

By the Committee on Health Policy; and Senators Brodeur and Garcia

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1 A bill to be entitled
2 An act relating to the Agency for Persons with
3 Disabilities; amending s. 393.063, F.S.; revising and
4 defining terms; amending s. 393.065, F.S.; requiring
5 the Agency for Persons with Disabilities to make
6 certain eligibility determinations within specified
7 timeframes; authorizing the agency to request
8 additional documentation from applicants if it is
9 necessary to make an eligibility determination;
10 providing eligibility requirements for applicants;
11 authorizing a designee of the agency to notify
12 applicants of eligibility determinations; requiring
13 that the agency authorize admission of certain
14 individuals to an intermediate care facility;
15 requiring the agency or its designee to conduct a
16 certain comprehensive assessment of an individual as
17 part of the authorization; revising provisions related
18 to the home and community-based services Medicaid
19 waiver program; requiring the agency to assign clients
20 seeking such waiver services to their appropriate
21 enrollment categories based on specified criteria;
22 revising requirements for the prioritization of
23 clients waiting for such services; providing
24 eligibility criteria for such services; conforming
25 provisions to changes made by the act; amending s.
26 393.0651, F.S.; conforming provisions to changes made
27 by the act; amending s. 393.0655, F.S.; revising
28 background screening requirements for certain direct
29 service providers; amending s. 393.067, F.S.;

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30 requiring the licensure of adult day training
31 programs; conforming related application and licensure
32 provisions to changes made by the act; providing for
33 comprehensive emergency management plans of adult day
34 training programs; providing for inspections of adult
35 day training programs; requiring adult day training
36 programs to adhere to specified rights; conforming
37 provisions to changes made by the act; amending s.
38 393.0673, F.S.; revising provisions related to
39 disciplinary action against certain licensees to
40 include licensed adult day training programs;
41 providing that for purposes of disciplinary action for
42 certain violations, a licensee is ultimately
43 responsible for the care and supervision of clients in
44 its facility or participants of the program; providing
45 construction; revising grounds for denial of a
46 licensure application; defining the term "good moral
47 character"; authorizing the agency to immediately
48 suspend or revoke the license of adult day training
49 programs under certain circumstances; authorizing the
50 agency to impose an immediate moratorium on service
51 authorizations to licensed facilities and adult day
52 training programs under certain circumstances;
53 amending s. 393.0678, F.S.; conforming provisions to
54 changes made by the act; making a technical change;
55 amending s. 393.135, F.S.; conforming provisions to
56 changes made by the act; repealing s. 393.18, F.S.,
57 relating to comprehensive transitional education
58 programs; amending s. 394.875, F.S.; conforming a

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59 provision to changes made by the act; amending ss.
60 383.141, 400.063, and 1002.394, F.S.; conforming
61 cross-references; providing an effective date.
62

63 Be It Enacted by the Legislature of the State of Florida:
64

65 Section 1. Subsections (1) and (10) of section 393.063,
66 Florida Statutes, are amended, and a new subsection (25) is
67 added to that section, to read:

68 393.063 Definitions.—For the purposes of this chapter, the
69 term:

70 (1) "Adult day training" means a program of training
71 services which takes that take place in a nonresidential
72 setting, separate from the home or facility in which the client
73 resides, and is are intended to support the participation of
74 clients in ~~daily,~~ meaningful, and valued routines of the
75 community. These services include, but are not limited to, the
76 acquisition, retention, or improvement of self-help,
77 socialization, and adaptive skills ~~Such training may be provided~~
78 ~~in work-like settings that do not meet the definition of~~
79 ~~supported employment.~~

80 ~~(10) "Comprehensive transitional education program" means~~
81 ~~the program established in s. 393.18.~~

82 (25) "Licensee" means an individual, a corporation, a
83 partnership, a firm, an association, a governmental entity, or
84 other entity that is issued a permit, registration, certificate,
85 or license by the agency. The licensee is legally responsible
86 for all aspects of the provider operation.

87 Section 2. Section 393.065, Florida Statutes, is amended to

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88 read:

89 393.065 Application and eligibility determination.—

90 (1) An application for services must ~~shall~~ be made in
91 writing to the agency, in the region ~~service area~~ in which the
92 applicant resides. The agency must ~~shall~~ review each application
93 and make an eligibility determination ~~applicant for eligibility~~
94 within 45 days after the date the application is signed for
95 children under 6 years of age and within 60 days after receipt
96 of the signed application. If, at the time of application, the
97 applicant requests enrollment in the developmental disabilities
98 home and community-based services Medicaid waiver program due to
99 crisis, as described in paragraph (5) (a), the agency must
100 complete an eligibility determination within 45 days after
101 receipt of the signed application.

102 (a) If the agency determines additional documentation is
103 necessary to make a proper determination on an applicant's
104 eligibility, the agency may request the necessary additional
105 documentation from the applicant ~~the date the application is~~
106 ~~signed for all other applicants.~~

107 (b) When necessary to definitively identify individual
108 conditions or needs, the agency must arrange for ~~shall provide~~ a
109 comprehensive assessment within this state.

110 (c) If the agency requests additional documentation from
111 the applicant or arranges for a comprehensive assessment, the
112 agency's eligibility determination must be completed within 90
113 days after receipt of the signed application.

114 (2) To be eligible for services under this chapter, the
115 agency's eligibility determination must find that the applicant
116 has met all procedural requirements and eligibility criteria

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117 found in rule, which must include, but need not be limited to,
118 the requirement that the applicant have a developmental
119 disability and be domiciled in Florida ~~Only applicants whose~~
120 ~~domicile is in Florida are eligible for services.~~ Information
121 accumulated by other agencies, including professional reports
122 and collateral data, must ~~shall~~ be considered in this process
123 when available.

124 ~~(2) In order to provide immediate services or crisis~~
125 ~~intervention to applicants, the agency shall arrange for~~
126 ~~emergency eligibility determination, with a full eligibility~~
127 ~~review to be accomplished within 45 days of the emergency~~
128 ~~eligibility determination.~~

129 (3) The agency, or its designee, must ~~shall~~ notify each
130 applicant, ~~in writing,~~ of its eligibility determination
131 ~~decision.~~ Any applicant or client determined by the agency to be
132 ineligible for services has the right to appeal this
133 determination decision pursuant to ss. 120.569 and 120.57.

134 (4) Before admission to an intermediate care facility for
135 individuals with intellectual disabilities and to ensure that
136 the setting is the least restrictive to meet the individual's
137 needs, the agency must authorize the admission pursuant to this
138 subsection. As part of the authorization, the agency, or its
139 designee, must conduct a comprehensive assessment that includes
140 medical necessity, level of care, and level of reimbursement ~~The~~
141 ~~agency shall assess the level of need and medical necessity for~~
142 ~~prospective residents of intermediate care facilities for the~~
143 ~~developmentally disabled. The agency may enter into an agreement~~
144 ~~with the Department of Elderly Affairs for its Comprehensive~~
145 ~~Assessment and Review for Long-Term Care Services (CARES)~~

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146 ~~program to conduct assessments to determine the level of need~~
147 ~~and medical necessity for long-term care services under this~~
148 ~~chapter. To the extent permissible under federal law, the~~
149 ~~assessments shall be funded under Title XIX of the Social~~
150 ~~Security Act.~~

151 (5) Except as provided in subsection (7), if a client
152 seeking enrollment in the developmental disabilities home and
153 community-based services Medicaid waiver program meets the level
154 of care requirement for an intermediate care facility for
155 individuals with intellectual disabilities pursuant to 42 C.F.R.
156 ss. 435.217(b)(1) and 440.150, the agency must ~~shall~~ assign the
157 client to an appropriate enrollment category based on the
158 criteria outlined below and must provide priority to clients
159 waiting for waiver services in the following order:

160 (a) Category 1, which includes clients deemed to be in
161 crisis as described in rule, must ~~shall~~ be given first priority
162 in moving from the preenrollment categories ~~waiting list~~ to the
163 waiver.

164 (b) Category 2, which includes clients in the preenrollment
165 categories ~~individuals on the waiting list~~ who are:

166 1. From the child welfare system with an open case in the
167 Department of Children and Families' statewide automated child
168 welfare information system and who are either:

169 a. Transitioning out of the child welfare system into
170 permanency at the finalization of an adoption, a reunification
171 with family members, a permanent placement with a relative, or a
172 guardianship with a nonrelative; or

173 b. At least 18 years but not yet 22 years of age and who
174 need both waiver services and extended foster care services; or

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175 2. At least 18 years but not yet 22 years of age and who
176 withdrew consent pursuant to s. 39.6251(5)(c) to remain in the
177 extended foster care system.

178
179 For individuals who are at least 18 years but not yet 22 years
180 of age and who are eligible under sub-subparagraph 1.b., the
181 agency must ~~shall~~ provide waiver services, including residential
182 habilitation, and the community-based care lead agency must
183 ~~shall~~ fund room and board at the rate established in s.
184 409.145(3) and provide case management and related services as
185 defined in s. 409.986(3)(e). Individuals may receive both waiver
186 services and services under s. 39.6251. Services may not
187 duplicate services available through the Medicaid state plan.

188 (c) Category 3, which includes, but is not required to be
189 limited to, clients:

190 1. Whose caregiver has a documented condition that is
191 expected to render the caregiver unable to provide care within
192 the next 12 months and for whom a caregiver is required but no
193 alternate caregiver is available;

194 2. At substantial risk of incarceration or court commitment
195 without supports;

196 3. Whose documented behaviors or physical needs place them
197 or their caregiver at risk of serious harm and other supports
198 are not currently available to alleviate the situation; or

199 4. Who are identified as ready for discharge within the
200 next year from a state mental health hospital or skilled nursing
201 facility and who require a caregiver but for whom no caregiver
202 is available or whose caregiver is unable to provide the care
203 needed.

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204 (d) Category 4, which includes, but is not required to be
205 limited to, clients whose caregivers are 70 years of age or
206 older and for whom a caregiver is required but no alternate
207 caregiver is available.

208 (e) Category 5, which includes, but is not required to be
209 limited to, clients who are expected to graduate within the next
210 12 months from secondary school and need support to obtain a
211 meaningful day activity, maintain competitive employment, or
212 pursue an accredited program of postsecondary education to which
213 they have been accepted.

214 (f) Category 6, which includes clients 21 years of age or
215 older who do not meet the criteria for category 1, category 2,
216 category 3, category 4, or category 5.

217 (g) Category 7, which includes clients younger than 21
218 years of age who do not meet the criteria for category 1,
219 category 2, category 3, or category 4.

220 (6) Within each enrollment category, the agency must
221 prioritize enrollment based on the time each client has been
222 assigned to any preenrollment category without interruption,
223 with the longest uninterrupted time spent in a preenrollment
224 category having the highest priority. A client who resides in an
225 institutional setting, including, but not limited to, a penal
226 institution, an intermediate care facility for the
227 developmentally disabled, a mental health hospital, a nursing
228 home, or a forensic facility operated by the agency pursuant to
229 chapter 916, may not be assigned to a preenrollment category
230 ~~Within categories 3, 4, 5, 6, and 7, the agency shall maintain a~~
231 ~~waiting list of clients placed in the order of the date that the~~
232 ~~client is determined eligible for waiver services.~~

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233 (7)~~(6)~~ The agency must ~~shall~~ allow an individual who meets
234 the eligibility requirements of subsection (2) ~~subsection (1)~~ to
235 receive home and community-based services in this state if the
236 individual's parent or legal guardian is an active-duty military
237 servicemember and if, at the time of the servicemember's
238 transfer to this state, the individual was receiving home and
239 community-based services in another state.

240 (8)~~(7)~~ The agency must ~~shall~~ allow an individual with a
241 diagnosis of Phelan-McDermid syndrome who meets the eligibility
242 requirements of subsection (2) ~~subsection (1)~~ to receive home
243 and community-based services.

244 (9) Only a client may be eligible for services under the
245 developmental disabilities home and community-based services
246 Medicaid waiver program. For a client to receive services under
247 the developmental disabilities home and community-based services
248 Medicaid waiver program, there must be available funding
249 pursuant to s. 393.0662 or through a legislative appropriation
250 and the client must meet all of the following:

251 (a) The eligibility criteria in subsection (2), which must
252 be confirmed by the agency.

253 (b) Eligibility requirements for the Florida Medicaid
254 program under Title XIX of the Social Security Act, as amended,
255 or the Supplemental Security Income program.

256 (c) The level of care requirements for an intermediate care
257 facility for individuals with developmental disabilities
258 pursuant to 42 C.F.R. ss. 435.217(b) (1) and 440.150.

259 (d) The requirements provided in the approved federal
260 waiver authorized pursuant to s. 1915(c) of the Social Security
261 Act and 42 C.F.R. s. 441.302.

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262 (10)~~(8)~~ Agency action that selects individuals to receive
263 waiver services pursuant to this section does not establish a
264 right to a hearing or an administrative proceeding under chapter
265 120 for individuals remaining in the preenrollment categories ~~on~~
266 ~~the waiting list~~.

267 (11)~~(9)~~ The client, the client's guardian, or the client's
268 family must ensure that accurate, up-to-date contact information
269 is provided to the agency at all times. Notwithstanding s.
270 393.0651, the agency must ~~shall~~ send an annual letter requesting
271 updated information from the client, the client's guardian, or
272 the client's family. The agency must ~~shall~~ remove from the
273 preenrollment categories ~~waiting list~~ any individual who cannot
274 be located using the contact information provided to the agency,
275 fails to meet eligibility requirements, or becomes domiciled
276 outside the state.

277 (12) (a)~~(10) (a)~~ The agency must ~~shall~~ provide the following
278 information to all applicants or their parents, legal guardians,
279 or family members:

280 1. A brief overview of the vocational rehabilitation
281 services offered through the Division of Vocational
282 Rehabilitation of the Department of Education, including a
283 hyperlink or website address that provides access to the
284 application for such services;

285 2. A brief overview of the Florida ABLE program as
286 established under s. 1009.986, including a hyperlink or website
287 address that provides access to the application for establishing
288 an ABLE account as defined in s. 1009.986(2);

289 3. A brief overview of the supplemental security income
290 benefits and social security disability income benefits

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291 available under Title XVI of the Social Security Act, as
292 amended, including a hyperlink or website address that provides
293 access to the application for such benefits;

294 4. A statement indicating that the applicant's local public
295 school district may provide specialized instructional services,
296 including transition programs, for students with special
297 education needs;

298 5. A brief overview of programs and services funded through
299 the Florida Center for Students with Unique Abilities, including
300 contact information for each state-approved Florida
301 Postsecondary Comprehensive Transition Program;

302 6. A brief overview of decisionmaking options for
303 individuals with disabilities, guardianship under chapter 744,
304 and alternatives to guardianship as defined in s. 744.334(1),
305 which may include contact information for organizations that the
306 agency believes would be helpful in assisting with such
307 decisions;

308 7. A brief overview of the referral tools made available
309 through the agency, including a hyperlink or website address
310 that provides access to such tools; and

311 8. A statement indicating that some waiver providers may
312 serve private-pay individuals.

313 (b) The agency must provide the information required in
314 paragraph (a) in writing to an applicant or his or her parent,
315 legal guardian, or family member along with a written disclosure
316 statement in substantially the following form:

317
318 DISCLOSURE STATEMENT
319

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320 Each program and service has its own eligibility requirements.
321 By providing the information specified in section 393.065(11)(a)
322 ~~393.065(10)(a)~~, Florida Statutes, the agency does not guarantee
323 an applicant's eligibility for or enrollment in any program or
324 service.

325 (c) The agency must ~~shall~~ also publish the information
326 required in paragraph (a) and the disclosure statement in
327 paragraph (b) on its website, and must ~~shall~~ provide that
328 information and statement annually to each client applicant
329 placed in the preenrollment categories ~~on the waiting list~~ or to
330 the parent, legal guardian, or family member of such client
331 applicant.

332 ~~(13)(11)~~ The agency and the Agency for Health Care
333 Administration may adopt rules specifying application
334 procedures, criteria associated with the preenrollment ~~waiting~~
335 ~~list~~ categories, procedures for administering the preenrollment
336 categories ~~waiting list~~, including tools for prioritizing waiver
337 enrollment within categories, and eligibility criteria as needed
338 to administer this section.

339 Section 3. Section 393.0651, Florida Statutes, is amended
340 to read:

341 393.0651 Family or individual support plan.—The agency
342 shall provide directly or contract for the development of a
343 family support plan for children ages 3 to 18 years of age and
344 an individual support plan for each client. The client, if
345 competent, the client's parent or guardian, or, when
346 appropriate, the client advocate, shall be consulted in the
347 development of the plan and shall receive a copy of the plan.
348 Each plan must include the most appropriate, least restrictive,

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349 and most cost-beneficial environment for accomplishment of the
350 objectives for client progress and a specification of all
351 services authorized. The plan must include provisions for the
352 most appropriate level of care for the client. Within the
353 specification of needs and services for each client, when
354 residential care is necessary, the agency shall move toward
355 placement of clients in residential facilities based within the
356 client's community. The ultimate goal of each plan, whenever
357 possible, shall be to enable the client to live a dignified life
358 in the least restrictive setting, be that in the home or in the
359 community. ~~For children under 6 years of age, The family or~~
360 individual support plan must ~~shall~~ be developed within 60 days
361 after the agency determines the client eligible pursuant to s.
362 393.065(3) ~~the 45-day application period as specified in s.~~
363 ~~393.065(1); for all applicants 6 years of age or older, the~~
364 ~~family or individual support plan shall be developed within the~~
365 ~~60-day period as specified in that subsection.~~

366 (1) The agency shall develop and specify by rule the core
367 components of support plans.

368 (2) The family or individual support plan shall be
369 integrated with the individual education plan (IEP) for all
370 clients who are public school students entitled to a free
371 appropriate public education under the Individuals with
372 Disabilities Education Act, I.D.E.A., as amended. The family or
373 individual support plan and IEP must ~~shall~~ be implemented to
374 maximize the attainment of educational and habilitation goals.

375 (a) If the IEP for a student enrolled in a public school
376 program indicates placement in a public or private residential
377 program is necessary to provide special education and related

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378 services to a client, the local education agency must ~~shall~~
379 provide for the costs of that service in accordance with the
380 requirements of the Individuals with Disabilities Education Act,
381 I.D.E.A., as amended. This does ~~shall~~ not preclude local
382 education agencies and the agency from sharing the residential
383 service costs of students who are clients and require
384 residential placement.

385 (b) For clients who are entering or exiting the school
386 system, an interdepartmental staffing team composed of
387 representatives of the agency and the local school system shall
388 develop a written transitional living and training plan with the
389 participation of the client or with the parent or guardian of
390 the client, or the client advocate, as appropriate.

391 (3) Each family or individual support plan shall be
392 facilitated through case management designed solely to advance
393 the individual needs of the client.

394 (4) In the development of the family or individual support
395 plan, a client advocate may be appointed by the support planning
396 team for a client who is a minor or for a client who is not
397 capable of express and informed consent when:

398 (a) The parent or guardian cannot be identified;

399 (b) The whereabouts of the parent or guardian cannot be
400 discovered; or

401 (c) The state is the only legal representative of the
402 client.

403

404 Such appointment may ~~shall~~ not be construed to extend the powers
405 of the client advocate to include any of those powers delegated
406 by law to a legal guardian.

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407 (5) The agency shall place a client in the most appropriate
408 and least restrictive, and cost-beneficial, residential facility
409 according to his or her individual support plan. The client, if
410 competent, the client's parent or guardian, or, when
411 appropriate, the client advocate, and the administrator of the
412 facility to which placement is proposed shall be consulted in
413 determining the appropriate placement for the client.

414 Considerations for placement shall be made in the following
415 order:

416 (a) Client's own home or the home of a family member or
417 direct service provider.

418 (b) Foster care facility.

419 (c) Group home facility.

420 (d) Intermediate care facility for the developmentally
421 disabled.

422 (e) Other facilities licensed by the agency which offer
423 special programs for people with developmental disabilities.

424 (f) Developmental disabilities center.

425 (6) In developing a client's annual family or individual
426 support plan, the individual or family with the assistance of
427 the support planning team shall identify measurable objectives
428 for client progress and shall specify a time period expected for
429 achievement of each objective.

430 (7) The individual, family, and support coordinator shall
431 review progress in achieving the objectives specified in each
432 client's family or individual support plan, and shall revise the
433 plan annually, following consultation with the client, if
434 competent, or with the parent or guardian of the client, or,
435 when appropriate, the client advocate. The agency or designated

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436 contractor shall annually report in writing to the client, if
437 competent, or to the parent or guardian of the client, or to the
438 client advocate, when appropriate, with respect to the client's
439 habilitative and medical progress.

440 (8) Any client, or any parent of a minor client, or
441 guardian, authorized guardian advocate, or client advocate for a
442 client, who is substantially affected by the client's initial
443 family or individual support plan, or the annual review thereof,
444 shall have the right to file a notice to challenge the decision
445 pursuant to ss. 120.569 and 120.57. Notice of such right to
446 appeal shall be included in all support plans provided by the
447 agency.

448 Section 4. Subsection (1) of section 393.0655, Florida
449 Statutes, is amended to read:

450 393.0655 Screening of direct service providers.-

451 (1) MINIMUM STANDARDS.-The agency shall require level 2
452 employment screening pursuant to chapter 435 for direct service
453 providers who are unrelated to their clients, including support
454 coordinators, and managers and supervisors of residential
455 facilities or adult day training ~~comprehensive transitional~~
456 ~~education~~ programs licensed under this chapter and any other
457 person, including volunteers, who provide care or services, who
458 have access to a client's living areas, or who have access to a
459 client's funds or personal property. Background screening must
460 ~~shall~~ include employment history checks as provided in s.
461 435.03(1) and local criminal records checks through local law
462 enforcement agencies.

463 (a) A volunteer who assists on an intermittent basis for
464 less than 10 hours per month does not have to be screened if a

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465 person who meets the screening requirement of this section is
466 always present and has the volunteer within his or her line of
467 sight.

468 (b) Licensed physicians, nurses, or other professionals
469 licensed and regulated by the Department of Health are not
470 subject to background screening pursuant to this section if they
471 are providing a service that is within their scope of licensed
472 practice.

473 (c) A person selected by the family or the individual with
474 developmental disabilities and paid by the family or the
475 individual to provide supports or services is not required to
476 have a background screening under this section.

477 (d) Persons 12 years of age or older, including family
478 members, residing with a direct services provider who provides
479 services to clients in his or her own place of residence are
480 subject to background screening; however, such persons who are
481 12 to 18 years of age shall be screened for delinquency records
482 only.

483 Section 5. Section 393.067, Florida Statutes, is amended to
484 read:

485 393.067 Facility licensure.—

486 (1) The agency shall provide through its licensing
487 authority and by rule license application procedures, provider
488 qualifications, facility and client care standards, requirements
489 for client records, requirements for staff qualifications and
490 training, and requirements for monitoring foster care
491 facilities, group home facilities, residential habilitation
492 centers, and adult day training ~~comprehensive transitional~~
493 ~~education~~ programs that serve agency clients.

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494 (2) The agency shall conduct annual inspections and reviews
495 of facilities and adult day training programs licensed under
496 this section.

497 (3) An application for a license under this section must be
498 made to the agency on a form furnished by it and shall be
499 accompanied by the appropriate license fee.

500 (4) The application shall be under oath and shall contain
501 the following:

502 (a) The name and address of the applicant, if an applicant
503 is an individual; if the applicant is a firm, partnership, or
504 association, the name and address of each member thereof; if the
505 applicant is a corporation, its name and address and the name
506 and address of each director and each officer thereof; and the
507 name by which the facility or program is to be known.

508 (b) The location of the facility or adult day training
509 program for which a license is sought.

510 (c) The name of the person or persons under whose
511 management or supervision the facility or adult day training
512 program will be conducted.

513 (d) The number and type of residents or clients for which
514 maintenance, care, education, or treatment is to be provided by
515 the facility or adult day training program.

516 ~~(e) The number and location of the component centers or~~
517 ~~units which will compose the comprehensive transitional~~
518 ~~education program.~~

519 ~~(f)~~ A description of the types of services and treatment to
520 be provided by the facility or adult day training program.

521 (f) ~~(g)~~ Information relating to the number, experience, and
522 training of the employees of the facility or adult day training

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523 program.

524 (g)~~(h)~~ Certification that the staff of the facility or
525 adult day training program will receive training to detect,
526 report, and prevent sexual abuse, abuse, neglect, exploitation,
527 and abandonment, as defined in ss. 39.01 and 415.102, of
528 residents and clients.

529 (h)~~(i)~~ ~~Such other~~ Information as the agency determines is
530 necessary to carry out the provisions of this chapter.

531 (5) As a prerequisite for issuance of an initial or renewal
532 license, the applicant, and any manager, supervisor, and staff
533 member of the direct service provider of a facility or an adult
534 day training program licensed under this section, must have
535 submitted to background screening as required under s. 393.0655.
536 A license may not be issued or renewed if the applicant or any
537 manager, supervisor, or staff member of the direct service
538 provider has a disqualifying offense revealed by ~~failed~~
539 background screenings as required under s. 393.0655. The agency
540 shall determine by rule the frequency of background screening.
541 The applicant shall submit with each initial or renewal
542 application a signed affidavit under penalty of perjury stating
543 that the applicant and any manager, supervisor, or staff member
544 of the direct service provider is in compliance with all
545 requirements for background screening.

546 (6) A facility or an adult day training program ~~The~~
547 applicant shall furnish satisfactory proof of financial ability
548 to operate and conduct the facility or program in accordance
549 with the requirements of this chapter and adopted rules.

550 (7) The agency shall adopt rules establishing minimum
551 standards for facilities and adult day training programs

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552 licensed under this section, including rules requiring
553 facilities and adult day training programs to train staff to
554 detect, report, and prevent sexual abuse, abuse, neglect,
555 exploitation, and abandonment, as defined in ss. 39.01 and
556 415.102, of residents and clients, minimum standards of quality
557 and adequacy of client care, incident reporting requirements,
558 and uniform firesafety standards established by the State Fire
559 Marshal which are appropriate to the size of the facility or
560 adult day training ~~of the component centers or units of the~~
561 program.

562 (8) The agency, after consultation with the Division of
563 Emergency Management, shall adopt rules for foster care
564 facilities, group home facilities, ~~and~~ residential habilitation
565 centers, and adult day training programs which establish minimum
566 standards for the preparation and annual update of a
567 comprehensive emergency management plan. At a minimum, the rules
568 must provide for plan components that address emergency
569 evacuation transportation; adequate sheltering arrangements;
570 postdisaster activities, including emergency power, food, and
571 water; postdisaster transportation; supplies; staffing;
572 emergency equipment; individual identification of residents and
573 transfer of records; and responding to family inquiries. The
574 comprehensive emergency management plan for all facilities and
575 adult day training ~~comprehensive transitional education~~ programs
576 ~~and for homes~~ serving individuals who have a complex medical
577 condition ~~conditions~~ is subject to review and approval by the
578 local emergency management agency. During its review, the local
579 emergency management agency shall ensure that the agency and the
580 Division of Emergency Management, at a minimum, are given the

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581 opportunity to review the plan. Also, appropriate volunteer
582 organizations must be given the opportunity to review the plan.
583 The local emergency management agency shall complete its review
584 within 60 days and either approve the plan or advise the
585 facility or program of necessary revisions.

586 (9) The agency may conduct unannounced inspections to
587 determine compliance by foster care facilities, group home
588 facilities, residential habilitation centers, and adult day
589 training ~~comprehensive transitional education~~ programs with the
590 applicable provisions of this chapter and the rules adopted
591 pursuant hereto, including the rules adopted for training staff
592 of a facility or an adult day training a program to detect,
593 report, and prevent sexual abuse, abuse, neglect, exploitation,
594 and abandonment, as defined in ss. 39.01 and 415.102, of
595 residents and clients. The facility or adult day training
596 program shall make copies of inspection reports available to the
597 public upon request.

598 (10) Each facility or program licensed under this section
599 shall forward annually to the agency a true and accurate sworn
600 statement of its costs of providing care to clients funded by
601 the agency.

602 (11) The agency may audit the records of any facility or
603 program that it has reason to believe may not be in full
604 compliance with ~~the provisions of~~ this section; provided that,
605 any financial audit of such facility or program is ~~shall be~~
606 limited to the records of clients funded by the agency.

607 (12) The agency shall establish, for the purpose of control
608 of licensure costs, a uniform management information system and
609 a uniform reporting system with uniform definitions and

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610 reporting categories.

611 (13) Facilities and adult day training programs licensed
612 under ~~pursuant to~~ this section shall adhere to all rights
613 specified in s. 393.13, ~~including those enumerated in s.~~
614 ~~393.13(4).~~

615 (14) The agency may not authorize funds or services to an
616 unlicensed facility or adult day training program that is
617 required to be licensed under this section ~~may not receive state~~
618 ~~funds.~~ A license for the operation of a facility or an adult day
619 training program may shall not be renewed if the licensee has
620 any outstanding fines assessed pursuant to this chapter wherein
621 final adjudication of such fines has been entered.

622 (15) The agency is not required to contract with facilities
623 or adult day training programs licensed under ~~pursuant to~~ this
624 chapter.

625 Section 6. Section 393.0673, Florida Statutes, is amended
626 to read:

627 393.0673 Denial, suspension, or revocation of license;
628 moratorium on admissions; administrative fines; procedures.—

629 (1) The following constitute grounds for which the agency
630 may take disciplinary action, including revoking or suspending
631 ~~revoke or suspend~~ a license and imposing or impose an
632 administrative fine, not to exceed \$1,000 per violation per day,
633 ~~if~~:

634 (a) The licensee has:

635 1. Falsely represented or omitted a material fact in its
636 license application submitted under s. 393.067;

637 2. Had prior action taken against it under the Medicaid or
638 Medicare program; or

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639 3. Failed to comply with the applicable requirements of
640 this chapter or rules applicable to the licensee; or

641 (b) The Department of Children and Families has verified
642 that the licensee is responsible for the abuse, neglect, or
643 abandonment of a child or the abuse, neglect, or exploitation of
644 a vulnerable adult.

645 (2) For purposes of disciplinary action under this section
646 for verified findings of abuse, neglect, abandonment, or
647 exploitation of a child or vulnerable adult, the licensee is
648 responsible not only for administration of the facilities in
649 compliance with the standards set out by statute and
650 administrative rule, but is ultimately responsible for the care
651 and supervision of the clients in the facility or the
652 participants of the program.

653 (a) A licensee may not delegate to others the ultimate
654 responsibility for the safety of the clients in its care.

655 (b) A licensee is subject to disciplinary action for an
656 employee's lapse in care or supervision of the clients at the
657 facility or the participants of the program in which a verified
658 finding of abuse, neglect, abandonment, or exploitation
659 occurred.

660 (c) Remedial action taken by the licensee does not affect
661 the agency's ability to impose disciplinary action for the
662 underlying violation.

663 (3) The agency may deny an application for licensure
664 submitted under s. 393.067 if:

665 (a) The applicant has:

666 1. Falsely represented or omitted a material fact in its
667 license application submitted under s. 393.067;

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668 2. Had prior action taken against it under the Medicaid or
669 Medicare program;

670 3. Failed to comply with the applicable requirements of
671 this chapter or rules applicable to the applicant; or

672 4. Previously had a license to operate a residential
673 facility or adult day training program revoked by the agency,
674 the Department of Children and Families, or the Agency for
675 Health Care Administration; ~~or~~

676 (b) The Department of Children and Families has verified
677 that the applicant is responsible for the abuse, neglect, or
678 abandonment of a child or the abuse, neglect, or exploitation of
679 a vulnerable adult; or

680 (c) The agency has determined that there is clear and
681 convincing evidence that the applicant is unqualified for a
682 license because of a lack of good moral character. For purposes
683 of this paragraph, the term "good moral character" means a
684 personal history of honesty, fairness, and respect for the
685 rights of others and for the laws of this state and the Federal
686 Government.

687 (4)~~(3)~~ All hearings must ~~shall~~ be held within the county in
688 which the licensee or applicant operates or applies for a
689 license to operate a facility or an adult day training program
690 as defined herein.

691 (5)~~(4)~~ The agency, as a part of any final order issued by
692 it under this chapter, may impose such fine as it deems proper,
693 except that such fine may not exceed \$1,000 for each violation.
694 Each day a violation of this chapter occurs constitutes a
695 separate violation and is subject to a separate fine, but in no
696 event may the aggregate amount of any fine exceed \$10,000. Fines

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697 paid by any facility licensee under ~~the provisions of~~ this
698 subsection shall be deposited in the Health Care Trust Fund and
699 expended as provided in s. 400.063.

700 (6)~~(5)~~ The agency may issue an order immediately suspending
701 or revoking a license when it determines that any condition of
702 ~~in~~ the facility or adult day training program presents a danger
703 to the health, safety, or welfare of the residents in the
704 facility or the program participants.

705 (7)~~(6)~~ The agency may impose an immediate moratorium on
706 admissions to any facility or on service authorizations to a
707 facility or an adult day training program when the agency
708 determines that any condition of ~~in~~ the facility or adult day
709 training program presents a threat to the health, safety, or
710 welfare of the residents in the facility or the program
711 participants.

712 (8)~~(7)~~ The agency shall establish by rule criteria for
713 evaluating the severity of violations and for determining the
714 amount of fines imposed.

715 Section 7. Subsection (1) of section 393.0678, Florida
716 Statutes, is amended to read:

717 393.0678 Receivership proceedings.—

718 (1) The agency may petition a court of competent
719 jurisdiction for the appointment of a receiver for ~~a~~
720 ~~comprehensive transitional education program~~, a residential
721 habilitation center~~7~~, or a group home facility owned and operated
722 by a corporation or partnership when any of the following
723 conditions exist:

724 (a) Any person is operating a facility without a license
725 and refuses to make application for a license as required by s.

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726 393.067.

727 (b) The licensee is closing the facility or has informed
728 the agency ~~department~~ that it intends to close the facility; and
729 adequate arrangements have not been made for relocation of the
730 residents within 7 days, exclusive of weekends and holidays, of
731 the closing of the facility.

732 (c) The agency determines that conditions exist in the
733 facility which present an imminent danger to the health, safety,
734 or welfare of the residents of the facility or which present a
735 substantial probability that death or serious physical harm
736 would result therefrom. Whenever possible, the agency shall
737 facilitate the continued operation of the program.

738 (d) The licensee cannot meet its financial obligations to
739 provide food, shelter, care, and utilities. Evidence such as the
740 issuance of bad checks or the accumulation of delinquent bills
741 for such items as personnel salaries, food, drugs, or utilities
742 constitutes prima facie evidence that the ownership of the
743 facility lacks the financial ability to operate the home in
744 accordance with the requirements of this chapter and all rules
745 adopted ~~promulgated~~ thereunder.

746 Section 8. Subsection (2) of section 393.135, Florida
747 Statutes, is amended to read:

748 393.135 Sexual misconduct prohibited; reporting required;
749 penalties.—

750 (2) A covered person who engages in sexual misconduct with
751 an individual with a developmental disability who:

752 (a) Resides in a residential facility, including any
753 ~~comprehensive transitional education program~~, developmental
754 disabilities center, foster care facility, group home facility,

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755 intermediate care facility for the developmentally disabled, or
756 residential habilitation center; or

757 (b) Is eligible to receive services from the agency under
758 this chapter,

759

760 commits a felony of the second degree, punishable as provided in
761 s. 775.082, s. 775.083, or s. 775.084. A covered person may be
762 found guilty of violating this subsection without having
763 committed the crime of sexual battery.

764 Section 9. Section 393.18, Florida Statutes, is repealed.

765 Section 10. Paragraph (c) of subsection (3) of section
766 394.875, Florida Statutes, is amended to read:

767 394.875 Crisis stabilization units, residential treatment
768 facilities, and residential treatment centers for children and
769 adolescents; authorized services; license required.—

770 (3) The following are exempt from licensure as required in
771 ss. 394.455-394.903:

772 ~~(c) Comprehensive transitional education programs licensed~~
773 ~~under s. 393.067.~~

774 Section 11. Paragraph (b) of subsection (1) of section
775 383.141, Florida Statutes, is amended to read:

776 383.141 Prenatally diagnosed conditions; patient to be
777 provided information; definitions; information clearinghouse;
778 advisory council.—

779 (1) As used in this section, the term:

780 (b) "Developmental disability" includes Down syndrome and
781 other developmental disabilities defined by s. 393.063 ~~s.~~
782 ~~393.063(12)~~.

783 Section 12. Subsection (1) of section 400.063, Florida

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784 Statutes, is amended to read:

785 400.063 Resident protection.—

786 (1) The Health Care Trust Fund shall be used for the
787 purpose of collecting and disbursing funds generated from the
788 license fees and administrative fines as provided for in ss.
789 393.0673(5) ~~ss. 393.0673(4)~~, 400.062(3), 400.121(2), and
790 400.23(8). Such funds shall be for the sole purpose of paying
791 for the appropriate alternate placement, care, and treatment of
792 residents who are removed from a facility licensed under this
793 part or a facility specified in s. 393.0678(1) in which the
794 agency determines that existing conditions or practices
795 constitute an immediate danger to the health, safety, or
796 security of the residents. If the agency determines that it is
797 in the best interest of the health, safety, or security of the
798 residents to provide for an orderly removal of the residents
799 from the facility, the agency may utilize such funds to maintain
800 and care for the residents in the facility pending removal and
801 alternative placement. The maintenance and care of the residents
802 shall be under the direction and control of a receiver appointed
803 pursuant to s. 393.0678(1) or s. 400.126(1). However, funds may
804 be expended in an emergency upon a filing of a petition for a
805 receiver, upon the declaration of a state of local emergency
806 pursuant to s. 252.38(3)(a)5., or upon a duly authorized local
807 order of evacuation of a facility by emergency personnel to
808 protect the health and safety of the residents.

809 Section 13. Paragraph (d) of subsection (2) of section
810 1002.394, Florida Statutes, is amended to read:

811 1002.394 The Family Empowerment Scholarship Program.—

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

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813 (d) "Disability" means, for a 3- or 4-year-old child or for
814 a student in kindergarten to grade 12, autism spectrum disorder,
815 as defined in the Diagnostic and Statistical Manual of Mental
816 Disorders, Fifth Edition, published by the American Psychiatric
817 Association; cerebral palsy, as defined in s. 393.063; Down
818 syndrome, as defined in s. 393.063; an intellectual disability,
819 as defined in s. 393.063; a speech impairment; a language
820 impairment; an orthopedic impairment; any ~~an~~ other health
821 impairment; an emotional or a behavioral disability; a specific
822 learning disability, including, but not limited to, dyslexia,
823 dyscalculia, or developmental aphasia; Phelan-McDermid syndrome,
824 as defined in s. 393.063; Prader-Willi syndrome, as defined in
825 s. 393.063; spina bifida, as defined in s. 393.063; being a
826 high-risk child, as defined in s. 393.063(22)(a) ~~s.~~
827 ~~393.063(23)(a)~~; muscular dystrophy; Williams syndrome; rare
828 diseases which affect patient populations of fewer than 200,000
829 individuals in the United States, as defined by the National
830 Organization for Rare Disorders; anaphylaxis; a hearing
831 impairment, including deafness; a visual impairment, including
832 blindness; traumatic brain injury; hospital or homebound; or
833 identification as dual sensory impaired, as defined by rules of
834 the State Board of Education and evidenced by reports from local
835 school districts. The term "hospital or homebound" includes a
836 student who has a medically diagnosed physical or psychiatric
837 condition or illness, as defined by the state board in rule, and
838 who is confined to the home or hospital for more than 6 months.
839 Section 14. This act shall take effect October 1, 2024.