

1 A bill to be entitled
2 An act relating to aging and disability services;
3 repealing s. 400.0067, F.S., relating to the State
4 Long-Term Care Ombudsman Council; amending s. 409.979,
5 F.S.; revising requirements for Medicaid recipients to
6 receive an offer for enrollment for long-term care
7 services; requiring the Department of Elderly Affairs
8 to maintain a statewide preenrollment list for certain
9 services; requiring aging and disability resource
10 center personnel to place individuals on certain
11 lists; requiring certain staff to administer
12 rescreening under certain circumstances; amending s.
13 430.03, F.S.; revising the purposes of the Department
14 of Elderly Affairs to include providing direct
15 services to the elderly population under certain
16 circumstances; amending s. 430.04, F.S.; revising the
17 duties and responsibilities of the department to
18 include designating area agencies on aging; creating
19 s. 430.09, F.S.; providing requirements for area
20 agencies on aging expenditures; prohibiting an
21 administrative employee of an area agency on aging
22 from receiving a specified salary amount; providing
23 construction; amending s. 430.203, F.S.; revising and
24 providing definitions; amending s. 430.204, F.S.;
25 removing certain funding responsibilities of the

26 | department and certain entities; removing
27 | responsibility of provider agencies to collect and
28 | assess fees for certain services; amending s. 430.205,
29 | F.S.; removing certain funding responsibilities of the
30 | department; revising frequency of inservice training
31 | for certain providers; revising the term "primary
32 | consideration" to "priority consideration"; amending
33 | s. 430.2053, F.S.; redesignating aging resource
34 | centers as aging and disability resource centers;
35 | authorizing aging and disability resource centers to
36 | place and remove certain individuals on or from
37 | preenrollment lists; removing a requirement for
38 | convening a work group for certain purposes; removing
39 | a requirement for an aging and disability resource
40 | center to provide enrollment and coverage information
41 | to certain individuals; requiring the aging and
42 | disability resource center to receive a waiver to be
43 | the provider of other direct services; revising the
44 | program to which the department and the agency on
45 | aging may not make payments; removing an eligibility
46 | requirement for an area agency on aging to transition
47 | to an aging resource center; revising who the
48 | department may consult with to develop capitation
49 | rates; amending s. 430.503, F.S.; removing the
50 | responsibility of provider agencies to collect and

51 assess fees for certain purposes; amending s. 430.602,
52 F.S.; defining the term "functionally impaired elderly
53 person"; amending s. 430.605, F.S.; revising certain
54 subsidy payments to include food and nutritional
55 supplements; creating s. 430.71, F.S.; providing
56 purpose and legislative intent for the Florida
57 Alzheimer's Center of Excellence; providing
58 definitions; providing powers and duties of the
59 center; providing eligibility requirements for
60 services; amending s. 430.901, F.S.; conforming
61 provisions to changes made by the act; amending s.
62 744.2001, F.S.; removing a requirement for the
63 executive director of the Office of Public and
64 Professional Guardians to report to the Secretary of
65 Elderly Affairs amending s. 744.2003, F.S.; revising
66 the amount of a specified bond maintained by a
67 guardian for certain purposes; requiring the court to
68 enter a written order waiving the bond requirement and
69 include reasons for waiver under certain
70 circumstances; amending ss. 744.2004 and 744.20041,
71 F.S.; revising disciplinary actions; creating s.
72 744.20061, F.S.; providing requirements for an entity
73 to serve as an office of public guardian; providing
74 definitions; requiring a board member, a director, or
75 an officer of an office of public guardian to disclose

76 any conflict of interest to the office's board;
77 providing that a conflict of interest in a contract
78 must to be noticed and voted on; providing
79 requirements for certain contracts; providing
80 penalties; amending s. 744.2103, F.S.; revising
81 requirements for a required independent audit for each
82 office of public guardian; amending s. 744.2104, F.S.;
83 providing requirements for Office of Public and
84 Professional Guardians in conducting certain
85 investigations; amending s. 744.351, F.S.; requiring a
86 court to enter a written order with specified
87 information when waiving a certain bond; amending s.
88 744.361, F.S.; revising powers and duties of a
89 guardian; amending s. 744.3701, F.S.; authorizing a
90 clerk of court to disclose certain confidential
91 information to the Department of Elderly Affairs under
92 certain circumstances; amending s. 744.441, F.S.;
93 revising requirements for the sale of any real or
94 personal property by a guardian; creating s. 744.448,
95 F.S.; providing requirements for the sale of a ward's
96 real property; amending ss. 400.0060, 400.0065,
97 400.0073, 400.0075, 400.0087, and 430.504, F.S.;
98 conforming a provision to changes made by the act;
99 providing an effective date.

100

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

102

103 **Section 1.** Section 400.0067, Florida Statutes, is
 104 repealed.

105 **Section 2. Subsections (2) and (3) of section 409.979,**
 106 **Florida Statutes, are amended to read:**

107 409.979 Eligibility.—

108 (2) ENROLLMENT OFFERS.—Subject to the availability of
 109 funds, the Department of Elderly Affairs shall make offers for
 110 enrollment to eligible individuals based on a wait-list
 111 prioritization. Before making enrollment offers, the agency and
 112 the Department of Elderly Affairs shall determine that
 113 sufficient funds exist to support additional enrollment into
 114 plans.

115 ~~(a) A Medicaid recipient enrolled in one of the following~~
 116 ~~Medicaid home and community-based services waiver programs who~~
 117 ~~meets the eligibility criteria established in subsection (1) is~~
 118 ~~eligible to participate in the long-term care managed care~~
 119 ~~program and must be transitioned into the long-term care managed~~
 120 ~~care program by January 1, 2018:~~

- 121 ~~1. Traumatic Brain and Spinal Cord Injury Waiver.~~
- 122 ~~2. Adult Cystic Fibrosis Waiver.~~
- 123 ~~3. Project AIDS Care Waiver.~~

124 ~~(b) The agency shall seek federal approval to terminate~~
 125 ~~the Traumatic Brain and Spinal Cord Injury Waiver, the Adult~~

HB 1457

2025

126 ~~Cystic Fibrosis Waiver, and the Project AIDS Care Waiver once~~
127 ~~all eligible Medicaid recipients have transitioned into the~~
128 ~~long-term care managed care program.~~

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

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

133 (a) The Department of Elderly Affairs shall prioritize
134 individuals for potential enrollment for home and community-
135 based services through the long-term care managed care program
136 using a frailty-based screening or assessment tool that results
137 in a priority score. The priority score is used to set an order
138 for releasing individuals from the preenrollment ~~wait~~ list for
139 potential enrollment in the long-term care managed care program.
140 If capacity is limited for individuals with identical priority
141 scores, the individual with the oldest date of placement on the
142 preenrollment ~~wait~~ list shall receive priority for release.

143 1. Pursuant to s. 430.2053, aging and disability resource
144 center personnel certified by the Department of Elderly Affairs
145 shall perform the screening or assessment for each individual
146 requesting enrollment for home and community-based services
147 through the long-term care managed care program. Aging and
148 disability resource center personnel shall place an individual
149 on all appropriate preenrollment lists. The Department of
150 Elderly Affairs shall request that the individual or the

151 individual's authorized representative provide alternate contact
152 names and contact information.

153 2. The individual ~~requesting the long-term care services,~~
154 or the individual's authorized representative, must participate
155 in an initial screening or assessment ~~rescreening~~ for placement
156 on the preenrollment ~~wait~~ list. The screening or rescreening
157 must be completed in its entirety before placement on the
158 preenrollment ~~wait~~ list.

159 3. Pursuant to s. 430.2053, staff authorized and certified
160 by the Department of Elderly Affairs, including aging resource
161 center personnel, shall administer rescreening annually or upon
162 notification of a significant change in an individual's
163 circumstances for an individual with a high priority score.
164 Aging and disability resource center personnel may administer
165 rescreening annually or upon notification of a significant
166 change in an individual's circumstances for an individual with a
167 low priority score.

168 4. The Department of Elderly Affairs shall adopt by rule a
169 screening tool that generates the priority score and shall make
170 publicly available on its website the specific methodology used
171 to calculate an individual's priority score.

172 (b) Upon completion of the screening or rescreening
173 process, the Department of Elderly Affairs shall notify the
174 individual or the individual's authorized representative that
175 the individual has been placed on the preenrollment ~~wait~~ list,

176 unless the individual has a low priority score. The Department
177 of Elderly Affairs must maintain contact information for each
178 individual with a low priority score for purposes of any future
179 rescreening. Aging and disability resource center personnel
180 shall inform individuals with low priority scores of community
181 resources available to assist them and inform them that they may
182 contact the aging and disability resource center for a new
183 assessment at any time if they experience a change in
184 circumstances.

185 (c) If the Department of Elderly Affairs is unable to
186 contact the individual or the individual's authorized
187 representative to schedule an initial screening or rescreening,
188 and documents the actions taken to make such contact, it shall
189 send a letter to the last documented address of the individual
190 or the individual's authorized representative. The letter must
191 advise the individual or his or her authorized representative
192 that he or she must contact the Department of Elderly Affairs
193 within 30 calendar days after the date of the notice to schedule
194 a screening or rescreening and must notify the individual that
195 failure to complete the screening or rescreening will result in
196 his or her termination from the screening process and the
197 preenrollment ~~wait~~ list.

198 (d) After notification by the agency of available
199 capacity, the CARES program shall conduct a prerelease
200 assessment. The Department of Elderly Affairs shall release

201 individuals from the preenrollment ~~wait~~ list based on the
202 priority scoring process and prerelease assessment results. Upon
203 release, individuals who meet all eligibility criteria may
204 enroll in the long-term care managed care program.

205 (e) The Department of Elderly Affairs may terminate an
206 individual's inclusion on the preenrollment ~~wait~~ list if the
207 individual:

208 1. Does not have a current priority score due to the
209 individual's action or inaction;

210 2. Requests to be removed from the preenrollment ~~wait~~
211 list;

212 3. Does not keep an appointment to complete the
213 rescreening without scheduling another appointment and has not
214 responded to three documented attempts by the Department of
215 Elderly Affairs to contact the individual;

216 4. Receives an offer to begin the eligibility
217 determination process for the long-term care managed care
218 program; or

219 5. Begins receiving services through the long-term care
220 managed care program.

221

222 An individual whose inclusion on the preenrollment ~~wait~~ list is
223 terminated must initiate a new request for placement on the
224 preenrollment ~~wait~~ list, and any previous priority
225 considerations must be disregarded.

226 (f) Notwithstanding this subsection, the following
227 individuals are afforded priority enrollment for home and
228 community-based services through the long-term care managed care
229 program and do not have to complete the screening or
230 preenrollment list ~~wait-list~~ process if all other long-term care
231 managed care program eligibility requirements are met:

232 1. An individual who is 18, 19, or 20 years of age who has
233 a chronic debilitating disease or condition of one or more
234 physiological or organ systems which generally make the
235 individual dependent upon 24-hour-per-day medical, nursing, or
236 health supervision or intervention.

237 2. A nursing facility resident who requests to transition
238 into the community and who has resided in a Florida-licensed
239 skilled nursing facility for at least 60 consecutive days.

240 3. An individual who is referred by the Department of
241 Children and Families pursuant to the Adult Protective Services
242 Act, ss. 415.101-415.113, as high risk and who is placed in an
243 assisted living facility temporarily funded by the Department of
244 Children and Families.

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

247 **Section 3. Subsection (7) of section 430.03, Florida**
248 **Statutes, is amended to read:**

249 430.03 Purposes.—The purposes of the Department of Elderly
250 Affairs are to:

251 (7) Oversee implementation of federally funded and state-
252 funded programs and services for the state's elderly population
253 and provide direct services to the state's elderly population
254 when the department determines it appropriate and necessary.

255 **Section 4. Subsection (2) of section 430.04, Florida**
256 **Statutes, is amended to read:**

257 430.04 Duties and responsibilities of the Department of
258 Elderly Affairs.—The Department of Elderly Affairs shall:

259 (2) Designate area agencies on aging, as authorized under
260 the Older Americans Act of 1965, and be responsible for ensuring
261 that each area agency on aging operates in a manner to ensure
262 that the elderly of this state receive the best services
263 possible. The department shall rescind designation of an area
264 agency on aging or take intermediate measures against the
265 agency, including corrective action, unannounced special
266 monitoring, temporary assumption of operation of one or more
267 programs by the department, placement on probationary status,
268 imposing a moratorium on agency action, imposing financial
269 penalties for nonperformance, or other administrative action
270 pursuant to chapter 120, if the department finds that:

271 (a) An intentional or negligent act of the agency has
272 materially affected the health, welfare, or safety of clients,
273 or substantially and negatively affected the operation of an
274 aging services program.

275 (b) The agency lacks financial stability sufficient to

276 | meet contractual obligations or that contractual funds have been
 277 | misappropriated.

278 | (c) The agency has committed multiple or repeated
 279 | violations of legal and regulatory requirements or department
 280 | standards.

281 | (d) The agency has failed to continue the provision or
 282 | expansion of services after the declaration of a state of
 283 | emergency.

284 | (e) The agency has exceeded its authority or otherwise
 285 | failed to adhere to the terms of its contract with the
 286 | department or has exceeded its authority or otherwise failed to
 287 | adhere to the provisions specifically provided by statute or
 288 | rule adopted by the department.

289 | (f) The agency has failed to properly determine client
 290 | eligibility as defined by the department.

291 | (g) The agency has failed to ~~or~~ efficiently manage program
 292 | budgets.

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

295 | **Section 5. Section 430.09, Florida Statutes, is created to**
 296 | **read:**

297 | 430.09 Area agencies on aging expenditures.—

298 | (1) The procurement of commodities or contractual services
 299 | by an area agency on aging and its subcontractors is governed by
 300 | the financial guidelines developed by the department and must

301 comply with applicable state and federal law and follow good
302 business practices.

303 (a) In accordance with s. 287.017(2), area agencies on
304 aging shall competitively procure all contracts with related
305 parties.

306 (b) Financial consequences as established by the
307 department and incorporated into the contract, must be imposed
308 by the department for noncompliance with applicable local,
309 state, or federal law for the procurement of commodities or
310 contractual services.

311 (2) Notwithstanding any other provision of law, an
312 administrative employee of an area agency on aging may not
313 receive a salary, whether base pay or base pay combined with any
314 bonus or incentive payments, in excess of 150 percent of the
315 annual salary paid to the secretary of the Department of Elderly
316 Affairs from state-appropriated funds, including state-
317 appropriated federal funds. This limitation applies regardless
318 of the number of contracts an area agency on aging may execute
319 with the department. This subsection does not prohibit any party
320 from providing cash that is not from appropriated state funds to
321 an area agency on aging administrative employee.

322 **Section 6. Subsections (7) through (12) of section**
323 **430.203, Florida Statutes, are renumbered as subsections (8)**
324 **through (13), respectively, subsections (3) and (5) and present**
325 **subsection (10) are amended, and a new subsection (7) is added**

326 **to that section, to read:**

327 430.203 Community care for the elderly; definitions.—As
328 used in ss. 430.201-430.207, the term:

329 (3) "Community care service system" means a service
330 network comprising a variety of home-delivered services, day
331 care services, and other basic services, hereinafter referred to
332 as "core services," for functionally impaired elderly persons
333 which are provided by or through a designated ~~single~~ lead
334 agency. Its purpose is to provide a continuum of care
335 encompassing a full range of preventive, maintenance, and
336 restorative services for functionally impaired elderly persons.

337 (5) "Core services" means a variety of home-delivered
338 services, day care services, and other basic services that may
339 be provided by several entities. Core services are those
340 services that are most needed to prevent unnecessary
341 institutionalization. The area agency on aging may ~~shall~~ not
342 directly provide core services unless the designated lead agency
343 is unable to perform its duties and the Department approves.

344 (7) "Elderly person" means a person 60 years of age or
345 over who is currently a resident of this state and has an intent
346 to remain in this state.

347 (10) "Personal care services" has the same meaning as in
348 400.462 ~~means services to assist with bathing, dressing,~~
349 ~~ambulation, housekeeping, supervision, emotional security,~~
350 ~~eating, supervision of self-administered medications, and~~

351 ~~assistance in securing health care from appropriate sources.~~
352 ~~Personal care services does not include medical services.~~

353 **Section 7. Subsections (6) and (7) of section 430.204,**
354 **Florida Statutes, are renumbered as subsections (5) and (6),**
355 **respectively, and subsections (1) and (5) and present subsection**
356 **(8) of that section are amended, to read:**

357 430.204 Community-care-for-the-elderly core services;
358 departmental powers and duties.-

359 (1)~~(a)~~ The department shall fund, through each area agency
360 on aging, at least one community care service system the primary
361 purpose of which is the prevention of unnecessary
362 institutionalization of functionally impaired elderly persons
363 through the provision of community-based core services. Whenever
364 feasible, an area agency on aging shall be the contracting
365 agency of preference to engage only in the planning and funding
366 of community-care-for-the-elderly core services for functionally
367 impaired elderly persons.

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

374 ~~(5) Entities contracting to provide core services under~~
375 ~~ss. 430.201-430.207 must provide a minimum of 10 percent of the~~

376 ~~funding necessary for the support of project operations. In-kind~~
377 ~~contributions, whether materials, commodities, transportation,~~
378 ~~office space, other types of facilities, or personal services,~~
379 ~~and contributions of money or services from functionally~~
380 ~~impaired elderly persons may be evaluated and counted as part or~~
381 ~~all of the required local funding.~~

382 ~~(8) Provider agencies are responsible for the collection~~
383 ~~of fees for services in accordance with rules adopted by the~~
384 ~~department. Provider agencies shall assess fees for services~~
385 ~~rendered in accordance with those rules. To help pay for~~
386 ~~services received from community care for the elderly, a~~
387 ~~functionally impaired elderly person shall be assessed a fee~~
388 ~~based on an overall ability to pay. The fee to be assessed shall~~
389 ~~be fixed according to a schedule established by the department~~
390 ~~in cooperation with area agencies, lead agencies, and service~~
391 ~~providers.~~

392 **Section 8. Subsections (1), (2), and (4) and paragraph (a)**
393 **of (5) of section 430.205, Florida Statutes, are amended to**
394 **read:**

395 430.205 Community care service system.—

396 (1) ~~(a)~~ The department, through the area agency on aging,
397 shall fund in each planning and service area at least one
398 community care service system that provides case management and
399 other in-home and community services as needed to help the older
400 person maintain independence and prevent or delay more costly

401 institutional care.

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

408 (2) Core services and other support services may be
409 furnished by public or private agencies or organizations. Each
410 community care service system must be under the direction of a
411 lead agency that coordinates the activities of individual
412 contracting agencies providing community-care-for-the-elderly
413 services. When practicable, the activities of a community care
414 service area may be directed from a multiservice senior center,
415 as defined in s. 430.901, and coordinated with other services
416 offered therein. ~~This subsection does not require programs in~~
417 ~~existence prior to the effective date of this act to be~~
418 ~~relocated.~~

419 (4) An annual ~~A preservice and~~ inservice training program
420 for community-care-for-the-elderly service providers and staff
421 may be designed and implemented to help assure the delivery of
422 quality services. The department shall specify in rules the
423 training standards and requirements for the community-care-for-
424 the-elderly service providers and staff. Training must be
425 sufficient to ensure that quality services are provided to

426 clients and that appropriate skills are developed to conduct the
427 program.

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

431 (a) Those elderly persons who are determined high risk by
432 protective investigations to be vulnerable adults in need of
433 services, pursuant to s. 415.104(3)(b), or to be victims of
434 abuse, neglect, or exploitation who are in need of immediate
435 services to prevent further harm and are referred by the adult
436 protective services program, shall be given priority ~~primary~~
437 consideration for receiving community-care-for-the-elderly
438 services. As used in this paragraph, "priority ~~primary~~
439 consideration" means that an assessment and services must
440 commence within 72 hours after referral to the department or as
441 established in accordance with department contracts by local
442 protocols developed between department service providers and the
443 adult protective services program. Regardless, a community-care-
444 for-the-elderly services provider may dispute a referral under
445 this paragraph by requesting that adult protective services
446 negotiate the referral placement of, and the services to be
447 provided to, a vulnerable adult or victim of abuse, neglect, or
448 exploitation. If an agreement cannot be reached with adult
449 protective services for modification of the referral decision,
450 the determination by adult protective services shall prevail.

451 **Section 9. Section 430.2053, Florida Statutes, is amended**
 452 **to read:**

453 430.2053 Aging and disability resource centers.—

454 (1) The department, in consultation with the Agency for
 455 Health Care Administration and the Department of Children and
 456 Families, shall develop pilot projects for aging and disability
 457 resource centers.

458 (2) The purposes of an aging and disability resource
 459 center shall be:

460 (a) To provide Florida's elders, adults with disabilities,
 461 and their families with a locally focused, coordinated approach
 462 to integrating information and referral for all available
 463 services for persons ~~elders~~ with the eligibility determination
 464 entities for state and federally funded long-term-care services.

465 (b) To provide for easier access to long-term-care
 466 services by Florida's elders, adults with disabilities, and
 467 their families by creating multiple access points to the long-
 468 term-care network that flow through one established entity with
 469 wide community recognition.

470 (3) The duties of an aging and disability resource center
 471 are to:

472 (a) Develop referral agreements with local community
 473 service organizations, such as senior centers, existing elder
 474 service providers, volunteer associations, and other similar
 475 organizations, to better assist clients who do not need or do

476 not wish to enroll in programs funded by the department or the
477 agency. The referral agreements must also include a protocol,
478 developed and approved by the department, which provides
479 specific actions that an aging and disability resource center
480 and local community service organizations must take when a
481 person or a person's ~~an elder or an elder's~~ representative
482 seeking information on long-term-care services contacts a local
483 community service organization before ~~prior to~~ contacting the
484 aging and disability resource center. The protocol shall be
485 designed to ensure that persons ~~elders~~ and their families are
486 able to access information and services in the most efficient
487 and least cumbersome manner possible.

488 (b) Provide an initial screening of all clients who
489 request long-term-care services to determine whether the person
490 would be most appropriately served through any combination of
491 federally funded programs, state-funded programs, locally funded
492 or community volunteer programs, or private funding for
493 services.

494 (c) Determine eligibility for the programs and services
495 listed in subsection (9) for persons residing within the
496 geographic area served by the aging and disability resource
497 center and determine a priority ranking for services which is
498 based upon the potential recipient's frailty level and
499 likelihood of institutional placement without such services.

500 (d) Place on and remove from the preenrollment lists

501 clients eligible for the Alzheimer's Disease Initiative,
502 Community Care for the Elderly, Home Care for the Elderly, and
503 Statewide Medicaid Managed Care Long-Term Care programs.

504 (e)~~(d)~~ Manage the availability of financial resources for
505 the programs and services listed in subsection (9) for persons
506 residing within the geographic area served by the aging and
507 disability resource center.

508 (f)~~(e)~~ When financial resources become available, refer a
509 client to the most appropriate entity to begin receiving
510 services. The aging and disability resource center shall make
511 referrals to lead agencies for service provision that ensure
512 that persons ~~individuals~~ who are vulnerable adults in need of
513 services pursuant to s. 415.104(3)(b), or who are victims of
514 abuse, neglect, or exploitation in need of immediate services to
515 prevent further harm and are referred by the adult protective
516 services program, are given primary consideration for receiving
517 community-care-for-the-elderly services in compliance with the
518 requirements of s. 430.205(5)(a) and that other referrals for
519 services are in compliance with s. 430.205(5)(b).

520 ~~(f) Convene a work group to advise in the planning,~~
521 ~~implementation, and evaluation of the aging resource center. The~~
522 ~~work group shall be comprised of representatives of local~~
523 ~~service providers, Alzheimer's Association chapters, housing~~
524 ~~authorities, social service organizations, advocacy groups,~~
525 ~~representatives of clients receiving services through the aging~~

526 ~~resource center, and any other persons or groups as determined~~
527 ~~by the department. The aging resource center, in consultation~~
528 ~~with the work group, must develop annual program improvement~~
529 ~~plans that shall be submitted to the department for~~
530 ~~consideration. The department shall review each annual~~
531 ~~improvement plan and make recommendations on how to implement~~
532 ~~the components of the plan.~~

533 (g) Enhance the existing area agency on aging in each
534 planning and service area by integrating, either physically or
535 virtually, the staff and services of the area agency on aging
536 with the staff of the department's local CARES Medicaid
537 preadmission screening unit and a sufficient number of staff
538 from the Department of Children and Families' Economic Self-
539 Sufficiency Unit necessary to determine the financial
540 eligibility for all persons age 60 and older residing within the
541 area served by the aging and disability resource center that are
542 seeking Medicaid services, Supplemental Security Income, and
543 food assistance.

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

548 ~~(i) Provide enrollment and coverage information to~~
549 ~~Medicaid managed long-term care enrollees as qualified plans~~
550 ~~become available in each of the regions pursuant to s.~~

551 ~~409.981(2).~~

552 (i)~~(j)~~ Assist Medicaid recipients enrolled in the Medicaid
 553 long-term care managed care program with informally resolving
 554 grievances with a managed care network and assist Medicaid
 555 recipients in accessing the managed care network's formal
 556 grievance process as eligible plans become available in each of
 557 the regions defined in s. 409.981(2).

558 (4) The department shall select the entities to become
 559 aging and disability resource centers based on each entity's
 560 readiness and ability to perform the duties listed in subsection
 561 (3) and the entity's:

562 (a) Expertise in the needs of each target population the
 563 center proposes to serve and a thorough knowledge of the
 564 providers that serve these populations.

565 (b) Strong connections to service providers, volunteer
 566 agencies, and community institutions.

567 (c) Expertise in information and referral activities.

568 (d) Knowledge of long-term-care resources, including
 569 resources designed to provide services in the least restrictive
 570 setting.

571 (e) Financial solvency and stability.

572 (f) Ability to collect, monitor, and analyze data in a
 573 timely and accurate manner, along with systems that meet the
 574 department's standards.

575 (g) Commitment to adequate staffing by qualified personnel

576 to effectively perform all functions.

577 (h) Ability to meet all performance standards established
578 by the department.

579 (5) The aging and disability resource center shall have a
580 governing body which shall be the same entity described in s.
581 20.41(7), and an executive director who may be the same person
582 as described in s. 20.41(7). The governing body shall annually
583 evaluate the performance of the executive director.

584 (6) The aging and disability resource center may not be a
585 provider of direct services other than information and referral
586 services, outreach, and screening, and intake. The aging and
587 disability resource center must receive a waiver to be the
588 provider of any other direct services.

589 (7) The aging and disability resource center must agree to
590 allow the department to review any financial information the
591 department determines is necessary for monitoring or reporting
592 purposes, including financial relationships.

593 (8) The duties and responsibilities of the community care
594 for the elderly lead agencies within each area served by an
595 aging and disability resource center shall be to:

596 (a) Develop strong community partnerships to maximize the
597 use of community resources for the purpose of assisting persons
598 ~~elders~~ to remain in their community settings for as long as it
599 is safely possible.

600 (b) Conduct comprehensive assessments of clients that have

601 | been determined eligible and develop a care plan consistent with
602 | established protocols that ensures that the unique needs of each
603 | client are met.

604 | (9) The services to be administered through the aging and
605 | disability resource center shall include those funded by the
606 | following programs:

607 | (a) Community care for the elderly.

608 | (b) Home care for the elderly.

609 | (c) Contracted services.

610 | (d) Alzheimer's disease initiative.

611 | (e) Older Americans Act.

612 | (10) The department shall, before ~~prior to~~ designation of
613 | an aging and disability resource center, develop by rule
614 | operational and quality assurance standards and outcome measures
615 | to ensure that clients receiving services through all long-term-
616 | care programs administered through an aging and disability
617 | resource center are receiving the appropriate care they require
618 | and that contractors and subcontractors are adhering to the
619 | terms of their contracts and are acting in the best interests of
620 | the clients they are serving, consistent with the intent of the
621 | Legislature to reduce the use of and cost of nursing home care.
622 | The department shall by rule provide operating procedures for
623 | aging and disability resource centers, which shall include:

624 | (a) Minimum standards for financial operation, including
625 | audit procedures.

626 (b) Procedures for monitoring and sanctioning of service
627 providers.

628 (c) Minimum standards for technology utilized by the aging
629 and disability resource center.

630 (d) Minimum staff requirements which shall ensure that the
631 aging and disability resource center employs sufficient quality
632 and quantity of staff to adequately meet the needs of the elders
633 residing within the area served by the aging and disability
634 resource center.

635 (e) Minimum accessibility standards, including hours of
636 operation.

637 (f) Minimum oversight standards for the governing body of
638 the aging and disability resource center to ensure its
639 continuous involvement in, and accountability for, all matters
640 related to the development, implementation, staffing,
641 administration, and operations of the aging and disability
642 resource center.

643 (g) Minimum education and experience requirements for
644 executive directors and other executive staff positions of aging
645 and disability resource centers.

646 (h) Minimum requirements regarding any executive staff
647 positions that the aging and disability resource center must
648 employ and minimum requirements that a candidate must meet in
649 order to be eligible for appointment to such positions.

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

651 area agency on aging as an aging and disability resource center,
652 the department and the agency may ~~shall~~ not make payments for
653 the services listed in subsection (9) and the Statewide Medicaid
654 Managed Care Long-Term Care Program ~~Long-Term Care Community~~
655 ~~Diversion Project~~ for such persons who were not screened and
656 enrolled through the aging and disability resource center. The
657 department shall cease making payments for recipients in
658 eligible plans as eligible plans become available in each of the
659 regions defined in s. 409.981(2).

660 (12) Each aging and disability resource center shall enter
661 into a memorandum of understanding with the department for
662 collaboration with the CARES unit staff. The memorandum of
663 understanding shall outline the staff person responsible for
664 each function and shall provide the staffing levels necessary to
665 carry out the functions of the aging and disability resource
666 center.

667 (13) Each aging and disability resource center shall enter
668 into a memorandum of understanding with the Department of
669 Children and Families for collaboration with the Economic Self-
670 Sufficiency Unit staff. The memorandum of understanding shall
671 outline which staff persons are responsible for which functions
672 and shall provide the staffing levels necessary to carry out the
673 functions of the aging and disability resource center.

674 (14) If any of the state activities described in this
675 section are outsourced, either in part or in whole, the contract

676 executing the outsourcing shall mandate that the contractor or
677 its subcontractors shall, either physically or virtually,
678 execute the provisions of the memorandum of understanding
679 instead of the state entity whose function the contractor or
680 subcontractor now performs.

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

685 (15) (a) ~~(16) (a)~~ Once an aging resource center is
686 ~~operational~~, The department, in consultation with the aging and
687 disability resource center agency, may develop capitation rates
688 for any of the programs administered through the agency aging
689 ~~resource center~~. Capitation rates for programs shall be based on
690 the historical cost experience of the state in providing those
691 same services to the population age 60 or older residing within
692 each area served by an aging and disability resource center.
693 Each capitated rate may vary by geographic area as determined by
694 the department.

695 (b) The department and the agency may determine for each
696 area served by an aging and disability resource center whether
697 it is appropriate, consistent with federal and state laws and
698 regulations, to develop and pay separate capitated rates for
699 each program administered through the aging and disability
700 resource center or to develop and pay capitated rates for

701 service packages which include more than one program or service
702 administered through the aging and disability resource center.

703 (c) Once capitation rates have been developed and
704 certified as actuarially sound, the department and the agency
705 may pay service providers the capitated rates for services when
706 appropriate.

707 (d) The department, in consultation with the agency, shall
708 annually reevaluate and recertify the capitation rates,
709 adjusting forward to account for inflation, programmatic
710 changes.

711 (16) ~~(17)~~ This section does ~~shall~~ not be construed to allow
712 an aging and disability resource center to restrict, manage, or
713 impede the local fundraising activities of service providers.

714 **Section 10. Section 430.503, Florida Statutes, is amended**
715 **to read:**

716 430.503 Alzheimer's Disease Initiative; fees and
717 administrative expense.—

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

720 ~~(2) Provider agencies are responsible for the collection~~
721 ~~of fees for services in accordance with rules adopted by the~~
722 ~~department. Provider agencies shall assess fees for services~~
723 ~~rendered in accordance with those rules. To help pay for~~
724 ~~services received pursuant to the Alzheimer's Disease~~
725 ~~Initiative, a functionally impaired elderly person shall be~~

726 ~~assessed a fee based on an overall ability to pay. The fee to be~~
727 ~~assessed shall be fixed according to a schedule to be~~
728 ~~established by the department. Services of specified value may~~
729 ~~be accepted in lieu of a fee. The fee schedule shall be~~
730 ~~developed in cooperation with the Alzheimer's Disease Advisory~~
731 ~~Committee, area agencies on aging, and service providers.~~

732 **Section 11. Subsection (3) of section 430.602, Florida**
733 **Statutes, is renumbered as subsection (4), and a new subsection**
734 **(3) is added to that section, to read:**

735 430.602 Home care for the elderly; definitions.—As used in
736 ss. 430.601-430.606, the term:

737 (3) "Functionally impaired elderly person" means any
738 person who is 60 years of age or older and has physical or
739 mental limitations that restrict the person's ability to perform
740 the normal activities of daily living and that impede his or her
741 capacity to live independently without the provision of core
742 services. Functional impairment shall be determined through a
743 functional assessment administered to each applicant for home
744 care for the elderly core services. The functional assessment
745 shall be developed by the department.

746 **Section 12. Subsection (3) of section 430.605, Florida**
747 **Statutes, is amended to read:**

748 430.605 Subsidy payments.—The department shall develop a
749 schedule of subsidy payments to be made to persons providing
750 home care, and to providers of goods and services, for certain

751 eligible elderly persons. Payments must be based on the
 752 financial status of the person receiving care. Payments must
 753 include, but need not be limited to:

754 (3) When necessary, special supplements to provide for any
 755 goods and services, including food and nutritional supplements,
 756 and specialized care required to maintain the health, safety,
 757 and well-being of the elderly person. Extraordinary medical,
 758 dental, or pharmaceutical expenses may be paid as a special
 759 supplement.

760 **Section 13. Section 430.71, Florida Statutes, is created**
 761 **to read:**

762 430.71 Florida Alzheimer's Center of Excellence.—

763 (1) (a) PURPOSE AND INTENT.—The purpose of this section is
 764 to assist and support persons with Alzheimer's disease or
 765 related forms of dementia and their caregivers by connecting
 766 them with resources in their communities. The Legislature
 767 intends to create a holistic care model for persons with
 768 Alzheimer's disease or related forms of dementia and their
 769 caregivers to address two primary goals:

770 1. To allow Floridians living with Alzheimer's disease or
 771 related forms of dementia to age in place.

772 2. To empower family caregivers to improve their own well-
 773 being.

774 (b) The development of innovative approaches to program
 775 management, staff training, and service delivery which have an

776 impact on cost-avoidance, cost-effectiveness, and program
777 efficiency is encouraged.

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

779 (a) "Center" means the Florida Alzheimer's Center for
780 Excellence.

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

782 (3) POWERS AND DUTIES.—

783 (a) There is created within the Department of Elderly
784 Affairs the Florida Alzheimer's Center of Excellence, which
785 shall be responsible for improving the quality of care for
786 persons living with Alzheimer's disease or related forms of
787 dementia and improved quality of life for family caregivers.

788 (b) The center shall aim to address, at a minimum, all of
789 the following:

790 1. Early and accurate diagnosis.

791 2. Caregiver health.

792 3. Improved access to care.

793 4. Healthcare use costs.

794 5. Dementia capable workforce.

795 6. Underreporting of Alzheimer's disease and related forms
796 of dementia.

797 7. Disparities in access to dementia care.

798 (c) The center shall provide caregivers access to
799 services, including, but not limited to, all of the following:

800 1. Care consultation.

- 801 2. Support groups.
- 802 3. Education and training programs.
- 803 4. Caregiver support services such as:
- 804 a. Caregiver companion.
- 805 b. Caregiver wellness programs.
- 806 c. Care support teams.
- 807 d. Technology based services.
- 808 e. Coordinating or monitoring care and services.
- 809 f. Assistance in obtaining diagnosis or prognosis of
 810 dementia.
- 811 g. Assistance in obtaining end-of-life care.
- 812 h. Assistance connecting to resources for medical care.
- 813 i. Assistance with planning for current or future care.
- 814 j. Guidance for coping with relationship changes for
 815 persons with dementia and their caregivers.
- 816 k. Skills for communicating with persons with dementia.
- 817 l. Understanding or managing behavioral symptoms of
 818 dementia.
- 819 (d) When possible, the center shall work with the Area
 820 Agencies on Aging; Alzheimer's Disease Advisory Committee;
 821 Alzheimer's Disease Initiative, including the state-funded
 822 memory disorder clinics; Dementia Care and Cure Initiative;
 823 universities; hospitals; and other available community resources
 824 to ensure full use of the state's infrastructure.
- 825 (e) As necessary to fulfill its duties under this section,

826 | the center may provide direct services or contract for the
 827 | provision of services.

828 | (4) ELIGIBILITY FOR SERVICES.—

829 | (a) Persons seeking assistance from the center must meet
 830 | all of the following criteria to be eligible for services:

831 | 1. At least one person in the household is a caregiver for
 832 | a person who has been diagnosed with, or is suspected to have,
 833 | Alzheimer's disease or a related form of dementia.

834 | 2. The caregiver or person who has been diagnosed with, or
 835 | is suspected to have, Alzheimer's disease or a related form of
 836 | dementia, is a resident of this state.

837 | 3. Have the goal of providing in-home care for the person
 838 | who has been diagnosed with, or is suspected to have,
 839 | Alzheimer's disease or related form of dementia.

840 | (b) If the person seeking assistance meets the criteria in
 841 | paragraph (a), the center may provide assistance to the
 842 | caregiving family, subject to the availability of funds and
 843 | resources.

844 | **Section 14. Subsection (2) of section 430.901, Florida**
 845 | **Statutes, is amended to read:**

846 | 430.901 Multiservice senior center; definition; purpose.—A
 847 | "multiservice senior center" is:

848 | (2) An entity that may partner with an aging and
 849 | disability resource center to provide for easier access to long-
 850 | term care services by seniors and their families who reside

851 within the local community.

852 **Section 15. Subsection (1) and paragraph (e) of subsection**
853 **(2) of section 744.2001, Florida Statutes, are amended to read:**

854 744.2001 Office of Public and Professional Guardians.—
855 There is created the Office of Public and Professional Guardians
856 within the Department of Elderly Affairs.

857 (1) The Secretary of Elderly Affairs shall appoint the
858 executive director, who shall be the head of the Office of
859 Public and Professional Guardians. The executive director must
860 be a member of The Florida Bar, knowledgeable of guardianship
861 law and of the social services available to meet the needs of
862 incapacitated persons, shall serve on a full-time basis, and
863 shall personally, or through a representative of the office,
864 carry out the purposes and functions of the Office of Public and
865 Professional Guardians in accordance with state and federal law.
866 The executive director shall serve at the pleasure of ~~and report~~
867 ~~to~~ the secretary.

868 (2) The executive director shall, within available
869 resources:

870 (e) Produce and make available information about
871 alternatives to and types of guardianship for dissemination by
872 area agencies on aging as defined in s. 430.203 and aging and
873 disability resource centers as described in s. 430.2053.

874 **Section 16. Subsections (3) through (10) of section**
875 **744.2003, Florida Statutes, are renumbered as subsections (4)**

876 **through (11), respectively, subsection (2) and present**
 877 **subsection (8) are amended, and a new subsection (3) is added to**
 878 **that section, to read:**

879 744.2003 Regulation of professional guardians;
 880 application; bond required; educational requirements.-

881 (2) Each professional guardian who files a petition for
 882 appointment after October 1, 1997, shall post a blanket
 883 fiduciary bond with the clerk of the circuit court in the county
 884 in which the guardian's primary place of business is located.
 885 The guardian shall provide proof of the fiduciary bond to the
 886 clerks of each additional circuit court in which he or she is
 887 serving as a professional guardian. The bond shall be maintained
 888 by the guardian in an amount not less than \$250,000 ~~\$50,000~~. The
 889 bond must cover all wards for whom the guardian has been
 890 appointed at any given time. The liability of the provider of
 891 the bond is limited to the face amount of the bond, regardless
 892 of the number of wards for whom the professional guardian has
 893 been appointed. The act or omissions of each employee of a
 894 professional guardian who has direct contact with the ward or
 895 access to the ward's assets is covered by the terms of such
 896 bond. The bond must be payable to the Governor of the State of
 897 Florida and his or her successors in office and conditioned on
 898 the faithful performance of all duties by the guardian. In form,
 899 the bond must be joint and several. The bond is in addition to
 900 any bonds required under s. 744.351. This subsection does not

901 apply to any attorney who is licensed to practice law in this
902 state and who is in good standing, to any financial institution
903 as defined in s. 744.309(4), or a public guardian. The expenses
904 incurred to satisfy the bonding requirements prescribed in this
905 section may not be paid with the assets of any ward.

906 (3) In the event a circuit judge decides to waive the
907 requirement for the posting of a blanket fiduciary bond by a
908 guardian, the court shall enter a written order waiving the bond
909 requirement. The court must include in its written order the
910 reasons for waiving the bond requirement.

911 (9)~~(8)~~ The Department of Elderly Affairs shall waive the
912 examination requirement in subsection (7) ~~(6)~~ if a professional
913 guardian can provide:

914 (a) Proof that the guardian has actively acted as a
915 professional guardian for 5 years or more; and

916 (b) A letter from a circuit judge before whom the
917 professional guardian practiced at least 1 year which states
918 that the professional guardian had demonstrated to the court
919 competency as a professional guardian.

920 **Section 17. Subsection (2) of section 744.2004, Florida**
921 **Statutes, is amended to read:**

922 744.2004 Complaints; disciplinary proceedings; penalties;
923 enforcement.—

924 (2) The Office of Public and Professional Guardians shall
925 establish disciplinary proceedings, conduct hearings, and take

926 administrative action pursuant to chapter 120. Disciplinary
927 actions may include, but are not limited to, requiring a
928 professional guardian to participate in additional educational
929 courses provided or approved by the Office of Public and
930 Professional Guardians, imposing additional monitoring by the
931 Office of Public and Professional Guardians ~~office of the~~
932 ~~guardianships~~ to which the professional guardian is appointed,
933 restitution, fine, costs of investigation and disciplinary
934 actions, and suspension or revocation of a professional
935 guardian's registration.

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

938 744.20041 Grounds for discipline; penalties; enforcement.-

939 (1) The following acts by a professional guardian shall
940 constitute grounds for which the disciplinary actions specified
941 in subsection (2) may be taken:

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

944 (b) Withholding information from the court involving
945 apparent or actual conflicts of interest or that could result in
946 the appearance of or actual self-dealing.

947 (c) ~~(b)~~ Violating any rule governing guardians or
948 guardianships adopted by the Office of Public and Professional
949 Guardians.

950 (d) ~~(e)~~ Being convicted or found guilty of, or entering a

951 plea of guilty or nolo contendere to, regardless of
952 adjudication, a crime in any jurisdiction which relates to the
953 practice of or the ability to practice as a professional
954 guardian.

955 (e) Misusing any advance directive, including a power of
956 attorney, living will, designation of health care surrogate, or
957 do-not-resuscitate order to the detriment of the principal or
958 benefit of the professional guardian, regardless of whether the
959 professional guardian is the guardian of the principal at the
960 time.

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

963 (g)~~(e)~~ Having a registration, a license, or the authority
964 to practice a regulated profession revoked, suspended, or
965 otherwise acted against, including the denial of registration or
966 licensure, by the registering or licensing authority of any
967 jurisdiction, including its agencies or subdivisions, for a
968 violation under Florida law. The registering or licensing
969 authority's acceptance of a relinquishment of registration or
970 licensure, stipulation, consent order, or other settlement
971 offered in response to or in anticipation of the filing of
972 charges against the registration or license shall be construed
973 as an action against the registration or license.

974 (h)~~(f)~~ Knowingly filing a false report or complaint with
975 the Office of Public and Professional Guardians against another

976 guardian.

977 (i) Retaliating against a ward, a ward's family, or other
978 interested party after a complaint has been filed concerning
979 that ward.

980 (j)~~(g)~~ Attempting to obtain, obtaining, or renewing a
981 registration or license to practice a profession by bribery, by
982 fraudulent misrepresentation, or as a result of an error by the
983 Office of Public and Professional Guardians which is known and
984 not disclosed to the Office of Public and Professional
985 Guardians.

986 (k)~~(h)~~ Failing to report to the Office of Public and
987 Professional Guardians any person who the professional guardian
988 knows is in violation of this chapter or the rules of the Office
989 of Public and Professional Guardians.

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

992 (m)~~(j)~~ Making or filing a report or record that the
993 professional guardian knows to be false, intentionally or
994 negligently failing to file a report or record required by state
995 or federal law, or willfully impeding or obstructing another
996 person's attempt to do so. Such reports or records shall include
997 only those that are signed in the guardian's capacity as a
998 professional guardian.

999 (n)~~(k)~~ Using the position of guardian for the purpose of
1000 financial gain by a professional guardian or a third party,

1001 other than the funds awarded to the professional guardian by the
1002 court pursuant to s. 744.108.

1003 (o)~~(l)~~ Violating a lawful order of the Office of Public
1004 and Professional Guardians or failing to comply with a lawfully
1005 issued subpoena of the Office of Public and Professional
1006 Guardians.

1007 (p)~~(m)~~ Improperly interfering with an investigation or
1008 inspection authorized by statute or rule or with any
1009 disciplinary proceeding.

1010 (q)~~(n)~~ Using the guardian relationship to engage or
1011 attempt to engage the ward, or an immediate family member or a
1012 representative of the ward, in verbal, written, electronic, or
1013 physical sexual activity.

1014 (r)~~(o)~~ Failing to report to the Office of Public and
1015 Professional Guardians in writing within 30 days after being
1016 convicted or found guilty of, or entered a plea of nolo
1017 contendere to, regardless of adjudication, a crime in any
1018 jurisdiction.

1019 (s)~~(p)~~ Being unable to perform the functions of a
1020 professional guardian with reasonable skill by reason of illness
1021 or use of alcohol, drugs, narcotics, chemicals, or any other
1022 type of substance or as a result of any mental or physical
1023 condition.

1024 (t)~~(q)~~ Failing to post and maintain a blanket fiduciary
1025 bond pursuant to s. 744.2003.

1026 (u)~~(r)~~ Failing to maintain all records pertaining to a
 1027 guardianship for a reasonable time after the court has closed
 1028 the guardianship matter.

1029 (v) Failing to immediately report the Department of
 1030 Children and Families' Adult Protective Services Unit and local
 1031 law enforcement incidents of abuse, neglect, or exploitation.

1032 (w)~~(s)~~ Violating any provision of this chapter or any rule
 1033 adopted pursuant thereto.

1034 (2) When the Office of Public and Professional Guardians
 1035 finds any person ~~a professional guardian~~ guilty of violating
 1036 subsection (1), it may enter an order imposing one or more of
 1037 the following penalties:

1038 (a) Refusal to register an applicant as a professional
 1039 guardian.

1040 (b) Suspension or permanent revocation of a professional
 1041 guardian's registration.

1042 (c) Issuance of a reprimand or letter of concern.

1043 (d) Requirement that the professional guardian undergo
 1044 treatment, attend continuing education courses, submit to
 1045 reexamination, or satisfy any terms that are reasonably tailored
 1046 to the violations found.

1047 (e) Requirement that the professional guardian pay
 1048 restitution of any funds obtained, disbursed, or obtained
 1049 through a violation of any statute, rule, or other legal
 1050 authority to a ward or the ward's estate, if applicable.

1051 (f) Requirement that the professional guardian pay a fine,
1052 not to exceed \$500 per violation.

1053 (g) Requirement that the professional guardian pay the
1054 costs of investigation and prosecution.

1055 (h)~~(f)~~ Requirement that the professional guardian undergo
1056 remedial education.

1057 **Section 19. Section 744.20061, Florida Statutes, is**
1058 **created to read:**

1059 744.20061 Office of public guardian boards; conflicts of
1060 interest.—

1061 (1) In order to serve as an office of public guardian, an
1062 entity must:

1063 (a) Be organized as a Florida corporation or a
1064 governmental entity.

1065 (b)1. Be governed by a board of directors. Board members
1066 shall provide oversight and ensure accountability and
1067 transparency for the system of care. The board of directors
1068 shall provide fiduciary oversight to prevent conflicts of
1069 interest, promote accountability and transparency, and protect
1070 state and federal funding from misuse. The board of directors
1071 shall act in accordance with s. 617.0830. The membership of the
1072 board of directors must be described in the bylaws or articles
1073 of incorporation of each office of public guardian, which must
1074 provide that 100 percent of the membership of the board of
1075 directors must be composed of persons residing within the

1076 service area of the office of public guardian. The office of
1077 public guardian shall ensure that board members participate in
1078 annual training related to their responsibilities. The
1079 Department of Elderly Affairs shall provide minimum training
1080 criteria in the contracts with the offices of public guardian.

1081 2. The powers of the board of directors include, but are
1082 not limited to, approving the office of public guardian's budget
1083 and setting the office of public guardian's operational policy
1084 and procedures. A board of directors must additionally have the
1085 power to hire the office of public guardian's executive
1086 director.

1087 (c) Demonstrate financial responsibility through an
1088 organized plan for regular fiscal audits and the posting of a
1089 performance bond to cover any costs associated with the assessed
1090 penalties related to a failure to disclose a conflict of
1091 interest under subsection (3).

1092 (2) As used in this section, the term:

1093 (a) "Activity" includes, but is not limited to, a contract
1094 for goods and services, a contract for the purchase of any real
1095 or tangible property, or an agreement to engage with an office
1096 of public guardian for the benefit of a third party in exchange
1097 for an interest in real or tangible property, a monetary
1098 benefit, or an in-kind contribution.

1099 (b) "Conflict of interest" means when a board member, a
1100 director, or an officer, or a relative of a board member, a

1101 director, or an officer of an office of public guardian does any
1102 of the following:

1103 1. Enters into a contract or other transaction for goods
1104 or services with the office of public guardian.

1105 2. Holds a direct or indirect interest in a corporation,
1106 limited liability corporation, partnership, limited liability
1107 partnership, or other business entity that conducts business
1108 with the office of public guardian or proposes to enter into a
1109 contract or other transaction with the office of public
1110 guardian. For purposes of this paragraph, the term "indirect
1111 interest" has the same meaning as in s. 112.312.

1112 3. Knowingly obtains a direct or indirect personal,
1113 financial, professional, or other benefit as a result of the
1114 relationship of such board member, director, or officer, or
1115 relative of the board member, director, or officer, with the
1116 office of public guardian. For purposes of this paragraph, the
1117 term "benefit" does not include per diem and travel expenses
1118 paid or reimbursed to board members or officers of the office of
1119 public guardian in connection with their service on the board.

1120 (c) "Related party" means any entity of which a director
1121 or an officer of the entity is also directly or indirectly
1122 related to, or has a direct or indirect financial or other
1123 material interest in, the office of public guardian. The term
1124 also includes any subsidiary firm, parent entity, associate
1125 firm, or joint venture.

1126 (d) "Relative" means a relative within the third degree of
1127 consanguinity by blood or marriage.

1128 (3) (a) 1. For any activity that is presented to the board
1129 of an office of public guardian for its initial consideration
1130 and approval, or any activity that involves a contract that is
1131 being considered for renewal, a board member, a director, or an
1132 officer of an office of public guardian shall disclose to the
1133 board any activity that may reasonably be construed to be a
1134 conflict of interest before such activity is initially
1135 considered and approved or a contract is renewed by the board. A
1136 rebuttable presumption of a conflict of interest exists if the
1137 activity was acted on by the board without prior notice as
1138 required under paragraph (b). The board shall immediately
1139 disclose any known actual or potential conflicts to the
1140 Department of Elderly Affairs.

1141 2. An office of public guardian may not enter into a
1142 contract or be a party to any transaction with related parties
1143 if a conflict of interest is not properly disclosed.

1144 (b) 1. If a board member, a director, or an officer of an
1145 office of public guardian, or a relative of a board member or an
1146 officer, proposes to engage in an activity as described in
1147 subparagraph (a) 1., the proposed activity must be listed on the
1148 meeting agenda for the next general or special meeting of the
1149 board members, and copies of all contracts and transactional
1150 documents related to the proposed activity must be included in

1151 the agenda. The meeting agenda must clearly identify the
1152 existence of a potential conflict of interest for the proposed
1153 activity. Before a board member or an officer of the office of
1154 public guardian, or a relative of a board member or an officer,
1155 engages in the proposed activity, the activity and contract or
1156 other transactional documents must be approved by an affirmative
1157 vote of two-thirds of all other board members present.

1158 2. If a board member, a director, or an officer of the
1159 office of public guardian notifies the board of a potential
1160 conflict of interest with the board member or officer, or a
1161 relative of the board member or officer, under an existing
1162 contract as described in subparagraph (a)2., the board must
1163 notice the activity on a meeting agenda for the next general or
1164 special meeting of the board members, and copies of all
1165 contracts and transactional documents related to the activity
1166 must be attached. The meeting agenda must clearly identify the
1167 existence of a potential conflict of interest. The board must be
1168 given the opportunity to approve or disapprove the conflict of
1169 interest by a vote of two-thirds of all other board members
1170 present.

1171 (c)1. If the board votes against the proposed activity
1172 under subparagraph (b)1., the board member or officer of the
1173 office of public guardian, or the relative of the board member
1174 or officer, must notify the board in writing of his or her
1175 intention, or his or her relative's intention, not to pursue the

1176 proposed activity, or the board member or officer shall withdraw
1177 from office before the next scheduled board meeting. If the
1178 board finds that a board member or officer has violated this
1179 paragraph, the board member or officer shall be removed from
1180 office before the next scheduled board meeting.

1181 2. In the event that the board does not approve a conflict
1182 of interest as required under subparagraph (b)2., the parties to
1183 the activity may opt to cancel the activity or, in the
1184 alternative, the board member or officer of the office of public
1185 guardian must resign from the board before the next scheduled
1186 board meeting. If the activity canceled is a contract, the
1187 office of public guardian is only liable for the reasonable
1188 value of the goods and services provided up to the time of
1189 cancellation and is not liable for any termination fee,
1190 liquidated damages, or other form of penalty for such
1191 cancellation.

1192 (d) A board member or an officer of an office of public
1193 guardian, or a relative of a board member or an officer, who is
1194 a party to, or has an interest in, an activity that is a
1195 possible conflict of interest may attend the meeting at which
1196 the activity is considered by the board and may make a
1197 presentation to the board regarding the activity. After the
1198 presentation, the board member or officer, or the relative of
1199 the board member or officer, must leave the meeting during the
1200 discussion of, and the vote on, the activity. A board member or

1201 an officer who is a party to, or has an interest in, the
1202 activity shall recuse himself or herself from the vote.

1203 (e) A contract entered into between a board member or an
1204 officer of an office of public guardian, or a relative of a
1205 board member, a director, or an officer, and the office of
1206 public guardian which has not been properly disclosed as a
1207 conflict of interest or potential conflict of interest under
1208 this section is voidable and terminates upon the filing of a
1209 written notice terminating the contract with the board of
1210 directors which contains the consent of at least 20 percent of
1211 the voting interests of the office of public guardian.

1212 (f)1. All Department of Elderly Affairs contracts with
1213 offices of public guardian must contain the following
1214 contractual penalty provisions:

1215 a. Penalties in the amount of \$5,000 per occurrence must
1216 be imposed for each known and potential conflict of interest, as
1217 described in paragraph (b), which is not disclosed to the
1218 Department of Elderly Affairs.

1219 b. If a contract is executed for which a conflict of
1220 interest was not disclosed to the Department of Elderly Affairs
1221 before execution of the contract, the following penalties apply:

1222 (I) A penalty in the amount of \$20,000 for a first
1223 offense.

1224 (II) A penalty in the amount of \$30,000 for a second or
1225 subsequent offense.

1226 (III) Removal of the board member who did not disclose a
1227 known conflict of interest.

1228 2. The penalties for failure to disclose a conflict of
1229 interest under sub-subparagraphs 1.a. and b. apply to any
1230 contract entered into, regardless of the method of procurement,
1231 including, but not limited to, formal procurement, single-source
1232 contracts, and contracts that do not meet the minimum threshold
1233 for formal procurement.

1234 3. A contract procured for which a conflict of interest
1235 was not disclosed to the Department of Elderly Affairs before
1236 execution of the contract must be reprocured. The Department of
1237 Elderly Affairs shall recoup from the office of public guardian
1238 expenses related to a contract that was executed without
1239 disclosure of a conflict of interest.

1240 **Section 20. Subsection (5) of section 744.2103, Florida**
1241 **Statutes, is amended to read:**

1242 744.2103 Reports and standards.—

1243 (5) (a) Each office of public guardian shall undergo an
1244 independent audit by a qualified certified public accountant at
1245 least annually, including all ward property under the control or
1246 administration of the guardian. Upon receipt, ~~once every 2~~
1247 years. a copy of the audit report shall be submitted to the
1248 Office of Public and Professional Guardians.

1249 (b) If the public guardian is a corporate not for profit,
1250 it shall submit a copy of its annual IRS Form 990 to the Office

1251 of Public and Professional Guardians annually.

1252 (c) ~~(b)~~ In addition to regular monitoring activities, the
 1253 Office of Public and Professional Guardians shall conduct an
 1254 investigation into the practices of each office of public
 1255 guardian related to the managing of each ward's personal affairs
 1256 and property. If feasible, the investigation shall be conducted
 1257 in conjunction with the financial audit of each office of public
 1258 guardian under paragraph (a).

1259 **Section 21. Subsection (2) of section 744.2104, Florida**
 1260 **Statutes, is renumbered as subsection (4), and new subsections**
 1261 **(2) and (3) are added to that section, amended to read:**

1262 744.2104 Access to records by the Office of Public and
 1263 Professional Guardians; confidentiality.—

1264 (2) In conducting an investigation, the Office of Public
 1265 and Professional Guardians may issue subpoenas duces tecum to
 1266 financial institutions, insurance companies, the ward's
 1267 caregivers, any facility at which the ward is or has resided,
 1268 and the guardian to compel the production of records relevant to
 1269 the investigation conducted by the office.

1270 (3) If there is substantial noncompliance with a subpoena
 1271 duces tecum issued by the office, the office may petition the
 1272 court in the county in which the person resides or has or his
 1273 place of business for an order requiring the person to produce
 1274 such records as specified in the subpoena duces tecum.

1275 **Section 22. Subsection (1) of section 744.351, Florida**

1276 **Statutes, is amended to read:**

1277 744.351 Bond of guardian.—

1278 (1) Before exercising his or her authority as guardian,
 1279 every person appointed a guardian of the property of a ward in
 1280 this state shall file a bond with surety as prescribed in s.
 1281 45.011 to be approved by the clerk. The bond shall be payable to
 1282 the Governor of the state and the Governor's successors in
 1283 office, conditioned on the faithful performance of all duties by
 1284 the guardian. In form the bond shall be joint and several. When
 1285 the petitioner or guardian presents compelling reasons, the
 1286 court may waive a bond or require the use of a designated
 1287 financial institution as defined in s. 655.005(1), by entering a
 1288 written order detailing the compelling reasons relied on in
 1289 waiving the bond.

1290 **Section 23. Paragraph (b) of subsection (13) and paragraph**
 1291 **(d) of subsection (14) of section 744.361, Florida Statutes, are**
 1292 **amended to read:**

1293 744.361 Powers and duties of guardian.—

1294 (13) Recognizing that every individual has unique needs
 1295 and abilities, a guardian who is given authority over a ward's
 1296 person shall, as appropriate under the circumstances:

1297 (b) Allow the ward to maintain visitation or other contact
 1298 with his or her family and friends unless a court has: ~~the~~
 1299 ~~guardian believes that such contact may cause harm to the ward.~~

1300 1. Determined that such visitation or other contact is not

1301 in the best interests of the ward; or

1302 2. Placed reasonable limitations on such visitation or
 1303 other contact in a court order.

1304 (14) A professional guardian must ensure that each of the
 1305 guardian's wards is personally visited by the guardian or one of
 1306 the guardian's professional staff at least once each calendar
 1307 quarter. During the personal visit, the guardian or the
 1308 guardian's professional staff person shall assess:

1309 (d) The nature and extent of visitation or other contact
 1310 ~~and communication~~ with the ward's family and friends.

1311
 1312 This subsection does not apply to a professional guardian who
 1313 has been appointed only as guardian of the property.

1314 **Section 24. Subsection (4) of section 744.3701, Florida**
 1315 **Statutes, is amended to read:**

1316 744.3701 Confidentiality.—

1317 (4) The clerk may disclose confidential information to the
 1318 Department of Children and Families, the Department of Elderly
 1319 Affairs, or law enforcement agencies for other purposes as
 1320 provided by court order.

1321 **Section 25. Subsection (12) of section 744.441, Florida**
 1322 **Statutes, is amended to read:**

1323 744.441 Powers of guardian upon court approval.—After
 1324 obtaining approval of the court pursuant to a petition for
 1325 authorization to act, a plenary guardian of the property, or a

1326 | limited guardian of the property within the powers granted by
 1327 | the order appointing the guardian or an approved annual or
 1328 | amended guardianship report, may do all of the following:

1329 | (12) Sell, mortgage, or lease any real or personal
 1330 | property of the estate, including homestead property, or any
 1331 | interest therein for cash or credit, or for part cash and part
 1332 | credit, and with or without security for unpaid balances if the
 1333 | filed petition includes all details of the sale, including, at a
 1334 | minimum, the identity of the real estate agent, the company for
 1335 | which the agent is employed and to be used to sell the property,
 1336 | whether there is any relationship between the guardian and the
 1337 | company and, if so, the nature of that relationship and whether
 1338 | the guardian will benefit from using that real estate agent or
 1339 | company identified within the petition.

1340 | **Section 26. Section 744.448, Florida Statutes, is created**
 1341 | **to read:**

1342 | 744.448 Real property transactions.-

1343 | (1) Notwithstanding any other provision of law to the
 1344 | contrary, a written, certified appraisal of the ward's real
 1345 | property must be completed before filing the petition for
 1346 | authorization to act. The appraisal must be completed by
 1347 | appraiser who has an active registration, license, or
 1348 | certification pursuant to part II, chapter 475. The appraisal
 1349 | must determine the fair market value the ward's real property
 1350 | and certified no longer than 90 days before filing the petition

1351 for authorization to act.

1352 (2) The guardian shall make every effort to market the
1353 property effectively, which includes, but is not limited to,
1354 employing a qualified real estate agent or broker to market the
1355 property appropriately in order to obtain the highest sale
1356 price.

1357 (a) Unless there is a compelling reason not to, all real
1358 property marketed for sale shall be placed on the multiple-
1359 listing service (MLS) for a reasonable amount of time.

1360 (b) If real property is not sold by using the MLS, the
1361 guardian shall maintain detailed records supporting the
1362 compelling reasons the MLS was not used, for inspection by the
1363 court or the Office of Public and Professional Guardians.

1364 (3) In addition to the requirements in s. 744.447., the
1365 petition for authorization to act must be verified by the
1366 guardian and include:

1367 (a) How the proceeds from the sale will be used for the
1368 benefit the ward, as provided for under the terms of the
1369 guardianship plan or by law;

1370 (b) A full disclosure of any financial interest, direct or
1371 indirect, related to the sale or the proposed use of the
1372 proceeds of the sale by the guardian or the guardian's family
1373 member, business partner, employer, employee, member of the
1374 board of a corporate professional guardian, attorney, agent, or
1375 any corporation or trust in which the guardian or a family

1376 member of the guardian has a beneficial interest in the
1377 transaction.

1378 (c) Documentation of any conflicts of interest, actual or
1379 perceived, related to the sale or the proposed use of the
1380 proceeds of the sale by the guardian or the guardian's family
1381 member, business partner, employer, employee, member of the
1382 board of a corporate professional guardian, attorney, agent, or
1383 any corporation or trust in which the guardian or a family
1384 member of the guardian has a beneficial interest in the
1385 transaction.

1386 (d) Notice of the petition for authorization to act must
1387 be given to the ward, to the next of kin, if any, and to those
1388 persons who have filed requests for notices and copies of
1389 pleadings and provide 20 days to file objections to the sale.

1390 (e) Provide the compelling reasons the MLS was not used,
1391 if applicable.

1392 (4) The guardian shall maintain detailed records of all
1393 negotiations, offers, and communications related to the sale of
1394 the real property, along with copies of all documents for a
1395 period of 5 years after her or his discharge, notwithstanding
1396 any other provision of law to the contrary. The records must be
1397 made available for inspection and review by the Office of Public
1398 and Professional Guardians and the court.

1399 (5) In the annual accounting following the sale of the
1400 real property, the guardian must include the:

- 1401 (a) The executed sales contract.
- 1402 (b) The closing statement.
- 1403 (c) Evidence of how the proceeds have been used to date.

1404 **Section 27. Subsection (12) of section 400.0060, Florida**
 1405 **Statutes, is amended to read:**

1406 400.0060 Definitions.—When used in this part, unless the
 1407 context clearly dictates otherwise, the term:

1408 ~~(12) "State council" means the State Long-Term Care~~
 1409 ~~Ombudsman Council created by s. 400.0067.~~

1410 **Section 28. Paragraph (h) of subsection (2) of section**
 1411 **400.0065, Florida Statutes, is amended to read:**

1412 400.0065 State Long-Term Care Ombudsman Program; duties
 1413 and responsibilities.—

1414 (2) The State Long-Term Care Ombudsman has the duty and
 1415 authority to:

1416 (h) Prepare an annual report describing the activities
 1417 carried out by the office, ~~the state council,~~ the districts, and
 1418 the local councils in the year for which the report is prepared.
 1419 The state ombudsman shall submit the report to the secretary,
 1420 the United States Assistant Secretary for Aging, the Governor,
 1421 the President of the Senate, the Speaker of the House of
 1422 Representatives, the Secretary of Children and Families, and the
 1423 Secretary of the Agency for Health Care Administration at least
 1424 30 days before the convening of the regular session of the
 1425 Legislature. The report must, at a minimum:

1426 1. Contain and analyze data collected concerning
 1427 complaints about and conditions in long-term care facilities and
 1428 the disposition of such complaints.

1429 2. Evaluate the problems experienced by residents.

1430 3. Analyze the successes of the State Long-Term Care
 1431 Ombudsman Program during the preceding year, including an
 1432 assessment of how successfully the program has carried out its
 1433 responsibilities under the Older Americans Act.

1434 4. Provide recommendations for policy, regulatory, and
 1435 statutory changes designed to solve identified problems; resolve
 1436 residents' complaints; improve residents' lives and quality of
 1437 care; protect residents' rights, health, safety, and welfare;
 1438 and remove any barriers to the optimal operation of the State
 1439 Long-Term Care Ombudsman Program.

1440 5. Contain recommendations from the State Long-Term Care
 1441 Ombudsman Council regarding program functions and activities and
 1442 recommendations for policy, regulatory, and statutory changes
 1443 designed to protect residents' rights, health, safety, and
 1444 welfare.

1445 6. Contain any relevant recommendations from the
 1446 representatives of the State Long-Term Care Ombudsman Program
 1447 regarding program functions and activities.

1448 **Section 29. Subsection (2) of section 400.0073, Florida**
 1449 **Statutes, is amended to read:**

1450 400.0073 State and local ombudsman council

1451 investigations.—

1452 ~~(2) Subsequent to an appeal from a local council, the~~
 1453 ~~state council may investigate any complaint received by the~~
 1454 ~~local council involving a long-term care facility or a resident.~~

1455 **Section 30. Paragraph (a) of subsection (1) and paragraph**
 1456 **(a) of subsection (2) of section 400.0075, Florida Statutes, are**
 1457 **amended to read:**

1458 400.0075 Complaint notification and resolution
 1459 procedures.—

1460 (1)(a) Any complaint verified by a representative of the
 1461 State Long-Term Care Ombudsman Program as a result of an
 1462 investigation which is determined by the local council to
 1463 require remedial action may be identified and brought to the
 1464 attention of the long-term care facility administrator subject
 1465 to the confidentiality provisions of s. 400.0077. Upon receipt
 1466 of the information, the administrator, with the concurrence of
 1467 the representative of the State Long-Term Care Ombudsman
 1468 Program, shall establish target dates for taking appropriate
 1469 remedial action. If, by the target date, the remedial action is
 1470 not completed or forthcoming, the representative of the State
 1471 Long-Term Care Ombudsman Program may extend the target date if
 1472 there is reason to believe such action would facilitate the
 1473 resolution of the complaint, or the representative of the State
 1474 Long-Term Care Ombudsman Program may refer the complaint to the
 1475 district manager, ~~who may refer the complaint to the state~~

1476 ~~council.~~

1477 (2) Upon referral from a district or local council, the
 1478 state ombudsman or his or her designee shall assume the
 1479 responsibility for the disposition of the complaint. If a long-
 1480 term care facility fails to take action to resolve or remedy the
 1481 complaint, the state ombudsman may:

1482 (a) In accordance with s. 400.0077, publicize the
 1483 complaint, the recommendations of the local ~~or state~~ council,
 1484 and the response of the long-term care facility.

1485 **Section 31. Subsection (2) of section 400.0087, Florida**
 1486 **Statutes, is amended to read:**

1487 400.0087 Department oversight; funding.—

1488 (2) The department shall monitor the ~~State Long-Term Care~~
 1489 ~~Ombudsman Program, the state council, and the~~ local councils to
 1490 ensure that each is carrying out the duties delegated to it by
 1491 state and federal law.

1492 **Section 32. Section 430.504, Florida Statutes, is amended**
 1493 **to read:**

1494 430.504 Confidentiality of information.—Information about
 1495 clients of programs created or funded under s. 430.501 or s.
 1496 430.503 which is received through files, reports, inspections,
 1497 or otherwise, by the department or by authorized departmental
 1498 employees, by persons who volunteer services, or by persons who
 1499 provide services to clients of programs created or funded under
 1500 s. 430.501 ~~or s. 430.503~~ through contracts with the department

HB 1457

2025

1501 is confidential and exempt from the provisions of s. 119.07(1).
1502 Such information may not be disclosed publicly in such a manner
1503 as to identify a person who receives services under s. 430.501
1504 ~~or s. 430.503~~, unless that person or that person's legal
1505 guardian provides written consent.

1506 **Section 33.** This act shall take effect July 1, 2025.