 2018 RS Means.
250 (II) Land Valuation......10 percent of Gross Building value.
251 (III) Facility Square Footage.........Actual Square Footage.
252 (IV) Moveable Equipment Allowance............$8,000 per bed.
253 (V) Obsolescence Factor.........................1.5 percent.
254 (VI) Fair Rental Rate of Return...................8 percent.
255 (VII) Minimum Occupancy..........................90 percent.
256 (VIII) Maximum Facility Age........................40 years.
257 (IX) Minimum Square Footage per Bed.....................350.
258 (X) Maximum Square Footage for Bed......................500.
259 (XI) Minimum Cost of a renovation/replacements.$500 per bed.
260 h. Ventilator Supplemental payment of $200 per Medicaid day
261 of 40,000 ventilator Medicaid days per fiscal year.

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262 2. The direct care subcomponent shall include salaries and
263 benefits of direct care staff providing nursing services
264 including registered nurses, licensed practical nurses, and
265 certified nursing assistants who deliver care directly to
266 residents in the nursing home facility, allowable therapy costs,
267 and dietary costs. This excludes nursing administration, staff
268 development, the staffing coordinator, and the administrative
269 portion of the minimum data set and care plan coordinators. The
270 direct care subcomponent also includes medically necessary
271 dental care, vision care, hearing care, and podiatric care.
272 3. All other patient care costs shall be included in the
273 indirect care cost subcomponent of the patient care per diem
274 rate, including complex medical equipment, medical supplies, and
275 other allowable ancillary costs. Costs may not be allocated
276 directly or indirectly to the direct care subcomponent from a
277 home office or management company.
278 4. On July 1 of each year, the agency shall report to the
279 Legislature direct and indirect care costs, including average
280 direct and indirect care costs per resident per facility and
281 direct care and indirect care salaries and benefits per category
282 of staff member per facility.
283 5. Every fourth year, the agency shall rebase nursing home
284 prospective payment rates to reflect changes in cost based on
285 the most recently audited cost report for each participating
286 provider.
287 6. A direct care supplemental payment may be made to
288 providers whose direct care hours per patient day are above the
289 80th percentile and who provide Medicaid services to a larger
290 percentage of Medicaid patients than the state average.

291 7. For the period beginning on October 1, 2018, and ending
292 on September 30, 2021, the agency shall reimburse providers the
293 greater of their September 2016 cost-based rate or their
294 prospective payment rate. Effective October 1, 2021, the agency
295 shall reimburse providers the greater of 95 percent of their
296 cost-based rate or their rebased prospective payment rate, using
297 the most recently audited cost report for each facility. This
298 subparagraph shall expire September 30, 2023.
299 8. Pediatric, Florida Department of Veterans Affairs, and
300 government-owned facilities are exempt from the pricing model
301 established in this subsection and shall remain on a cost-based
302 prospective payment system. Effective October 1, 2018, the
303 agency shall set rates for all facilities remaining on a cost-
304 based prospective payment system using each facility's most
305 recently audited cost report, eliminating retroactive
306 settlements.
307
308 It is the intent of the Legislature that the reimbursement plan
309 achieve the goal of providing access to health care for nursing
310 home residents who require large amounts of care while
311 encouraging diversion services as an alternative to nursing home
312 care for residents who can be served within the community. The
313 agency shall base the establishment of any maximum rate of
314 payment, whether overall or component, on the available moneys
315 as provided for in the General Appropriations Act. The agency
316 may base the maximum rate of payment on the results of
317 scientifically valid analysis and conclusions derived from
318 objective statistical data pertinent to the particular maximum
319 rate of payment. The agency shall base the rates of payments in

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320 accordance with the minimum wage requirements as provided in the
321 General Appropriations Act.
322 Section 6. This act shall take effect July 1, 2022.