

By Senator Simon

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1 A bill to be entitled
2 An act relating to the Department of Elderly Affairs;
3 repealing s. 400.0067, F.S., relating to the State
4 Long-Term Care Ombudsman Council; amending s. 409.979,
5 F.S.; deleting obsolete language; requiring aging and
6 disability resource center personnel to place
7 individuals requesting enrollment for home and
8 community-based services on all appropriate
9 preenrollment lists; conforming provisions to changes
10 made by the act; amending s. 430.03, F.S.; revising
11 purposes of the department; amending s. 430.04, F.S.;
12 clarifying that the department is responsible for
13 designating area agencies on aging; creating s.
14 430.09, F.S.; specifying requirements for the
15 procurement of commodities and contractual services by
16 area agencies on aging and their subcontractors;
17 specifying limitations on salaries paid to
18 administrative employees of area agencies on aging;
19 providing construction; amending s. 430.203, F.S.;
20 revising definitions; defining the term "elderly
21 person"; amending s. 430.204, F.S.; deleting the
22 requirement that the department fund more than one
23 community care service system within specified
24 counties; deleting the requirement that certain
25 contracted entities provide a specified percentage of
26 funding necessary to support certain operation costs;
27 amending s. 430.205, F.S.; deleting the requirement
28 that the department fund more than one community care
29 service system within specified counties; deleting

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30 construction; revising training program requirements
31 for community-care-for-the-elderly service providers
32 and staff; redesignating the term "primary
33 consideration" as "priority consideration"; amending
34 s. 430.2053, F.S.; redesignating "aging resource
35 centers" as "aging and disability resource centers";
36 expanding the purpose of such centers to include
37 providing services and resources to adults with
38 disabilities in addition to the elderly; revising
39 duties of such centers; making technical and
40 conforming changes; creating s. 430.401, F.S.;
41 providing a purpose for specified provisions;
42 providing legislative intent; defining the terms
43 "center" and "department"; creating the Florida
44 Alzheimer's Center of Excellence within the
45 department; specifying duties of the center; requiring
46 the center to work with specified entities;
47 authorizing the center to either provide direct
48 services or contract for the provision of such
49 services to fulfill its duties; specifying eligibility
50 criteria for receiving services from the center;
51 authorizing the center to provide assistance to
52 caregiving families of individuals eligible for
53 services, subject to the availability of funds and
54 resources; amending s. 430.503, F.S.; deleting the
55 requirement that provider agencies assess and collect
56 fees for services under the Alzheimer's Disease
57 Initiative; amending s. 430.602, F.S.; defining the
58 term "functionally impaired elderly person"; amending

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59 s. 430.605, F.S.; revising criteria for special
60 supplement subsidy payments for certain persons;
61 amending s. 430.901, F.S.; conforming a provision to
62 changes made by the act; amending s. 744.2001, F.S.;
63 deleting the requirement that the executive director
64 of the Office of Public and Professional Guardians
65 report to the Secretary of Elderly Affairs; amending
66 s. 744.2003, F.S.; increasing the bond amount required
67 to be maintained by professional guardians; requiring
68 the court to enter a written order including specified
69 findings if the judge decides to waive a certain bond
70 requirement for a guardian; amending s. 744.2004,
71 F.S.; revising administrative penalties the office may
72 impose in disciplinary proceedings against
73 professional guardians; amending s. 744.20041, F.S.;
74 revising grounds for disciplinary action against
75 professional guardians; revising administrative
76 penalties the office may impose in disciplinary
77 proceedings; creating s. 744.20061, F.S.; specifying
78 requirements for offices of public guardian;
79 specifying requirements for the board of directors of
80 such offices; defining terms; requiring board members
81 to disclose conflicts of interest related to certain
82 activities presented to the board for consideration;
83 specifying procedures for handling such disclosed
84 conflicts of interest; requiring the department's
85 contracts with all offices of public guardian to
86 contain specified penalties related to failure to
87 disclose conflicts of interest; providing

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88 applicability; requiring the department to reprocur
89 contracts where a conflict of interest was not
90 disclosed; requiring the department to recoup certain
91 costs related to such contract from the applicable
92 office of public guardian; amending s. 744.2103, F.S.;
93 increasing the frequency with which offices of public
94 guardian are audited; revising requirements for such
95 audits; amending s. 744.2104, F.S.; authorizing the
96 Office of Public and Professional Guardians to issue
97 subpoenas in certain investigations; providing for
98 enforcement of such subpoenas; amending s. 744.351,
99 F.S.; requiring the court to enter a written order
100 including specified findings if it waives a certain
101 bond requirement for a guardian; amending s. 744.361,
102 F.S.; revising a guardian's authority to dictate a
103 ward's right to visitation or contact with his or her
104 family and friends; amending s. 744.3701, F.S.;
105 authorizing the clerks of court to disclose certain
106 confidential information to the department; amending
107 s. 744.441, F.S.; requiring that a guardian's petition
108 for the sale, mortgage, or lease of a ward's property
109 include specified information; creating s. 744.448,
110 F.S.; requiring that a written, certified appraisal of
111 a ward's real property be completed before a guardian
112 may file a petition for authorization to act on the
113 real property; specifying requirements for the
114 appraisal; requiring guardians to make specified
115 efforts to market the ward's property effectively to
116 obtain the highest sale price; specifying requirements

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117 for the petition for authorization to act on the real
118 property; specifying notice requirements for the
119 petition; requiring guardians to maintain certain
120 records related to the sale of the property for a
121 specified timeframe; providing that such records must
122 be made available for inspection and review upon
123 request by the Office of Public and Professional
124 Guardians and the court; specifying requirements for
125 an annual accounting following the sale; providing an
126 effective date.

127
128 Be It Enacted by the Legislature of the State of Florida:

129
130 Section 1. Section 400.0067, Florida Statutes, is repealed.

131 Section 2. Subsections (2) and (3) of section 409.979,
132 Florida Statutes, are amended to read:

133 409.979 Eligibility.—

134 (2) ENROLLMENT OFFERS.—Subject to the availability of
135 funds, the Department of Elderly Affairs shall make offers for
136 enrollment to eligible individuals based on a preenrollment list
137 ~~wait-list~~ prioritization. Before making enrollment offers, the
138 agency and the Department of Elderly Affairs shall determine
139 that sufficient funds exist to support additional enrollment
140 into plans.

141 ~~(a) A Medicaid recipient enrolled in one of the following~~
142 ~~Medicaid home and community-based services waiver programs who~~
143 ~~meets the eligibility criteria established in subsection (1) is~~
144 ~~eligible to participate in the long-term care managed care~~
145 ~~program and must be transitioned into the long-term care managed~~

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146 ~~care program by January 1, 2018:~~

147 ~~1. Traumatic Brain and Spinal Cord Injury Waiver.~~

148 ~~2. Adult Cystic Fibrosis Waiver.~~

149 ~~3. Project AIDS Care Waiver.~~

150 ~~(b) The agency shall seek federal approval to terminate the~~
 151 ~~Traumatic Brain and Spinal Cord Injury Waiver, the Adult Cystic~~
 152 ~~Fibrosis Waiver, and the Project AIDS Care Waiver once all~~
 153 ~~eligible Medicaid recipients have transitioned into the long-~~
 154 ~~term care managed care program.~~

155 (3) PREENROLLMENT ~~WAIT~~ LIST, RELEASE, AND OFFER PROCESS.—

156 The Department of Elderly Affairs shall maintain a statewide
 157 preenrollment ~~wait~~ list for enrollment for home and community-
 158 based services through the long-term care managed care program.

159 (a) The Department of Elderly Affairs shall prioritize
 160 individuals for potential enrollment for home and community-
 161 based services through the long-term care managed care program
 162 using a frailty-based screening or assessment tool that results
 163 in a priority score. The priority score is used to set an order
 164 for releasing individuals from the preenrollment ~~wait~~ list for
 165 potential enrollment in the long-term care managed care program.
 166 If capacity is limited for individuals with identical priority
 167 scores, the individual with the oldest date of placement on the
 168 preenrollment ~~wait~~ list must ~~shall~~ receive priority for release.

169 1. Pursuant to s. 430.2053, aging and disability resource
 170 center personnel and other personnel authorized and certified by
 171 the Department of Elderly Affairs shall perform the screening or
 172 assessment for each individual requesting enrollment for home
 173 and community-based services through the long-term care managed
 174 care program. Aging and disability resource center personnel

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175 shall place an individual on all appropriate preenrollment
176 lists. The Department of Elderly Affairs shall request that the
177 individual or the individual's authorized representative provide
178 alternate contact names and contact information.

179 2. The individual ~~requesting the long-term care services,~~
180 or the individual's authorized representative, must participate
181 in an initial screening or assessment ~~rescreening~~ for placement
182 on the preenrollment ~~wait~~ list. The screening or assessment
183 ~~rescreening~~ must be completed in its entirety before placement
184 on the preenrollment ~~wait~~ list.

185 3. Pursuant to s. 430.2053, ~~aging resource center~~ personnel
186 authorized and certified by the Department of Elderly Affairs
187 shall administer ~~rescreening~~ annually or upon notification of a
188 significant change in an individual's circumstances for an
189 individual with a high priority score. Aging and disability
190 resource center personnel may administer ~~rescreening~~ annually or
191 upon notification of a significant change in an individual's
192 circumstances for an individual with a low priority score.

193 4. The Department of Elderly Affairs shall adopt by rule a
194 screening or assessment tool that generates the priority score
195 and shall make publicly available on its website the specific
196 methodology used to calculate an individual's priority score.

197 (b) Upon completion of the screening or assessment
198 ~~rescreening~~ process, the Department of Elderly Affairs shall
199 notify the individual or the individual's authorized
200 representative that the individual has been placed on the
201 preenrollment ~~wait~~ list, unless the individual has a low
202 priority score. The Department of Elderly Affairs must maintain
203 contact information for each individual with a low priority

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204 score for purposes of any future rescreening. Aging and
205 disability resource center personnel shall inform individuals
206 with low priority scores of community resources available to
207 assist them and inform them that they may contact the aging and
208 disability resource center for a new assessment at any time if
209 they experience a change in circumstances.

210 (c) If the Department of Elderly Affairs is unable to
211 contact the individual or the individual's authorized
212 representative to schedule an initial screening or assessment
213 ~~rescreening~~, and documents the actions taken to make such
214 contact, it shall send a letter to the last documented address
215 of the individual or the individual's authorized representative.
216 The letter must advise the individual or his or her authorized
217 representative that he or she must contact the Department of
218 Elderly Affairs within 30 calendar days after the date of the
219 notice to schedule a screening or assessment ~~rescreening~~ and
220 must notify the individual that failure to complete the
221 screening or assessment ~~rescreening~~ will result in his or her
222 termination from the screening or assessment process and the
223 preenrollment ~~wait~~ list.

224 (d) After notification by the agency of available capacity,
225 the CARES program shall conduct a prerelease assessment. The
226 Department of Elderly Affairs shall release individuals from the
227 preenrollment ~~wait~~ list based on the priority scoring process
228 and prerelease assessment results. Upon release, individuals who
229 meet all eligibility criteria may enroll in the long-term care
230 managed care program.

231 (e) The Department of Elderly Affairs may terminate an
232 individual's inclusion on the preenrollment ~~wait~~ list if the

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233 individual:

- 234 1. Does not have a current priority score due to the
235 individual's action or inaction;
- 236 2. Requests to be removed from the wait list;
- 237 3. Does not keep an appointment to complete the rescreening
238 without scheduling another appointment and has not responded to
239 three documented attempts by the Department of Elderly Affairs
240 to contact the individual;
- 241 4. Receives an offer to begin the eligibility determination
242 process for the long-term care managed care program; or
- 243 5. Begins receiving services through the long-term care
244 managed care program.

245

246 An individual whose inclusion on the preenrollment ~~wait~~ list is
247 terminated must initiate a new request for placement on the
248 preenrollment ~~wait~~ list, and any previous priority
249 considerations must be disregarded.

250 (f) Notwithstanding this subsection, the following
251 individuals are afforded priority enrollment for home and
252 community-based services through the long-term care managed care
253 program and do not have to complete the screening or
254 preenrollment list ~~wait-list~~ process if all other long-term care
255 managed care program eligibility requirements are met:

- 256 1. An individual who is 18, 19, or 20 years of age who has
257 a chronic debilitating disease or condition of one or more
258 physiological or organ systems which generally make the
259 individual dependent upon 24-hour-per-day medical, nursing, or
260 health supervision or intervention.
- 261 2. A nursing facility resident who requests to transition

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262 into the community and who has resided in a Florida-licensed
263 skilled nursing facility for at least 60 consecutive days.

264 3. An individual who is referred by the Department of
265 Children and Families pursuant to the Adult Protective Services
266 Act, ss. 415.101-415.113, as high risk and who is placed in an
267 assisted living facility ~~temporarily funded by the Department of~~
268 ~~Children and Families.~~

269 (g) The Department of Elderly Affairs and the agency may
270 adopt rules to implement this subsection.

271 Section 3. Subsection (7) of section 430.03, Florida
272 Statutes, is amended to read:

273 430.03 Purposes.—The purposes of the Department of Elderly
274 Affairs are to:

275 (7) Oversee implementation of federally funded and state-
276 funded programs and services for the state's elderly population
277 and provide direct services to the state's elderly population
278 when the department deems it appropriate and necessary.

279 Section 4. Subsection (2) of section 430.04, Florida
280 Statutes, is amended to read:

281 430.04 Duties and responsibilities of the Department of
282 Elderly Affairs.—The Department of Elderly Affairs shall:

283 (2) Designate area agencies on aging, as authorized under
284 the Older Americans Act of 1965, as amended, and be responsible
285 for ensuring that each area agency on aging operates in a manner
286 to ensure that the elderly of this state receive the best
287 services possible. The department shall rescind designation of
288 an area agency on aging or take intermediate measures against
289 the agency, including corrective action, unannounced special
290 monitoring, temporary assumption of operation of one or more

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291 programs by the department, placement on probationary status,
292 imposing a moratorium on agency action, imposing financial
293 penalties for nonperformance, or other administrative action
294 pursuant to chapter 120, if the department finds that:

295 (a) An intentional or negligent act of the agency has
296 materially affected the health, welfare, or safety of clients,
297 or substantially and negatively affected the operation of an
298 aging services program.

299 (b) The agency lacks financial stability sufficient to meet
300 contractual obligations or that contractual funds have been
301 misappropriated.

302 (c) The agency has committed multiple or repeated
303 violations of legal and regulatory requirements or department
304 standards.

305 (d) The agency has failed to continue the provision or
306 expansion of services after the declaration of a state of
307 emergency.

308 (e) The agency has exceeded its authority or otherwise
309 failed to adhere to the terms of its contract with the
310 department or has exceeded its authority or otherwise failed to
311 adhere to the provisions specifically provided by statute or
312 rule adopted by the department.

313 (f) The agency has failed to properly determine client
314 eligibility as defined by the department.

315 (g) The agency has failed to ~~or~~ efficiently manage program
316 budgets.

317 (h) ~~(g)~~ The agency has failed to implement and maintain a
318 department-approved client grievance resolution procedure.

319 Section 5. Section 430.09, Florida Statutes, is created to

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320 read:

321 430.09 Area agency on aging expenditures.-

322 (1) The procurement of commodities or contractual services
323 by the area agencies on aging and their subcontractors is
324 governed by the financial guidelines developed by the department
325 and must comply with applicable state and federal law and follow
326 good business practices.

327 (a) Area agencies on aging shall competitively procure all
328 contracts consistent with the federal simplified acquisition
329 threshold.

330 (b) Area agencies on aging shall competitively procure all
331 contracts with related parties in an amount not to exceed the
332 threshold for CATEGORY TWO as provided in s. 287.017.

333 (c) Financial consequences as established by the department
334 and incorporated into the contract must be imposed by the
335 department for noncompliance with applicable local, state, or
336 federal law for the procurement of commodities or contractual
337 services.

338 (2) Notwithstanding any other law, administrative employees
339 of an area agency on aging may not receive from state-
340 appropriated funds, including state-appropriated federal funds,
341 a salary, whether base pay or base pay combined with any bonus
342 or incentive payment, in excess of 150 percent of the annual
343 salary paid to the Secretary of Elderly Affairs. This limitation
344 applies regardless of the number of contracts an area agency on
345 aging may execute with the department. This subsection does not
346 prohibit any party from providing cash that is not from state-
347 appropriated funds to an administrative employee of an area
348 agency on aging.

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349 Section 6. Present subsections (7) through (12) of section
350 430.203, Florida Statutes, are redesignated as subsections (8)
351 through (13), respectively, a new subsection (7) is added to
352 that section, and subsections (3) and (5) and present
353 subsections (9) and (10) are amended, to read:

354 430.203 Community care for the elderly; definitions.—As
355 used in ss. 430.201-430.207, the term:

356 (3) "Community care service system" means a service network
357 comprising a variety of home-delivered services, day care
358 services, and other basic services, hereinafter referred to as
359 "core services," for functionally impaired elderly persons which
360 are provided by or through a ~~single~~ designated lead agency. Its
361 purpose is to provide a continuum of care encompassing a full
362 range of preventive, maintenance, and restorative services for
363 functionally impaired elderly persons.

364 (5) "Core services" means a variety of home-delivered
365 services, day care services, and other basic services that may
366 be provided by several entities. Core services are those
367 services that are most needed to prevent unnecessary
368 institutionalization. The area agency on aging may ~~shall~~ not
369 directly provide core services unless the designated lead agency
370 is unable to perform its duties and the department approves.

371 (7) "Elderly person" means any person 60 years of age or
372 over who is currently a resident of this state and intends to
373 remain in this state.

374 (10) ~~(9)~~ "Lead agency" means an agency designated at least
375 once every 6 years by an area agency on aging as the result of a
376 competitive procurement conducted through a request for
377 proposal.

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378 (a) The request for proposal must be developed by the area
379 agency on aging and include requirements for the assurance of
380 quality and cost-efficiency of services, minimum personnel
381 standards, and employee benefits. The department shall adopt a
382 rule creating a dispute resolution mechanism. The rule, which
383 shall be adopted no later than August 1, 2009, and which all
384 area agencies on aging shall be required to follow, must ~~shall~~
385 create standards for a bid protest and a procedure for
386 resolution. The dispute resolution mechanism established in the
387 rule must ~~shall~~ include a provision for a qualified, impartial
388 decisionmaker who shall conduct a hearing to determine whether
389 the area agency's proposed action is contrary to the area
390 agency's governing statutes or rules or to the solicitation
391 specifications. The standard of proof for the protestor must
392 ~~shall~~ be whether the area agency's action was clearly erroneous,
393 contrary to competition, arbitrary, or capricious. The dispute
394 resolution mechanism must ~~shall~~ also provide a mechanism for
395 review of the decisionmaker's determination by a qualified and
396 impartial reviewer, if review is requested. The standards for
397 the bid protest must ~~shall~~ include the following provisions:

- 398 1. ~~A provision~~ Requiring notice of an area agency's
399 proposed contract award and a clear point of entry for any
400 substantially affected entity to challenge the proposed award.
- 401 2. Automatically staying ~~A provision for an automatic stay~~
402 ~~of~~ the contract award process upon the filing of a bid protest
403 which may ~~that shall~~ not be lifted until the protest is
404 resolved.
- 405 3. Allowing ~~Provisions permitting~~ all substantially
406 affected entities to have an opportunity to participate in the

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407 hearing, to conduct discovery, to obtain subpoenas compelling
408 the appearance of witnesses, to present evidence and argument on
409 all issues involved, to conduct cross-examination, to submit
410 rebuttal evidence, and to submit proposed findings of fact and
411 conclusions of law.

412 4. Expediently resolving ~~Provisions for expeditious~~
413 ~~resolution of~~ the bid protest, including a requirement that once
414 the area agency on aging refers a bid protest petition to the
415 decisionmaker, a hearing must ~~shall~~ be conducted within 30 days,
416 unless that timeframe is waived by all parties.

417 (b) For any lead agency designation conducted before ~~prior~~
418 ~~to~~ the effective date of this subsection that is the subject
419 matter of litigation on the date on which this subsection
420 becomes law, the litigants shall be entitled to proceed with
421 discovery under the Florida Rules of Civil Procedure immediately
422 upon the date on which this subsection becomes law, and the
423 litigants shall further be entitled to participate in the bid
424 protest procedures enacted by rule pursuant to this subsection.

425 (c) In each community care service system, the lead agency
426 must be given the authority and responsibility to coordinate
427 some or all of the services, either directly or through
428 subcontracts, for functionally impaired elderly persons. These
429 services must include case management, homemaker and chore
430 services, respite care, ~~adult day care,~~ personal care services,
431 home-delivered meals, counseling, ~~information and referral,~~ and
432 emergency home repair services. The lead agency shall ~~must~~
433 compile community care statistics and monitor, when applicable,
434 subcontracts with agencies providing core services.

435 (11) ~~(10)~~ "Personal care services" has the same meaning as

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436 the term "personal care" as defined in s. 400.462, but means
437 ~~services to assist with bathing, dressing, ambulation,~~
438 ~~housekeeping, supervision, emotional security, eating,~~
439 ~~supervision of self-administered medications, and assistance in~~
440 ~~securing health care from appropriate sources. Personal care~~
441 ~~services~~ does not include medical services.

442 Section 7. Subsections (1) and (5) of section 430.204,
443 Florida Statutes, are amended to read:

444 430.204 Community-care-for-the-elderly core services;
445 departmental powers and duties.-

446 (1)(a) The department shall fund, through each area agency
447 on aging, at least one community care service system the primary
448 purpose of which is the prevention of unnecessary
449 institutionalization of functionally impaired elderly persons
450 through the provision of community-based core services. Whenever
451 feasible, an area agency on aging shall be the contracting
452 agency of preference to engage only in the planning and funding
453 of community-care-for-the-elderly core services for functionally
454 impaired elderly persons.

455 ~~(b) The department shall fund, through each area agency on~~
456 ~~aging in each county as defined in s. 125.011(1), more than one~~
457 ~~community care service system the primary purpose of which is~~
458 ~~the prevention of unnecessary institutionalization of~~
459 ~~functionally impaired elderly persons through the provision of~~
460 ~~community-based core services.~~

461 ~~(5) Entities contracting to provide core services under ss.~~
462 ~~430.201-430.207 must provide a minimum of 10 percent of the~~
463 ~~funding necessary for the support of project operations. In-kind~~
464 ~~contributions, whether materials, commodities, transportation,~~

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465 ~~office space, other types of facilities, or personal services,~~
466 ~~and contributions of money or services from functionally~~
467 ~~impaired elderly persons may be evaluated and counted as part or~~
468 ~~all of the required local funding.~~

469 Section 8. Subsections (1), (2), and (4), and paragraph (a)
470 of subsection (5) of section 430.205, Florida Statutes, are
471 amended to read:

472 430.205 Community care service system.—

473 (1)(a) The department, through the area agency on aging,
474 shall fund in each planning and service area at least one
475 community care service system that provides case management and
476 other in-home and community services as needed to help the older
477 person maintain independence and prevent or delay more costly
478 institutional care.

479 ~~(b) The department shall fund, through the area agency on~~
480 ~~aging in each county as defined in s. 125.011(1), more than one~~
481 ~~community care service system that provides case management and~~
482 ~~other in-home and community services as needed to help elderly~~
483 ~~persons maintain independence and prevent or delay more costly~~
484 ~~institutional care.~~

485 (2) Core services and other support services may be
486 furnished by public or private agencies or organizations. Each
487 community care service system must be under the direction of a
488 lead agency that coordinates the activities of individual
489 contracting agencies providing community-care-for-the-elderly
490 services. When practicable, the activities of a community care
491 service area may be directed from a multiservice senior center,
492 as defined in s. 430.901, and coordinated with other services
493 offered therein. ~~This subsection does not require programs in~~

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494 ~~existence prior to the effective date of this act to be~~
495 ~~relocated.~~

496 (4) An annual ~~A preservice and~~ inservice training program
497 for community-care-for-the-elderly service providers and staff
498 may be designed and implemented to help assure the delivery of
499 quality services. The department shall specify in rules the
500 training standards and requirements for the community-care-for-
501 the-elderly service providers and staff. Training must be
502 sufficient to ensure that quality services are provided to
503 clients and that appropriate skills are developed to conduct the
504 program.

505 (5) Any person who has been classified as a functionally
506 impaired elderly person is eligible to receive community-care-
507 for-the-elderly core services.

508 (a) Those elderly persons who are determined by protective
509 investigations to be high-risk vulnerable adults in need of
510 services, pursuant to s. 415.104(3)(b), or to be victims of
511 abuse, neglect, or exploitation who are in need of immediate
512 services to prevent further harm and are referred by the adult
513 protective services program, must ~~shall~~ be given priority
514 ~~primary~~ consideration for receiving community-care-for-the-
515 elderly services. As used in this paragraph, the term "priority
516 ~~primary~~ consideration" means that an assessment and services
517 must commence within 72 hours after referral to the department
518 or as established in accordance with department contracts by
519 local protocols developed between department service providers
520 and the adult protective services program. Regardless, a
521 community-care-for-the-elderly services provider may dispute a
522 referral under this paragraph by requesting that adult

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523 protective services negotiate the referral placement of, and the
524 services to be provided to, a vulnerable adult or victim of
525 abuse, neglect, or exploitation. If an agreement cannot be
526 reached with adult protective services for modification of the
527 referral decision, the determination by adult protective
528 services prevails ~~shall prevail~~.

529 Section 9. Section 430.2053, Florida Statutes, is amended
530 to read:

531 430.2053 Aging and disability resource centers.—

532 (1) The department, in consultation with the Agency for
533 Health Care Administration and the Department of Children and
534 Families, shall develop pilot projects for aging and disability
535 resource centers.

536 (2) The purposes of an aging and disability resource center
537 is ~~shall be~~:

538 (a) To provide Florida's elders and adults with
539 disabilities and their families with a locally focused,
540 coordinated approach to integrating information and referral for
541 all available services for individuals ~~elders~~ with the
542 eligibility determination entities for state and federally
543 funded long-term-care services.

544 (b) To provide for easier access to long-term-care services
545 by Florida's elders and adults with disabilities and their
546 families by creating multiple access points to the long-term-
547 care network that flow through one established entity with wide
548 community recognition.

549 (3) The duties of an aging and disability resource center
550 are to:

551 (a) Develop referral agreements with local community

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552 service organizations, such as senior centers, existing elder
553 service providers, volunteer associations, and other similar
554 organizations, to better assist clients who do not need or do
555 not wish to enroll in programs funded by the department or the
556 agency. The referral agreements must also include a protocol,
557 developed and approved by the department, which provides
558 specific actions that an aging and disability resource center
559 and local community service organizations must take when an
560 individual elder or his or her ~~an elder's~~ representative seeking
561 information on long-term-care services contacts a local
562 community service organization prior to contacting the aging and
563 disability resource center. The protocol must ~~shall~~ be designed
564 to ensure that individuals ~~elders~~ and their families are able to
565 access information and services in the most efficient and least
566 cumbersome manner possible.

567 (b) Provide an initial screening of all clients who request
568 long-term-care services to determine whether the person would be
569 most appropriately served through any combination of federally
570 funded programs, state-funded programs, locally funded or
571 community volunteer programs, or private funding for services.

572 (c) Determine eligibility for the programs and services
573 listed in subsection (9) for persons residing within the
574 geographic area served by the aging and disability resource
575 center and determine a priority ranking for services which is
576 based upon the potential recipient's frailty level and
577 likelihood of institutional placement without such services.

578 (d) Place on and release from the preenrollment lists
579 clients eligible for the Alzheimer's Disease Initiative, the
580 community care for the elderly program, home care for the

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581 elderly, and the long-term care managed care program.

582 (e) When financial resources become available, refer a
583 client to the most appropriate entity to begin receiving
584 services. The aging and disability resource center shall make
585 referrals to lead agencies for service provision that ensure
586 that individuals who are vulnerable adults in need of services
587 pursuant to s. 415.104(3)(b), or who are victims of abuse,
588 neglect, or exploitation in need of immediate services to
589 prevent further harm and are referred by the adult protective
590 services program, are given primary consideration for receiving
591 community-care-for-the-elderly services in compliance with the
592 requirements of s. 430.205(5)(a) and that other referrals for
593 services are in compliance with s. 430.205(5)(b).

594 (f) Convene a work group to advise in the planning,
595 implementation, and evaluation of the aging and disability
596 resource center. The work group shall be composed ~~comprised~~ of
597 representatives of local service providers, Alzheimer's
598 Association chapters, housing authorities, social service
599 organizations, advocacy groups, representatives of clients
600 receiving services through the aging and disability resource
601 center, and any other persons or groups as determined by the
602 department. The aging and disability resource center, in
603 consultation with the work group, must develop annual program
604 improvement plans and submit such plans ~~that shall be submitted~~
605 to the department for consideration. The department shall review
606 each annual improvement plan and make recommendations on how to
607 implement the components of the plan.

608 (g) Enhance the existing area agency on aging in each
609 planning and service area by integrating, either physically or

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610 virtually, the staff and services of the area agency on aging
611 with the staff of the department's local CARES Medicaid
612 preadmission screening unit and a sufficient number of staff
613 from the Department of Children and Families' Economic Self-
614 Sufficiency Unit necessary to determine the financial
615 eligibility for all persons age 60 and older residing within the
616 area served by the aging and disability resource center who ~~that~~
617 are seeking Medicaid services, Supplemental Security Income, and
618 food assistance.

619 (h) Assist clients who request long-term care services in
620 being evaluated for eligibility for enrollment in the Medicaid
621 long-term care managed care program as eligible plans become
622 available in each of the regions pursuant to s. 409.981(2).

623 ~~(i) Provide enrollment and coverage information to Medicaid~~
624 ~~managed long-term care enrollees as qualified plans become~~
625 ~~available in each of the regions pursuant to s. 409.981(2).~~

626 ~~(j)~~ Assist Medicaid recipients enrolled in the Medicaid
627 long-term care managed care program with informally resolving
628 grievances with a managed care network and assist Medicaid
629 recipients in accessing the managed care network's formal
630 grievance process as eligible plans become available in each of
631 the regions defined in s. 409.981(2).

632 (4) The department shall select the entities to become
633 aging and disability resource centers based on each entity's
634 readiness and ability to perform the duties listed in subsection
635 (3) and the entity's:

636 (a) Expertise in the needs of each target population the
637 center proposes to serve and a thorough knowledge of the
638 providers that serve these populations.

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- 639 (b) Strong connections to service providers, volunteer
640 agencies, and community institutions.
- 641 (c) Expertise in information and referral activities.
- 642 (d) Knowledge of long-term-care resources, including
643 resources designed to provide services in the least restrictive
644 setting.
- 645 (e) Financial solvency and stability.
- 646 (f) Ability to collect, monitor, and analyze data in a
647 timely and accurate manner, along with systems that meet the
648 department's standards.
- 649 (g) Commitment to adequate staffing by qualified personnel
650 to effectively perform all functions.
- 651 (h) Ability to meet all performance standards established
652 by the department.
- 653 (5) The aging and disability resource center shall have a
654 governing body which shall be the same entity described in s.
655 20.41(7), and an executive director who may be the same person
656 as described in s. 20.41(7). The governing body shall annually
657 evaluate the performance of the executive director.
- 658 (6) The aging and disability resource center may not be a
659 provider of direct services other than information and referral
660 services, outreach, and screening or intake. The aging and
661 disability resource center must obtain a waiver to be the
662 provider of any other direct services.
- 663 (7) The aging and disability resource center must agree to
664 allow the department to review any financial information the
665 department determines is necessary for monitoring or reporting
666 purposes, including financial relationships.
- 667 (8) The duties and responsibilities of the community care

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668 for the elderly lead agencies within each area served by an
669 aging and disability resource center are ~~shall be~~ to:

670 (a) Develop strong community partnerships to maximize the
671 use of community resources for the purpose of assisting elders
672 to remain in their community settings for as long as it is
673 safely possible.

674 (b) Conduct comprehensive assessments of clients that have
675 been determined eligible and develop a care plan consistent with
676 established protocols that ensures that the unique needs of each
677 client are met.

678 (9) The services to be administered through the aging and
679 disability resource center must ~~shall~~ include those funded by
680 the following programs:

681 (a) Community care for the elderly.

682 (b) Home care for the elderly.

683 (c) Contracted services.

684 (d) Alzheimer's disease initiative.

685 (e) Older Americans Act.

686 (10) The department shall, before the ~~prior to~~ designation
687 of an aging and disability resource center, develop by rule
688 operational and quality assurance standards and outcome measures
689 to ensure that clients receiving services through all long-term-
690 care programs administered through an aging and disability
691 resource center are receiving the appropriate care they require
692 and that contractors and subcontractors are adhering to the
693 terms of their contracts and are acting in the best interests of
694 the clients they are serving, consistent with the intent of the
695 Legislature to reduce the use of and cost of nursing home care.
696 The department shall by rule provide operating procedures for

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697 aging and disability resource centers, which must ~~shall~~ include:

698 (a) Minimum standards for financial operation, including
699 audit procedures.

700 (b) Procedures for monitoring and sanctioning of service
701 providers.

702 (c) Minimum standards for technology used ~~utilized~~ by the
703 aging and disability resource center.

704 (d) Minimum staff requirements which shall ensure that the
705 aging and disability resource center employs sufficient quality
706 and quantity of staff to adequately meet the needs of the elders
707 residing within the area served by the aging and disability
708 resource center.

709 (e) Minimum accessibility standards, including hours of
710 operation.

711 (f) Minimum oversight standards for the governing body of
712 the aging and disability resource center to ensure its
713 continuous involvement in, and accountability for, all matters
714 related to the development, implementation, staffing,
715 administration, and operations of the aging and disability
716 resource center.

717 (g) Minimum education and experience requirements for
718 executive directors and other executive staff positions of aging
719 and disability resource centers.

720 (h) Minimum requirements regarding any executive staff
721 position ~~positions~~ that the aging and disability resource center
722 must employ and minimum requirements that a candidate must meet
723 in order to be eligible for appointment to such a position
724 ~~positions~~.

725 (11) In an area in which the department has designated an

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726 area agency on aging as an aging and disability resource center,
727 the department and the agency may ~~shall~~ not make payments for
728 the services listed in subsection (9) and the statewide Medicaid
729 long-term care managed care program ~~Long-Term Care Community~~
730 ~~Diversion Project~~ for such persons who were not screened and
731 enrolled through the aging and disability resource center. The
732 department shall cease making payments for recipients in
733 eligible plans as eligible plans become available in each of the
734 regions defined in s. 409.981(2).

735 (12) Each aging and disability resource center shall enter
736 into a memorandum of understanding with the department for
737 collaboration with the CARES unit staff. The memorandum of
738 understanding must ~~shall~~ outline the staff person responsible
739 for each function and must ~~shall~~ provide the staffing levels
740 necessary to carry out the functions of the aging and disability
741 resource center.

742 (13) Each aging and disability resource center shall enter
743 into a memorandum of understanding with the Department of
744 Children and Families for collaboration with the Economic Self-
745 Sufficiency Unit staff. The memorandum of understanding must
746 ~~shall~~ outline which staff persons are responsible for which
747 functions and must ~~shall~~ provide the staffing levels necessary
748 to carry out the functions of the aging and disability resource
749 center.

750 (14) If any of the state activities described in this
751 section are outsourced, either in part or in whole, the contract
752 executing the outsourcing must ~~shall~~ mandate that the contractor
753 or its subcontractors must ~~shall~~, either physically or
754 virtually, execute the provisions of the memorandum of

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755 understanding instead of the state entity whose function the
756 contractor or subcontractor now performs.

757 ~~(15) In order to be eligible to begin transitioning to an~~
758 ~~aging resource center, an area agency on aging board must ensure~~
759 ~~that the area agency on aging which it oversees meets all of the~~
760 ~~minimum requirements set by law and in rule.~~

761 ~~(16)~~ (a) ~~Once an aging resource center is operational, The~~
762 ~~department, in consultation with the aging and disability~~
763 ~~resource center agency, may develop capitation rates for any of~~
764 ~~the programs administered through the agency aging resource~~
765 ~~center. Capitation rates for programs must ~~shall~~ be based on the~~
766 ~~historical cost experience of the state in providing those same~~
767 ~~services to the population age 60 or older residing within each~~
768 ~~area served by an aging and disability resource center. Each~~
769 ~~capitated rate may vary by geographic area as determined by the~~
770 ~~department.~~

771 (b) The department and the agency may determine for each
772 area served by an aging and disability resource center whether
773 it is appropriate, consistent with federal and state laws and
774 regulations, to develop and pay separate capitated rates for
775 each program administered through the aging and disability
776 resource center or to develop and pay capitated rates for
777 service packages which include more than one program or service
778 administered through the aging and disability resource center.

779 (c) Once capitation rates have been developed and certified
780 as actuarially sound, the department and the agency may pay
781 service providers the capitated rates for services when
782 appropriate.

783 (d) The department, in consultation with the agency, shall

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784 annually reevaluate and recertify the capitation rates,
 785 adjusting forward to account for inflation, programmatic
 786 changes.

787 ~~(16)(17)~~ This section ~~may shall~~ not be construed to allow
 788 an aging and disability resource center to restrict, manage, or
 789 impede the local fundraising activities of service providers.

790 Section 10. Section 430.401, Florida Statutes, is created
 791 to read:

792 430.401 Florida Alzheimer's Center of Excellence.-

793 (1) PURPOSE; LEGISLATIVE INTENT.-

794 (a) The purpose of this section is to assist and support
 795 persons with Alzheimer's disease or related forms of dementia
 796 and their caregivers by connecting them with resources in their
 797 communities. The Legislature intends to create a holistic care
 798 model for persons with Alzheimer's disease or related forms of
 799 dementia and their caregivers to address the two primary goals
 800 of:

801 1. Allowing residents of this state living with Alzheimer's
 802 disease or related forms of dementia to age in place; and

803 2. Empowering family caregivers with increased capacity and
 804 stamina.

805 (b) The development of innovative approaches to program
 806 management, staff training, and service delivery which have an
 807 impact on cost-avoidance, cost-effectiveness, and program
 808 efficiency is encouraged.

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

810 (a) "Center" means the Florida Alzheimer's Center for
 811 Excellence.

812 (b) "Department" means the Department of Elderly Affairs.

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813 (3) FLORIDA ALZHEIMER'S CENTER OF EXCELLENCE ESTABLISHED.-

814 There is created within the department the Florida Alzheimer's
815 Center of Excellence, which shall be responsible for improving
816 the quality of care for persons living with Alzheimer's disease
817 or related forms of dementia and improving quality of life for
818 family caregivers.

819 (a) The center shall aim to address, at a minimum, all of
820 the following:

821 1. Early and accurate diagnosis of Alzheimer's disease and
822 related forms of dementia.

823 2. Caregiver health.

824 3. Improving access to dementia care.

825 4. Health care utilization costs.

826 5. A workforce competent in providing dementia care.

827 6. The underreporting of Alzheimer's disease and related
828 forms of dementia.

829 7. Disparities in access to dementia care.

830 (b) The center shall address the issues specified in
831 paragraph (a) by helping caregivers access services, including
832 but not limited to, the following:

833 1. Care consultation.

834 2. Support groups.

835 3. Education and training programs.

836 4. Caregiver support services, including all of the
837 following:

838 a. Caregiver companions.

839 b. Caregiver wellness programs.

840 c. Care support teams.

841 d. Technology-based services.

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- 842 e. Coordinating and monitoring care and services.
- 843 f. Assistance in obtaining diagnosis or prognosis of
844 dementia.
- 845 g. Assistance with obtaining end-of-life care.
- 846 h. Assistance with connecting to resources for medical
847 care.
- 848 i. Assistance with planning for current or future care.
- 849 j. Guidance for coping with relationship changes for
850 persons with dementia and their caregivers.
- 851 k. Skills for communicating with persons with dementia.
- 852 l. Understanding or managing behavioral symptoms of
853 dementia.
- 854 (c) To the extent possible, the center shall work with the
855 Alzheimer's Disease Advisory Committee established under s.
856 430.501; the Alzheimer's Disease Initiative established under
857 ss. 430.501-430.504, including the state-funded memory disorder
858 clinics established under s. 430.502; the department's Dementia
859 Care and Cure Initiative task forces; universities; hospitals;
860 and other available community resources to ensure full use of
861 the state's infrastructure.
- 862 (d) As necessary to fulfill its duties under this section,
863 the center may provide direct services or contract for the
864 provision of services.
- 865 (4) ELIGIBILITY FOR SERVICES.—
- 866 (a) Persons seeking assistance from the center must meet
867 all of the following criteria to be eligible for services:
- 868 1. At least one person in the household is a caregiver for
869 a person who has been diagnosed with, or is suspected to have,
870 Alzheimer's disease or a related form of dementia.

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871 2. The caregiver or person who has been diagnosed with, or
872 is suspected to have, Alzheimer's Disease or a related form of
873 dementia is a resident of this state.

874 3. The person seeking assistance has the goal of providing
875 in-home care for the person who has been diagnosed with, or is
876 suspected to have, Alzheimer's disease or a related form of
877 dementia.

878 (b) If the person seeking assistance meets the criteria in
879 paragraph (a), the center may provide assistance to the
880 caregiving family, subject to the availability of funds and
881 resources.

882 Section 11. Section 430.503, Florida Statutes, is amended
883 to read:

884 430.503 Alzheimer's Disease Initiative; short title fees
885 and ~~administrative expense.~~

886 ~~(1)~~ Sections 430.501-430.504 may be cited as the
887 "Alzheimer's Disease Initiative."

888 ~~(2) Provider agencies are responsible for the collection of~~
889 ~~fees for services in accordance with rules adopted by the~~
890 ~~department. Provider agencies shall assess fees for services~~
891 ~~rendered in accordance with those rules. To help pay for~~
892 ~~services received pursuant to the Alzheimer's Disease~~
893 ~~Initiative, a functionally impaired elderly person shall be~~
894 ~~assessed a fee based on an overall ability to pay. The fee to be~~
895 ~~assessed shall be fixed according to a schedule to be~~
896 ~~established by the department. Services of specified value may~~
897 ~~be accepted in lieu of a fee. The fee schedule shall be~~
898 ~~developed in cooperation with the Alzheimer's Disease Advisory~~
899 ~~Committee, area agencies on aging, and service providers.~~

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900 Section 12. Present subsection (3) of section 430.602,
901 Florida Statutes, is redesignated as subsection (4), and a new
902 subsection (3) is added to that section, to read:

903 430.602 Home care for the elderly; definitions.—As used in
904 ss. 430.601-430.606:

905 (3) “Functionally impaired elderly person” means a person
906 60 years of age or older who has physical or mental limitations
907 that restrict the person’s ability to perform the normal
908 activities of daily living and that impede the person’s capacity
909 to live independently without the provision of core services.
910 For purposes of the term, functional impairment is determined
911 through a functional assessment, as developed by the department,
912 administered to each applicant for home care for the elderly
913 core services.

914 Section 13. Subsection (3) of section 430.605, Florida
915 Statutes, is amended to read:

916 430.605 Subsidy payments.—The department shall develop a
917 schedule of subsidy payments to be made to persons providing
918 home care, and to providers of goods and services, for certain
919 eligible elderly persons. Payments must be based on the
920 financial status of the person receiving care. Payments must
921 include, but need not be limited to:

922 (3) When necessary, special supplements to provide for any
923 goods and services, including food and nutritional supplements,
924 and specialized care required to maintain the health, safety,
925 and well-being of the elderly person. Extraordinary medical,
926 dental, or pharmaceutical expenses may be paid as a special
927 supplement.

928 Section 14. Subsection (2) of section 430.901, Florida

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929 Statutes, is amended to read:

930 430.901 Multiservice senior center; definition; purpose.—A
931 “multiservice senior center” is:

932 (2) An entity that may partner with an aging and disability
933 resource center to provide for easier access to long-term care
934 services by seniors and their families who reside within the
935 local community.

936 Section 15. Subsection (1) of section 744.2001, Florida
937 Statutes, is amended to read:

938 744.2001 Office of Public and Professional Guardians.—There
939 is created the Office of Public and Professional Guardians
940 within the Department of Elderly Affairs.

941 (1) The Secretary of Elderly Affairs shall appoint the
942 executive director, who shall be the head of the Office of
943 Public and Professional Guardians. The executive director must
944 be a member of The Florida Bar, knowledgeable of guardianship
945 law and of the social services available to meet the needs of
946 incapacitated persons, shall serve on a full-time basis, and
947 shall personally, or through a representative of the office,
948 carry out the purposes and functions of the Office of Public and
949 Professional Guardians in accordance with state and federal law.
950 The executive director shall serve at the pleasure of ~~and report~~
951 ~~to~~ the secretary.

952 Section 16. Subsection (3) is added to section 744.2003,
953 Florida Statutes, and subsection (2) of that section is amended,
954 to read:

955 744.2003 Regulation of professional guardians; application;
956 bond required; educational requirements.—

957 (2) Each professional guardian who files a petition for

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958 appointment after October 1, 1997, shall post a blanket
959 fiduciary bond with the clerk of the circuit court in the county
960 in which the guardian's primary place of business is located.
961 The guardian shall provide proof of the fiduciary bond to the
962 clerks of each additional circuit court in which he or she is
963 serving as a professional guardian. The bond must ~~shall~~ be
964 maintained by the guardian in an amount not less than \$250,000
965 ~~\$50,000~~. The bond must cover all wards for whom the guardian has
966 been appointed at any given time. The liability of the provider
967 of the bond is limited to the face amount of the bond,
968 regardless of the number of wards for whom the professional
969 guardian has been appointed. The act or omissions of each
970 employee of a professional guardian who has direct contact with
971 the ward or access to the ward's assets is covered by the terms
972 of such bond. The bond must be payable to the Governor of the
973 State of Florida and his or her successors in office and
974 conditioned on the faithful performance of all duties by the
975 guardian. In form, the bond must be joint and several. The bond
976 is in addition to any bonds required under s. 744.351. This
977 subsection does not apply to any attorney who is licensed to
978 practice law in this state and who is in good standing, to any
979 financial institution as defined in s. 744.309(4), or a public
980 guardian. The expenses incurred to satisfy the bonding
981 requirements prescribed in this section may not be paid with the
982 assets of any ward.

983 (3) If a circuit judge decides to waive the requirement for
984 the posting of a blanket fiduciary bond by a guardian, the court
985 must enter a written order waiving the bond requirement and
986 include the reasons for waiving the bond requirement.

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987 Section 17. Subsection (2) of section 744.2004, Florida
988 Statutes, is amended to read:

989 744.2004 Complaints; disciplinary proceedings; penalties;
990 enforcement.—

991 (2) The Office of Public and Professional Guardians shall
992 establish disciplinary proceedings, conduct hearings, and take
993 administrative action pursuant to chapter 120. Disciplinary
994 actions may include, but are not limited to, requiring a
995 professional guardian to participate in additional educational
996 courses provided or approved by the office ~~of Public and~~
997 ~~Professional Guardians~~, imposing additional monitoring by the
998 office ~~of the guardianships to which the professional guardian~~
999 ~~is appointed~~, requiring payment of restitution, fines, costs of
1000 investigation and prosecution, and suspension or revocation of a
1001 professional guardian's registration.

1002 Section 18. Subsections (1) and (2) of section 744.20041,
1003 Florida Statutes, are amended to read:

1004 744.20041 Grounds for discipline; penalties; enforcement.—

1005 (1) The following acts by a professional guardian ~~shall~~
1006 constitute grounds for which the disciplinary actions specified
1007 in subsection (2) may be taken:

1008 (a) Making misleading, deceptive, or fraudulent
1009 representations in or related to the practice of guardianship.

1010 (b) Withholding from the court any information involving
1011 apparent or actual conflicts of interest or which could result
1012 in the appearance of or in actual self-dealing.

1013 (c) Violating any rule governing guardians or guardianships
1014 adopted by the Office of Public and Professional Guardians.

1015 (d) Misusing any advance directive, including a power of

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1016 attorney, living will, designation of health care surrogate, or
1017 do-not-resuscitate order to the detriment of the principal or
1018 the benefit of the professional guardian, regardless of whether
1019 the professional guardian is the guardian of the principal at
1020 the time of such result.

1021 (e)~~(e)~~ Being convicted or found guilty of, or entering a
1022 plea of guilty or nolo contendere to, regardless of
1023 adjudication, a crime in any jurisdiction which relates to the
1024 practice of or the ability to practice as a professional
1025 guardian.

1026 (f)~~(d)~~ Failing to comply with the educational course
1027 requirements contained in s. 744.2003.

1028 (g)~~(e)~~ Having a registration, a license, or the authority
1029 to practice a regulated profession revoked, suspended, or
1030 otherwise acted against, including the denial of registration or
1031 licensure, by the registering or licensing authority of any
1032 jurisdiction, including its agencies or subdivisions, for a
1033 violation under Florida law. The registering or licensing
1034 authority's acceptance of a relinquishment of registration or
1035 licensure, stipulation, consent order, or other settlement
1036 offered in response to or in anticipation of the filing of
1037 charges against the registration or license shall be construed
1038 as an action against the registration or license.

1039 (h)~~(f)~~ Knowingly filing a false report or complaint with
1040 the Office of Public and Professional Guardians against another
1041 guardian.

1042 (i) Retaliating against a ward, the ward's family, or other
1043 interested party after a complaint has been filed concerning the
1044 ward.

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1045 (j)~~(g)~~ Attempting to obtain, obtaining, or renewing a
1046 registration or license to practice a profession by bribery, by
1047 fraudulent misrepresentation, or as a result of an error by the
1048 Office of Public and Professional Guardians which is known and
1049 not disclosed to the Office of Public and Professional
1050 Guardians.

1051 (k)~~(h)~~ Failing to report to the Office of Public and
1052 Professional Guardians any person who the professional guardian
1053 knows is in violation of this chapter or the rules of the Office
1054 of Public and Professional Guardians.

1055 (l)~~(i)~~ Failing to perform any statutory or legal obligation
1056 placed upon a professional guardian.

1057 (m)~~(j)~~ Making or filing a report or record that the
1058 professional guardian knows to be false, intentionally or
1059 negligently failing to file a report or record required by state
1060 or federal law, or willfully impeding or obstructing another
1061 person's attempt to do so. Such reports or records shall include
1062 only those that are signed in the guardian's capacity as a
1063 professional guardian.

1064 (n)~~(k)~~ Using the position of guardian for the purpose of
1065 financial gain by a professional guardian or a third party,
1066 other than the funds awarded to the professional guardian by the
1067 court pursuant to s. 744.108.

1068 (o)~~(l)~~ Violating a lawful order of the Office of Public and
1069 Professional Guardians or failing to comply with a lawfully
1070 issued subpoena of the Office of Public and Professional
1071 Guardians.

1072 (p)~~(m)~~ Improperly interfering with an investigation or
1073 inspection authorized by statute or rule or with any

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1074 disciplinary proceeding.

1075 (q)~~(n)~~ Using the guardian relationship to engage or attempt
1076 to engage the ward, or an immediate family member or a
1077 representative of the ward, in verbal, written, electronic, or
1078 physical sexual activity.

1079 (r)~~(o)~~ Failing to report to the Office of Public and
1080 Professional Guardians in writing within 30 days after being
1081 convicted or found guilty of, or entered a plea of nolo
1082 contendere to, regardless of adjudication, a crime in any
1083 jurisdiction.

1084 (s)~~(p)~~ Being unable to perform the functions of a
1085 professional guardian with reasonable skill by reason of illness
1086 or use of alcohol, drugs, narcotics, chemicals, or any other
1087 type of substance or as a result of any mental or physical
1088 condition.

1089 (t)~~(q)~~ Failing to post and maintain a blanket fiduciary
1090 bond pursuant to s. 744.2003.

1091 (u)~~(r)~~ Failing to maintain all records pertaining to a
1092 guardianship for a reasonable time after the court has closed
1093 the guardianship matter.

1094 (v) Failing to immediately report an incident of abuse,
1095 neglect, or exploitation to the Department of Children and
1096 Families' Adult Protective Services Unit and local law
1097 enforcement.

1098 (w)~~(s)~~ Violating any provision of this chapter or any rule
1099 adopted pursuant thereto.

1100 (2) When the Office of Public and Professional Guardians
1101 finds a person has committed a violation of professional
1102 guardian guilty of violating subsection (1), it may enter an

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1103 order imposing one or more of the following penalties:

1104 (a) Refusal to register an applicant as a professional
1105 guardian.

1106 (b) Suspension or permanent revocation of a professional
1107 guardian's registration.

1108 (c) Issuance of a reprimand or letter of concern.

1109 (d) Requirement that the professional guardian undergo
1110 treatment, attend continuing education courses, submit to
1111 reexamination, or satisfy any terms that are reasonably tailored
1112 to the violations found.

1113 (e) Requirement that the professional guardian pay
1114 restitution of any funds obtained, disbursed, or obtained
1115 through a violation of any statute, rule, or other legal
1116 authority to a ward or the ward's estate, if applicable.

1117 (f) Requirement that the professional guardian pay a fine,
1118 not to exceed \$500 per count.

1119 (g) Requirement that the professional guardian pay the
1120 costs of investigation and prosecution.

1121 (h) Requirement that the professional guardian undergo
1122 remedial education.

1123 Section 19. Section 744.20061, Florida Statutes, is created
1124 to read:

1125 744.20061 Offices of public guardian boards; conflicts of
1126 interest.—

1127 (1) In order to serve as an office of public guardian, an
1128 entity must:

1129 (a) Be a governmental entity or be organized as a
1130 corporation in this state.

1131 (b) Be governed by a board of directors.

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1132 1. The board shall provide oversight and ensure
1133 accountability and transparency for the system of care. The
1134 board shall provide fiduciary oversight to prevent conflicts of
1135 interest, promote accountability and transparency, and protect
1136 state and federal funding from misuse. The board shall act in
1137 accordance with s. 617.0830.

1138 2. The membership of the board must be prescribed in the
1139 bylaws or articles of incorporation of each office of public
1140 guardian which must require that 100 percent of the membership
1141 of the board of directors be composed of persons residing within
1142 the service area of the office of public guardian.

1143 3. Each office of public guardian shall ensure that its
1144 board members participate in annual training related to their
1145 responsibilities. The Department of Elderly Affairs shall
1146 specify the criteria for such training in its contracts with the
1147 offices of public guardian.

1148 4. The board of each office of public guardian may hire the
1149 office's executive director, approve the office's budget, and
1150 set the office's operational policy and procedures.

1151 (c) Demonstrate financial responsibility through an
1152 organized plan for regular fiscal audits; and the posting of a
1153 performance bond to cover any costs associated with the assessed
1154 penalties related to a failure to disclose a conflict of
1155 interest under subsection (2).

1156 (2) (a) As used in this subsection, the term:

1157 1. "Activity" includes, but is not limited to, a contract
1158 for goods and services, a contract for the purchase of any real
1159 or tangible property, or an agreement to engage with an office
1160 of public guardian for the benefit of a third party in exchange

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1161 for an interest in real or tangible property, a monetary
1162 benefit, or an in-kind contribution.

1163 2. "Conflict of interest" means when a board member, a
1164 director, or an officer, or a relative of a board member, a
1165 director, or an officer, of an office of public guardian does
1166 any of the following:

1167 a. Enters into a contract or other transaction for goods or
1168 services with the office of public guardian.

1169 b. Holds a direct or indirect interest in a corporation,
1170 limited liability corporation, partnership, limited liability
1171 partnership, or other business entity that conducts business
1172 with the office of public guardian or proposes to enter into a
1173 contract or other transaction with the office of public
1174 guardian. For purposes of this subparagraph, the term "indirect
1175 interest" has the same meaning as provided in s. 112.312.

1176 c. Knowingly obtains a direct or indirect personal,
1177 financial, professional, or other benefit as a result of the
1178 relationship of such board member, director, or officer, or
1179 relative of the board member, director, or officer, with the
1180 office of public guardian. For purposes of this subparagraph,
1181 the term "benefit" does not include per diem and travel expenses
1182 paid or reimbursed to board members or officers of the office of
1183 public guardian in connection with their service on the board.

1184 3. "Related party" means any entity of which a director or
1185 an officer of the entity is also directly or indirectly related
1186 to, or has a direct or indirect financial or other material
1187 interest in, the office of public guardian. The term also
1188 includes any subsidiary firm, parent entity, associate firm, or
1189 joint venture.

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1190 4. "Relative" means a relative within the third degree of
1191 consanguinity by blood or marriage.

1192 (b)1. For any activity that is presented to the board of an
1193 office of public guardian for its initial consideration and
1194 approval, or any activity that involves a contract that is being
1195 considered for renewal, a board member, a director, or an
1196 officer of an office of public guardian shall disclose to the
1197 board any activity that may reasonably be construed to be a
1198 conflict of interest before such activity is initially
1199 considered and approved or a contract is renewed by the board. A
1200 rebuttable presumption of a conflict of interest exists if the
1201 activity was acted on by the board without prior notice as
1202 required under paragraph (c). The board shall immediately
1203 disclose any known actual or potential conflicts of interest to
1204 the Department of Elderly Affairs.

1205 2. An office of public guardian may not enter into a
1206 contract or be a party to any transaction with related parties
1207 if a conflict of interest is not properly disclosed.

1208 (c)1. If a board member or an officer of an office of
1209 public guardian, or a relative of such a board member or an
1210 officer, proposes to engage in an activity described in
1211 subparagraph (b)1., the proposed activity must be listed on the
1212 meeting agenda for the next general or special meeting of the
1213 board members, and copies of all contracts and transactional
1214 documents related to the proposed activity must be included in
1215 the agenda. The meeting agenda must clearly identify the
1216 existence of a potential conflict of interest for the proposed
1217 activity. Before a board member or an officer of the office of
1218 public guardian, or a relative of such a board member or an

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1219 officer, engages in the proposed activity, the activity and
1220 contract or other transactional document must be approved by an
1221 affirmative vote of two-thirds of all other board members
1222 present.

1223 2. If a board member or an officer of the office of public
1224 guardian notifies the board of a potential conflict of interest
1225 with the board member or officer, or a relative of the board
1226 member or officer, under an existing contract as described in
1227 subparagraph (b)2., the board must notice the activity on a
1228 meeting agenda for the next general or special meeting of the
1229 board members, and copies of all contracts and transactional
1230 documents related to the activity must be attached. The meeting
1231 agenda must clearly identify the existence of a potential
1232 conflict of interest. The board must be given the opportunity to
1233 approve or disapprove of the conflict of interest by a vote of
1234 two-thirds of all other board members present.

1235 (d)1. If the board votes against the proposed activity
1236 under subparagraph (c)1., the board member or officer of the
1237 office of public guardian, or the relative of the board member
1238 or officer, must notify the board in writing of his or her
1239 intention, or his or her relative's intention, not to pursue the
1240 proposed activity, or the board member or officer must withdraw
1241 from office before the next scheduled board meeting. If the
1242 board finds that a board member or officer has violated this
1243 paragraph, the board member or officer must be removed from
1244 office before the next scheduled board meeting.

1245 2. In the event that the board does not approve a conflict
1246 of interest under subparagraph (c)2., the parties to the
1247 activity may opt to cancel the activity or, as an alternative,

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1248 the board member or officer of the office of public guardian
1249 must resign from the board before the next scheduled board
1250 meeting. If the activity canceled is a contract, the office of
1251 public guardian is liable only for the reasonable value of the
1252 goods and services provided up to the time of cancellation and
1253 is not liable for any termination fee, liquidated damages, or
1254 other form of penalty for such cancellation.

1255 (e) A board member or an officer of an office of public
1256 guardian, or a relative of such a board member or an officer,
1257 who is a party to or has an interest in an activity that is a
1258 possible conflict of interest may attend the meeting at which
1259 the activity is considered by the board and may make a
1260 presentation to the board regarding the activity. After the
1261 presentation, the board member or officer, or the relative of
1262 the board member or officer, must leave the meeting during the
1263 discussion of, and the vote on, the activity. A board member or
1264 an officer who is a party to or has an interest in the activity
1265 shall recuse himself or herself from the vote.

1266 (f) A contract entered into between a board member or an
1267 officer of an office of public guardian, or a relative of such a
1268 board member or an officer, and the office of public guardian
1269 which has not been properly disclosed as a conflict of interest
1270 or potential conflict of interest under this section is voidable
1271 and terminates upon the filing of a written notice terminating
1272 the contract with the board of directors which contains the
1273 consent of at least 20 percent of the voting interests of the
1274 office of public guardian.

1275 (g)1. All Department of Elderly Affairs contracts with
1276 offices of public guardian must contain the following

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1277 contractual penalty provisions:

1278 a. Penalties of \$5,000 per occurrence must be imposed for
1279 each known and potential conflict of interest, as described in
1280 paragraph (b), which is not disclosed to the Department of
1281 Elderly Affairs.

1282 b. If a contract is executed for which a conflict of
1283 interest was not disclosed to the Department of Elderly Affairs
1284 before execution of the contract, the following penalties apply:

1285 (I) For a first offense, a penalty of \$20,000.

1286 (II) For a second or subsequent offense, a penalty of
1287 \$30,000.

1288 (III) Removal of the board member who did not disclose a
1289 known conflict of interest.

1290 2. The penalties for failure to disclose a conflict of
1291 interest under subparagraph 1. apply to any contract entered
1292 into, regardless of the method of procurement, including, but
1293 not limited to, formal procurement, single-source contracts, and
1294 contracts that do not meet the minimum threshold for formal
1295 procurement.

1296 3. A contract procured for which a conflict of interest was
1297 not disclosed to the Department of Elderly Affairs before
1298 execution of the contract must be reprocured. The Department of
1299 Elderly Affairs shall recoup from the office of public guardian
1300 expenses related to a contract that was executed without
1301 disclosure of a conflict of interest.

1302 Section 20. Subsection (5) of section 744.2103, Florida
1303 Statutes, is amended to read:

1304 744.2103 Reports and standards.—

1305 (5) (a) Each office of public guardian shall undergo an

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1306 independent audit by a qualified certified public accountant at
1307 least annually which includes an audit of all ward property
1308 under the control or administration of the guardian ~~once every 2~~
1309 ~~years~~. Upon receipt, a copy of the audit report must ~~shall~~ be
1310 submitted to the Office of Public and Professional Guardians.

1311 (b) If the public guardian is a not-for-profit corporation,
1312 it must annually submit a copy of its IRS Form 990 to the Office
1313 of Public and Professional Guardians.

1314 (c) In addition to regular monitoring activities, the
1315 Office of Public and Professional Guardians shall conduct an
1316 investigation into the practices of each office of public
1317 guardian related to the managing of each ward's personal affairs
1318 and property. If feasible, the investigation must ~~shall~~ be
1319 conducted in conjunction with the financial audit of each office
1320 of public guardian under paragraph (a).

1321 Section 21. Present subsection (2) of section 744.2104,
1322 Florida Statutes, is redesignated as subsection (4), and new
1323 subsections (2) and (3) are added to that section, to read:

1324 744.2104 Access to records by the Office of Public and
1325 Professional Guardians; confidentiality.—

1326 (2) In conducting an investigation, the Office of Public
1327 and Professional Guardians may issue subpoenas duces tecum to
1328 financial institutions, insurance companies, the ward's
1329 caregivers, any facility at which the ward is residing or has
1330 resided, and the guardian to compel the production of records
1331 relevant to the investigation conducted by the office.

1332 (3) If there is substantial noncompliance with a subpoena
1333 duces tecum issued by the office, the office may petition the
1334 court in the county where the person resides or has his or her

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1335 place of business for an order requiring the person to produce
1336 such records as specified in the subpoena duces tecum.

1337 Section 22. Subsection (1) of section 744.351, Florida
1338 Statutes, is amended to read:

1339 744.351 Bond of guardian.—

1340 (1) Before exercising his or her authority as guardian,
1341 every person appointed a guardian of the property of a ward in
1342 this state shall file a bond with surety as prescribed in s.
1343 45.011 to be approved by the clerk. The bond must ~~shall~~ be
1344 payable to the Governor ~~of the state~~ and the Governor's
1345 successors in office, conditioned on the faithful performance of
1346 all duties by the guardian. In form, the bond must ~~shall~~ be
1347 joint and several. When the petitioner or guardian presents
1348 compelling reasons, the court may waive a bond or require the
1349 use of a designated financial institution as defined in s.
1350 655.005(1) by entering a written order detailing the compelling
1351 reasons relied on in waiving the bond.

1352 Section 23. Paragraph (b) of subsection (13) and paragraph
1353 (d) of subsection (14) of section 744.361, Florida Statutes, are
1354 amended to read:

1355 744.361 Powers and duties of guardian.—

1356 (13) Recognizing that every individual has unique needs and
1357 abilities, a guardian who is given authority over a ward's
1358 person shall, as appropriate under the circumstances:

1359 (b) Allow the ward to maintain visitation or other contact
1360 with his or her family and friends unless a court has:

1361 1. Determined that such visitation or other contact is not
1362 in the best interests of the ward; or

1363 2. Placed reasonable limitations on such visitation or

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1364 ~~other contact in a court order the guardian believes that such~~
1365 ~~contact may cause harm to the ward.~~

1366 (14) A professional guardian shall ~~must~~ ensure that each of
1367 the guardian's wards is personally visited by the guardian or
1368 one of the guardian's professional staff at least once each
1369 calendar quarter. During the personal visit, the guardian or the
1370 guardian's professional staff person shall assess:

1371 (d) The nature and extent of visitation or other contact
1372 ~~and communication~~ with the ward's family and friends.

1373

1374 This subsection does not apply to a professional guardian who
1375 has been appointed only as guardian of the property.

1376 Section 24. Subsection (4) of section 744.3701, Florida
1377 Statutes, is amended to read:

1378 744.3701 Confidentiality.—

1379 (4) The clerk may disclose confidential information to the
1380 Department of Children and Families, the Department of Elderly
1381 Affairs, or law enforcement agencies for other purposes as
1382 provided by court order.

1383 Section 25. Subsection (12) of section 744.441, Florida
1384 Statutes, is amended to read:

1385 744.441 Powers of guardian upon court approval.—After
1386 obtaining approval of the court pursuant to a petition for
1387 authorization to act, a plenary guardian of the property, or a
1388 limited guardian of the property within the powers granted by
1389 the order appointing the guardian or an approved annual or
1390 amended guardianship report, may do all of the following:

1391 (12) Sell, mortgage, or lease any real or personal property
1392 of the estate, including homestead property, or any interest

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1393 therein for cash or credit, or for part cash and part credit,
1394 and with or without security for unpaid balances if the filed
1395 petition includes all details of the sale, including, at a
1396 minimum, the name of the real estate agent; the company for
1397 which the agent is employed and which will be used to sell the
1398 property; and whether there is any relationship between the
1399 guardian and the company and, if so, the nature of that
1400 relationship and whether the guardian will benefit from using
1401 that real estate agent or company identified within the
1402 petition.

1403 Section 26. Section 744.448, Florida Statutes, is created
1404 to read:

1405 744.448 Real property transactions.—

1406 (1) Notwithstanding any other law, a written, certified
1407 appraisal of the ward's real property must be completed before
1408 the guardian files a petition for authorization to act. The
1409 appraisal must be completed by an appraiser who has an active
1410 registration, license, or certification under part II of chapter
1411 475. The appraisal must determine the fair market value of the
1412 ward's real property and must have been certified within the 90
1413 days before the petition is filed.

1414 (2) The guardian shall make every effort to market the
1415 ward's real property effectively to obtain the highest sale
1416 price, including, but not limited to, employing a qualified real
1417 estate agent or broker to market the property appropriately.

1418 (a) Unless there is a compelling reason not to, all real
1419 property marketed for sale must be listed on the Multiple
1420 Listing Service (MLS) for a reasonable amount of time.

1421 (b) If the real property is not listed on the MLS, the

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1422 guardian must maintain detailed records supporting the
1423 compelling reasons for not using the MLS to market the sale of
1424 the ward's property, to be made available for inspection by the
1425 court or the Office of Public and Professional Guardians upon
1426 request.

1427 (3) In addition to the requirements in s. 744.447, the
1428 petition for authorization to act must be verified by the
1429 guardian and include all of the following:

1430 (a) An explanation of how the proceeds from the sale will
1431 be used for the benefit the ward, as provided for under the
1432 terms of the guardianship plan or by law.

1433 (b) A full disclosure of any financial interest, direct or
1434 indirect, related to the sale or the proposed use of the
1435 proceeds of the sale by the guardian or the guardian's family
1436 member, business partner, employer, employee, member of the
1437 board of a corporate professional guardian, attorney, agent, or
1438 any corporation or trust in which the guardian or a family
1439 member of the guardian has a beneficial interest in the
1440 transaction.

1441 (c) Documentation of any conflict of interest, actual or
1442 perceived, related to the sale or the proposed use of the
1443 proceeds of the sale by the guardian or the guardian's family
1444 member, business partner, employer, employee, member of the
1445 board of a corporate professional guardian, attorney, agent, or
1446 any corporation or trust in which the guardian or a family
1447 member of the guardian has a beneficial interest in the
1448 transaction.

1449 (d) The compelling reasons the guardian does not plan to
1450 use the MLS for the sale of the property, if applicable.

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1451 (4) The guardian shall provide notice of the petition for
1452 authorization to act to the ward, to the ward's next of kin, if
1453 any, and to those persons who have filed requests for notices
1454 and copies of pleadings, provided that such notified parties
1455 will have at least 20 days to file any objection to the sale.

1456 (5) The guardian shall maintain detailed records of all
1457 negotiations, offers, and communications related to the sale of
1458 the real property, along with copies of all other related
1459 documents, for at least 5 years after her or his discharge,
1460 notwithstanding any other law to the contrary. The records must
1461 be made available for inspection and review upon request by the
1462 Office of Public and Professional Guardians or the court.

1463 (6) The guardian shall include all of the following in his
1464 or her annual accounting following the sale of the real
1465 property:

1466 (a) The executed sales contract.

1467 (b) The closing statement.

1468 (c) Evidence of how the proceeds have been used to date.

1469 Section 27. This act shall take effect upon becoming a law.