

By the Committee on Rules; the Appropriations Committee on Health and Human Services; the Committee on Children, Families, and Elder Affairs; and Senator Garcia

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1 A bill to be entitled
2 An act relating to child welfare; amending s. 39.407,
3 F.S.; providing that a new medical report relating to
4 the provision of psychotropic medication to a child in
5 the legal custody of the Department of Children and
6 Families may be required only under certain
7 circumstances; amending s. 39.4085, F.S.; requiring
8 the department and each community-based care lead
9 agency to coordinate with certain organizations and
10 meet at least quarterly for a specified purpose;
11 authorizing such meetings to be held in person or via
12 teleconference or other electronic means; requiring
13 that such meetings have a formal agenda; requiring the
14 department and each community-based care lead agency
15 to make certain information available on their
16 respective websites; requiring, beginning in a
17 specified year, the department and each community-
18 based care lead agency to publish on their respective
19 websites a biannual report containing specified
20 information; amending s. 409.175, F.S.; revising the
21 definition of the terms "personnel" and "placement
22 screening"; amending s. 409.912, F.S.; requiring a
23 physician to provide to a pharmacy a copy of certain
24 documentation, rather than a signed attestation, with
25 certain prescriptions; amending s. 409.993, F.S.;
26 requiring the Office of Insurance Regulation, in
27 collaboration with the department and other entities,
28 to review and analyze certain data; requiring the
29 office to provide a certain report to the Governor and

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30 Legislature; requiring certain entities to respond to
31 certain requests for information; authorizing the
32 office and the department to levy fines upon or
33 otherwise penalize insurance companies and community-
34 based care lead agencies and their subcontractors,
35 respectively, for failure to timely reply to certain
36 requests for information; limiting the amount of
37 certain fines to specified amounts; requiring the
38 transfer of such fines to the General Revenue Fund;
39 providing for legislative review and repeal; providing
40 an effective date.

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

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44 Section 1. Paragraph (c) of subsection (3) of section
45 39.407, Florida Statutes, is amended to read:

46 39.407 Medical, psychiatric, and psychological examination
47 and treatment of child; physical, mental, or substance abuse
48 examination of person with or requesting child custody.—

49 (3)

50 (c) Except as provided in paragraphs (b) and (e), the
51 department must file a motion seeking the court's authorization
52 to initially provide or continue to provide psychotropic
53 medication to a child in its legal custody. The motion must be
54 supported by a written report prepared by the department which
55 describes the efforts made to enable the prescribing physician
56 or psychiatric nurse, as defined in s. 394.455, to obtain
57 express and informed consent for providing the medication to the
58 child and other treatments considered or recommended for the

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59 child. In addition, the motion must be supported by the
60 prescribing physician's or psychiatric nurse's signed medical
61 report providing:

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

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

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

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

82 5. Documentation addressing whether the psychotropic
83 medication will replace or supplement any other currently
84 prescribed medications or treatments; the length of time the
85 child is expected to be taking the medication; and any
86 additional medical, mental health, behavioral, counseling, or
87 other services that the prescribing physician or psychiatric

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88 nurse, as defined in s. 394.455, recommends.

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90 A new medical report may be required only when there is a change
91 in the dosage or dosage range of the medication, the type of
92 medication prescribed, the manner of administration of the
93 medication, or the prescribing physician or psychiatric nurse.
94 For purposes of this paragraph, prescribing physicians and
95 psychiatric nurses belonging to the same group practice are
96 considered a single prescriber.

97 Section 2. Subsection (6) is added to section 39.4085,
98 Florida Statutes, to read:

99 39.4085 Goals for dependent children; responsibilities;
100 education; Office of the Children's Ombudsman.—

101 (6) (a) The department shall coordinate with organizations
102 that are focused on empowering children with lived experience.
103 The department and such organizations shall meet at least
104 quarterly, in person or via teleconference or other electronic
105 means, to solicit input on ways to address challenges and
106 opportunities for children in the child welfare system. Each
107 meeting must have a formal agenda, and such agenda and the
108 minutes from each meeting must be made available on the
109 department's website.

110 (b) Each community-based care lead agency shall coordinate
111 with organizations that are focused on empowering children with
112 lived experience. The community-based care lead agency and such
113 organizations shall meet at least quarterly, in person or via
114 teleconference or other electronic means, to solicit input on
115 ways to address challenges and opportunities for children in the
116 child welfare system. Each meeting must have a formal agenda,

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117 and such agenda and the minutes from each meeting must be made
118 available on the community-based care lead agency's website.

119 (c) By February 1 and August 1 of each year, beginning in
120 2027, the department and each community-based care lead agency
121 shall make publicly accessible on their respective websites a
122 report that outlines how the department and the community-based
123 care lead agencies have implemented the suggestions of the
124 organizations based on the meetings required in paragraphs (a)
125 and (b).

126 Section 3. Paragraphs (j) and (k) of subsection (2) of
127 section 409.175, Florida Statutes, are amended to read:

128 409.175 Licensure of family foster homes, residential
129 child-caring agencies, and child-placing agencies; public
130 records exemption.-

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

132 (j) "Personnel" means all owners, operators, employees, and
133 volunteers working in a child-placing agency or residential
134 child-caring agency who may be employed by or do volunteer work
135 for a person, corporation, or agency that holds a license as a
136 child-placing agency or a residential child-caring agency, but
137 the term does not include those who do not work on the premises
138 where child care is furnished and have no direct contact with a
139 child or have no contact with a child outside of the presence of
140 the child's parent or guardian. For purposes of screening, the
141 term includes any member, over the age of 12 years, of the
142 family of the owner or operator or any person other than a
143 client, a child who is found to be dependent as defined in s.
144 39.01, or a child as defined in s. 39.6251(1), over the age of
145 12 years, residing with the owner or operator if the agency is

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146 located in or adjacent to the home of the owner or operator or
147 if the family member of, or person residing with, the owner or
148 operator has any direct contact with the children. Members of
149 the family of the owner or operator, or persons residing with
150 the owner or operator, who are between the ages of 12 years and
151 18 years are not required to be fingerprinted, but must be
152 screened for delinquency records. For purposes of screening, the
153 term also includes owners, operators, employees, and volunteers
154 working in summer day camps, or summer 24-hour camps providing
155 care for children. A volunteer who assists on an intermittent
156 basis for less than 10 hours per month shall not be included in
157 the term "personnel" for the purposes of screening if a person
158 who meets the screening requirement of this section is always
159 present and has the volunteer in his or her line of sight.

160 (k) "Placement screening" means the act of assessing the
161 background of household members in the family foster home and
162 includes, but is not limited to, criminal history records checks
163 as provided in s. 39.0138 using the standards for screening set
164 forth in that section. The term "household member" means a
165 member of the family or a person, other than the child being
166 placed, a child who is found to be dependent as defined in s.
167 39.01, or a child as defined in s. 39.6251(1), over the age of
168 12 years who resides with the owner who operates the family
169 foster home if such family member or person has any direct
170 contact with the child. Household members who are between the
171 ages of 12 and 18 years are not required to be fingerprinted but
172 must be screened for delinquency records.

173 Section 4. Subsection (13) of section 409.912, Florida
174 Statutes, is amended to read:

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175 409.912 Cost-effective purchasing of health care.—The
176 agency shall purchase goods and services for Medicaid recipients
177 in the most cost-effective manner consistent with the delivery
178 of quality medical care. To ensure that medical services are
179 effectively utilized, the agency may, in any case, require a
180 confirmation or second physician's opinion of the correct
181 diagnosis for purposes of authorizing future services under the
182 Medicaid program. This section does not restrict access to
183 emergency services or poststabilization care services as defined
184 in 42 C.F.R. s. 438.114. Such confirmation or second opinion
185 shall be rendered in a manner approved by the agency. The agency
186 shall maximize the use of prepaid per capita and prepaid
187 aggregate fixed-sum basis services when appropriate and other
188 alternative service delivery and reimbursement methodologies,
189 including competitive bidding pursuant to s. 287.057, designed
190 to facilitate the cost-effective purchase of a case-managed
191 continuum of care. The agency shall also require providers to
192 minimize the exposure of recipients to the need for acute
193 inpatient, custodial, and other institutional care and the
194 inappropriate or unnecessary use of high-cost services. The
195 agency shall contract with a vendor to monitor and evaluate the
196 clinical practice patterns of providers in order to identify
197 trends that are outside the normal practice patterns of a
198 provider's professional peers or the national guidelines of a
199 provider's professional association. The vendor must be able to
200 provide information and counseling to a provider whose practice
201 patterns are outside the norms, in consultation with the agency,
202 to improve patient care and reduce inappropriate utilization.
203 The agency may mandate prior authorization, drug therapy

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204 management, or disease management participation for certain
205 populations of Medicaid beneficiaries, certain drug classes, or
206 particular drugs to prevent fraud, abuse, overuse, and possible
207 dangerous drug interactions. The Pharmaceutical and Therapeutics
208 Committee shall make recommendations to the agency on drugs for
209 which prior authorization is required. The agency shall inform
210 the Pharmaceutical and Therapeutics Committee of its decisions
211 regarding drugs subject to prior authorization. The agency is
212 authorized to limit the entities it contracts with or enrolls as
213 Medicaid providers by developing a provider network through
214 provider credentialing. The agency may competitively bid single-
215 source-provider contracts if procurement of goods or services
216 results in demonstrated cost savings to the state without
217 limiting access to care. The agency may limit its network based
218 on the assessment of beneficiary access to care, provider
219 availability, provider quality standards, time and distance
220 standards for access to care, the cultural competence of the
221 provider network, demographic characteristics of Medicaid
222 beneficiaries, practice and provider-to-beneficiary standards,
223 appointment wait times, beneficiary use of services, provider
224 turnover, provider profiling, provider licensure history,
225 previous program integrity investigations and findings, peer
226 review, provider Medicaid policy and billing compliance records,
227 clinical and medical record audits, and other factors. Providers
228 are not entitled to enrollment in the Medicaid provider network.
229 The agency shall determine instances in which allowing Medicaid
230 beneficiaries to purchase durable medical equipment and other
231 goods is less expensive to the Medicaid program than long-term
232 rental of the equipment or goods. The agency may establish rules

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233 to facilitate purchases in lieu of long-term rentals in order to
234 protect against fraud and abuse in the Medicaid program as
235 defined in s. 409.913. The agency may seek federal waivers
236 necessary to administer these policies.

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

247 Section 5. Subsection (5) is added to section 409.993,
248 Florida Statutes, to read:

249 409.993 Lead agencies and subcontractor liability.-

250 (5) OFFICE OF INSURANCE REGULATION REVIEW.-

251 (a) The Office of Insurance Regulation, in collaboration
252 with the Department of Children and Families and community-based
253 care lead agencies and their subcontracted providers, shall
254 review all available, relevant, and appropriate data from the
255 previous 5 fiscal years relating to liability insurance coverage
256 and availability to analyze all of the following:

257 1. Access to and availability of liability insurance
258 through authorized insurance companies, surplus lines companies,
259 and self-insurance funds.

260 2. Factors affecting the ability to obtain and maintain
261 liability insurance.

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- 262 3. Cost of general liability insurance based on insurance
263 premium documentation.
- 264 4. Claims data.
- 265 5. Settlement and judicial disposition data.
- 266 6. Community-based care lead agency operating budgets and
267 expenses.
- 268 7. Impact of insurance costs on the financial condition of
269 community-based care lead agencies and their subcontractors.
- 270 8. Consistency of statutory insurance requirements with the
271 general insurance market.
- 272 (b) The Office of Insurance Regulation shall develop a
273 report on the findings of its review and analysis, including,
274 but not limited to:
- 275 1. A summary of the methods used and data obtained for
276 review and analysis.
- 277 2. Trends in insurance premium rates.
- 278 3. Trends in claims and settlements.
- 279 4. Trends in liability coverage affordability and
280 availability.
- 281 5. Recommendations for agency and legislative action to
282 ensure affordable and available liability insurance for
283 community-based care lead agencies and their subcontractors.
- 284 (c) The report must be provided to the Governor, the
285 President of the Senate, and the Speaker of the House of
286 Representatives by January 1, 2027.
- 287 (d) Insurance companies shall reply to requests for
288 information received from the Office of Insurance Regulation for
289 the purposes of this section. The office may levy fines upon or
290 otherwise penalize an insurance company that fails to reply to a

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291 request for information within 30 calendar days after receipt of
292 such request. A fine schedule set by the office under this
293 paragraph may not exceed \$500 per day for the first 3 days late
294 and \$1,000 per day for each late day thereafter. Fines paid to
295 the office under this paragraph shall be transferred to the
296 General Revenue Fund.

297 (e) Community-based care lead agencies and their
298 subcontracted providers shall reply to requests for information
299 received from the Department of Children and Families for the
300 purposes of this section. The department may levy fines upon or
301 otherwise penalize a community-based care lead agency or
302 subcontractor that fails to reply to a request for information
303 within 30 calendar days after receipt of such request. A fine
304 schedule set by the department under this paragraph may not
305 exceed \$500 per day for the first 3 days late and \$1,000 for
306 each late day thereafter. Fines paid to the department under
307 this paragraph shall be transferred to the General Revenue Fund.

308 (f) This subsection shall stand repealed on July 1, 2027,
309 unless reviewed and saved from repeal through reenactment by the
310 Legislature.

311 Section 6. This act shall take effect July 1, 2026.