

By Senator Garcia

36-00652A-26

2026560__

A bill to be entitled
An act relating to child welfare; amending s. 39.407, F.S.; providing that a new medical report relating to the provision of psychotropic medication to a child in the legal custody of the Department of Children and Families may be required only under certain circumstances; revising qualifications for persons who may serve as qualified evaluators for a certain purpose; amending s. 409.175, F.S.; revising the definition of the terms "personnel" and "placement screening"; amending s. 409.912, F.S.; requiring a physician to provide to a pharmacy a copy of certain documentation, rather than a signed attestation, with certain prescriptions; providing an effective date.

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

Section 1. Paragraph (c) of subsection (3) and paragraph (b) of subsection (6) of section 39.407, Florida Statutes, are amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(3)

(c) Except as provided in paragraphs (b) and (e), the department must file a motion seeking the court's authorization to initially provide or continue to provide psychotropic medication to a child in its legal custody. The motion must be supported by a written report prepared by the department which

36-00652A-26

2026560__

describes the efforts made to enable the prescribing physician or psychiatric nurse, as defined in s. 394.455, to obtain express and informed consent for providing the medication to the child and other treatments considered or recommended for the child. In addition, the motion must be supported by the prescribing physician's or psychiatric nurse's signed medical report providing:

1. The name of the child, the name and range of the dosage of the psychotropic medication, and that there is a need to prescribe psychotropic medication to the child based upon a diagnosed condition for which such medication is being prescribed.

2. A statement indicating that the physician or psychiatric nurse, as defined in s. 394.455, has reviewed all medical information concerning the child which has been provided.

3. A statement indicating that the psychotropic medication, at its prescribed dosage, is appropriate for treating the child's diagnosed medical condition, as well as the behaviors and symptoms the medication, at its prescribed dosage, is expected to address.

4. An explanation of the nature and purpose of the treatment; the recognized side effects, risks, and contraindications of the medication; drug-interaction precautions; the possible effects of stopping the medication; and how the treatment will be monitored, followed by a statement indicating that this explanation was provided to the child if age appropriate and to the child's caregiver.

5. Documentation addressing whether the psychotropic medication will replace or supplement any other currently

36-00652A-26

2026560__

59 prescribed medications or treatments; the length of time the
60 child is expected to be taking the medication; and any
61 additional medical, mental health, behavioral, counseling, or
62 other services that the prescribing physician or psychiatric
63 nurse, as defined in s. 394.455, recommends.

64
65 A new medical report may be required only when there is a change
66 in the dosage or dosage range of the medication, the type of
67 medication prescribed, the manner of administration of the
68 medication, or the prescribing physician or psychiatric nurse.
69 For purposes of this paragraph, prescribing physicians and
70 psychiatric nurses belonging to the same group practice are
71 considered a single prescriber.

72 (6) Children in the legal custody of the department may be
73 placed by the department, without prior approval of the court,
74 in a residential treatment center licensed under s. 394.875 or a
75 hospital licensed under chapter 395 for residential mental
76 health treatment only pursuant to this section or may be placed
77 by the court in accordance with an order of involuntary
78 examination or involuntary placement entered pursuant to s.
79 394.463 or s. 394.467. All children placed in a residential
80 treatment program under this subsection must have a guardian ad
81 litem appointed.

82 (b) Whenever the department believes that a child in its
83 legal custody is emotionally disturbed and may need residential
84 treatment, an examination and suitability assessment must be
85 conducted by a qualified evaluator appointed by the department.
86 This suitability assessment must be completed before the
87 placement of the child in a residential treatment program.

36-00652A-26

2026560__

88 ~~1.~~ The qualified evaluator for placement in a residential
89 treatment center, ~~other than a therapeutic group home, or a~~
90 hospital must be a psychiatrist or a psychologist licensed in
91 this state who has at least 3 years of experience in the
92 diagnosis and treatment of serious emotional disturbances in
93 children and adolescents or a licensed clinical social worker or
94 licensed marriage and family therapist with comparable
95 experience. In addition, the qualified evaluator may not have an
96 ~~and who has no~~ actual or perceived conflict of interest with any
97 inpatient facility or residential treatment center or program.

98 ~~2.~~ ~~The qualified evaluator for placement in a therapeutic~~
99 ~~group home must be a psychiatrist licensed under chapter 458 or~~
100 ~~chapter 459, a psychologist licensed under chapter 490, or a~~
101 ~~mental health counselor licensed under chapter 491 who has at~~
102 ~~least 2 years of experience in the diagnosis and treatment of~~
103 ~~serious emotional or behavioral disturbance in children and~~
104 ~~adolescents and who has no actual or perceived conflict of~~
105 ~~interest with any residential treatment center or program.~~

106 Section 2. Paragraphs (j) and (k) of subsection (2) of
107 section 409.175, Florida Statutes, are amended to read:

108 409.175 Licensure of family foster homes, residential
109 child-caring agencies, and child-placing agencies; public
110 records exemption.—

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

112 (j) "Personnel" means all owners, operators, employees, and
113 volunteers working in a child-placing agency or residential
114 child-caring agency who may be employed by or do volunteer work
115 for a person, corporation, or agency that holds a license as a
116 child-placing agency or a residential child-caring agency, but

36-00652A-26

2026560__

the term does not include those who do not work on the premises where child care is furnished and have no direct contact with a child or have no contact with a child outside of the presence of the child's parent or guardian. For purposes of screening, the term includes any member, over the age of 12 years, of the family of the owner or operator or any person other than a client, a child who is found to be dependent as defined in s. 39.01, or a child as defined in s. 39.6251(1), over the age of 12 years, residing with the owner or operator if the agency is located in or adjacent to the home of the owner or operator or if the family member of, or person residing with, the owner or operator has any direct contact with the children. Members of the family of the owner or operator, or persons residing with the owner or operator, who are between the ages of 12 years and 18 years are not required to be fingerprinted, but must be screened for delinquency records. For purposes of screening, the term also includes owners, operators, employees, and volunteers working in summer day camps, or summer 24-hour camps providing care for children. A volunteer who assists on an intermittent basis for less than 10 hours per month shall not be included in the term "personnel" for the purposes of screening if a person who meets the screening requirement of this section is always present and has the volunteer in his or her line of sight.

(k) "Placement screening" means the act of assessing the background of household members in the family foster home and includes, but is not limited to, criminal history records checks as provided in s. 39.0138 using the standards for screening set forth in that section. The term "household member" means a member of the family or a person, other than the child being

36-00652A-26

2026560__

placed, a child who is found to be dependent as defined in s. 39.01, or a child as defined in s. 39.6251(1), over the age of 12 years who resides with the owner who operates the family foster home if such family member or person has any direct contact with the child. Household members who are between the ages of 12 and 18 years are not required to be fingerprinted but must be screened for delinquency records.

Section 3. Subsection (13) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. s. 438.114. Such confirmation or second opinion shall be rendered in a manner approved by the agency. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The

36-00652A-26

2026560__

175 agency shall contract with a vendor to monitor and evaluate the
176 clinical practice patterns of providers in order to identify
177 trends that are outside the normal practice patterns of a
178 provider's professional peers or the national guidelines of a
179 provider's professional association. The vendor must be able to
180 provide information and counseling to a provider whose practice
181 patterns are outside the norms, in consultation with the agency,
182 to improve patient care and reduce inappropriate utilization.
183 The agency may mandate prior authorization, drug therapy
184 management, or disease management participation for certain
185 populations of Medicaid beneficiaries, certain drug classes, or
186 particular drugs to prevent fraud, abuse, overuse, and possible
187 dangerous drug interactions. The Pharmaceutical and Therapeutics
188 Committee shall make recommendations to the agency on drugs for
189 which prior authorization is required. The agency shall inform
190 the Pharmaceutical and Therapeutics Committee of its decisions
191 regarding drugs subject to prior authorization. The agency is
192 authorized to limit the entities it contracts with or enrolls as
193 Medicaid providers by developing a provider network through
194 provider credentialing. The agency may competitively bid single-
195 source-provider contracts if procurement of goods or services
196 results in demonstrated cost savings to the state without
197 limiting access to care. The agency may limit its network based
198 on the assessment of beneficiary access to care, provider
199 availability, provider quality standards, time and distance
200 standards for access to care, the cultural competence of the
201 provider network, demographic characteristics of Medicaid
202 beneficiaries, practice and provider-to-beneficiary standards,
203 appointment wait times, beneficiary use of services, provider

36-00652A-26

2026560__

turnover, provider profiling, provider licensure history, previous program integrity investigations and findings, peer review, provider Medicaid policy and billing compliance records, clinical and medical record audits, and other factors. Providers are not entitled to enrollment in the Medicaid provider network. The agency shall determine instances in which allowing Medicaid beneficiaries to purchase durable medical equipment and other goods is less expensive to the Medicaid program than long-term rental of the equipment or goods. The agency may establish rules to facilitate purchases in lieu of long-term rentals in order to protect against fraud and abuse in the Medicaid program as defined in s. 409.913. The agency may seek federal waivers necessary to administer these policies.

(13) The agency may not pay for psychotropic medication prescribed for a child in the Medicaid program without the express and informed consent of the child's parent or legal guardian. The physician shall document the consent in the child's medical record and provide a copy of such documentation to the pharmacy ~~with a signed attestation of this documentation~~ with the prescription. The express and informed consent or court authorization for a prescription of psychotropic medication for a child in the custody of the Department of Children and Families shall be obtained pursuant to s. 39.407.

Section 4. This act shall take effect July 1, 2026.