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30 Section 1. Subsection (6) of section 39.201, Florida
31 Statutes, is amended to read:

32 39.201 Mandatory reports of child abuse, abandonment, or
33 neglect; mandatory reports of death; central abuse hotline.—

34 (6) Information in the central abuse hotline may not be
35 used for employment screening, except as provided in s.

36 39.202(2)(a) and (h). Information in the central abuse hotline
37 and the department's automated abuse information system may be

38 used by the department, its authorized agents or contract
39 providers, the Agency for Persons with Disabilities as part of

40 the licensure process pursuant to s. 393.067 and s. 393.0673,

41 the Department of Health, or county agencies as part of the
42 licensure or registration process pursuant to ss. 402.301-

43 402.319 and ss. 409.175-409.176.

44 Note.—Former ss. 828.041, 827.07(3), (4), (9), (13); s.
45 415.504.

46 Section 2. Subsection (3) of section 393.063, Florida
47 Statutes, is amended to read:

48 393.063 Definitions.—For the purposes of this chapter, the
49 term:

50 (3) "Autism" means autistic disorder as defined in the
51 fourth edition of the Diagnostic and Statistical Manual of

52 Mental Disorders, by the American Psychiatric Association, which
53 is a pervasive, neurologically based developmental disability of

54 extended duration which causes severe learning, communication,
55 and behavior disorders with age of onset during infancy or

56 childhood. Individuals with autism exhibit impairment in

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57 reciprocal social interaction, impairment in verbal and
58 nonverbal communication and imaginative ability, and a markedly
59 restricted repertoire of activities and interests.

60 Section 3. Subsection (5) of section 393.065, Florida
61 Statutes, is amended to read:

62 393.065 Application and eligibility determination.—

63 (5) Except as otherwise directed by law, beginning July 1,
64 2010, the agency shall assign and provide priority to clients
65 waiting for waiver services in the following order for
66 categories 1 and 2 in paragraph (a) and (b) and effective July
67 1, 2012, for categories 3,4,5,6 and 7 in paragraphs (c)-(g):

68 (a) Category 1, which includes clients deemed to be in
69 crisis as described in rule.

70 (b) Category 2, which includes children on the wait list
71 who are from the child welfare system with an open case in the
72 Department of Children and Family Services' statewide automated
73 child welfare information system.

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

76 1. Whose caregiver has a documented condition that is
77 expected to render the caregiver unable to provide care within
78 the next 12 months and for whom a caregiver is required but no
79 alternate caregiver is available;

80 2. At substantial risk of incarceration or court
81 commitment without supports;

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

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85 4. Who are identified as ready for discharge within the
86 next year from a state mental health hospital or skilled nursing
87 facility and who require a caregiver but for whom no caregiver
88 is available.

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

93 (e) Category 5, which includes, but is not required to be
94 limited to, clients who are expected to graduate within the next
95 12 months from secondary school and need support to obtain or
96 maintain competitive employment, or to pursue an accredited
97 program of postsecondary education to which they have been
98 accepted.

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

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

105

106 Within categories 3, 4, 5, 6, and 7, the agency shall maintain a
107 wait list of clients placed in the order of the date that the
108 client is determined eligible for waiver services.

109 Section 4. Subsections (1) and (3) of section 393.0661,
110 Florida Statutes, are amended to read:

111 393.0661 Home and community-based services delivery
112 system; comprehensive redesign.—The Legislature finds that the

113 | home and community-based services delivery system for persons
114 | with developmental disabilities and the availability of
115 | appropriated funds are two of the critical elements in making
116 | services available. Therefore, it is the intent of the
117 | Legislature that the Agency for Persons with Disabilities shall
118 | develop and implement a comprehensive redesign of the system.

119 | (1) The redesign of the home and community-based services
120 | system shall include, at a minimum, all actions necessary to
121 | achieve an appropriate rate structure, client choice within a
122 | specified service package, appropriate assessment strategies, an
123 | efficient billing process that contains reconciliation and
124 | monitoring components, a redefined role for support coordinators
125 | that avoids potential conflicts of interest, and ensures that
126 | family/client budgets are linked to levels of need.

127 | (a) The agency shall use an assessment instrument which
128 | ~~that~~ is reliable and valid, including either the Individual Cost
129 | Guidelines or the Questionnaire for Situational Information. The
130 | agency may contract with an external vendor or may use support
131 | coordinators to complete client assessments if it develops
132 | sufficient safeguards and training to ensure ongoing inter-rater
133 | reliability.

134 | (b) The agency, with the concurrence of the Agency for
135 | Health Care Administration, may contract for the determination
136 | of medical necessity and establishment of individual budgets.

137 | (3) The Agency for Health Care Administration, in
138 | consultation with the agency, shall seek federal approval and
139 | implement a four-tiered waiver system to serve eligible clients
140 | through the developmental disabilities and family and supported

141 living waivers. The agency shall assign all clients receiving
142 services through the developmental disabilities waiver to a tier
143 based on an ~~valid~~ assessment instrument which is either the
144 Individual Cost Guidelines or the Questionnaire for Situational
145 Information, client characteristics including but not limited to
146 age, and other appropriate assessment methods.

147 (a) Tier one is limited to clients who have service needs
148 that cannot be met in tier two, three, or four for intensive
149 medical or adaptive needs and that are essential for avoiding
150 institutionalization, or who possess behavioral problems that
151 are exceptional in intensity, duration, or frequency and present
152 a substantial risk of harm to themselves or others.

153 (b) Tier two is limited to clients whose service needs
154 include a licensed residential facility and who are authorized
155 to receive a moderate level of support for standard residential
156 habilitation services or a minimal level of support for behavior
157 focus residential habilitation services, or clients in supported
158 living who receive more than 6 hours a day of in-home support
159 services. Total annual expenditures under tier two may not
160 exceed \$55,000 per client each year.

161 (c) Tier three includes, but is not limited to, clients
162 requiring residential placements, clients in independent or
163 supported living situations, and clients who live in their
164 family home. Total annual expenditures under tier three may not
165 exceed \$35,000 per client each year.

166 (d) Tier four ~~is~~ includes individuals enrolled in the
167 family and supported living waiver on July 1, 2007, who shall be
168 assigned to this tier without the assessments required by this

169 section. ~~and~~ Tier four also includes, but is not limited to,
170 clients in independent or supported living situations and
171 clients who live in their family home. Total annual expenditures
172 under tier four may not exceed \$14,792 per client each year.

173 (e) The Agency for Health Care Administration shall also
174 seek federal approval to provide a consumer-directed option for
175 persons with developmental disabilities which corresponds to the
176 funding levels in each of the waiver tiers. The agency shall
177 implement the four-tiered waiver system beginning with tiers
178 one, three, and four and followed by tier two. The agency and
179 the Agency for Health Care Administration may adopt rules
180 necessary to administer this subsection.

181 (f) The agency shall seek federal waivers and amend
182 contracts as necessary to make changes to services defined in
183 federal waiver programs administered by the agency as follows:

184 1. Supported living coaching services may not exceed 20
185 hours per month for persons who also receive in-home support
186 services.

187 2. Limited support coordination services is the only type
188 of support coordination service that may be provided to persons
189 under the age of 18 who live in the family home.

190 3. Personal care assistance services are limited to 180
191 hours per calendar month and may not include rate modifiers.
192 Additional hours may be authorized for persons who have
193 intensive physical, medical, or adaptive needs if such hours are
194 essential for avoiding institutionalization.

195 4. Residential habilitation services are limited to 8
196 hours per day. Additional hours may be authorized for persons

197 | who have intensive medical or adaptive needs and if such hours
198 | are essential for avoiding institutionalization, or for persons
199 | who possess behavioral problems that are exceptional in
200 | intensity, duration, or frequency and present a substantial risk
201 | of harming themselves or others. This restriction shall be in
202 | effect until the four-tiered waiver system is fully implemented.

203 | 5. Chore services, nonresidential support services, and
204 | homemaker services are eliminated. The agency shall expand the
205 | definition of in-home support services to allow the service
206 | provider to include activities previously provided in these
207 | eliminated services.

208 | 6. Massage therapy, medication review, and psychological
209 | assessment services are eliminated.

210 | 7. The agency shall conduct supplemental cost plan reviews
211 | to verify the medical necessity of authorized services for plans
212 | that have increased by more than 8 percent during either of the
213 | 2 preceding fiscal years.

214 | 8. The agency shall implement a consolidated residential
215 | habilitation rate structure to increase savings to the state
216 | through a more cost-effective payment method and establish
217 | uniform rates for intensive behavioral residential habilitation
218 | services.

219 | 9. Pending federal approval, the agency may extend current
220 | support plans for clients receiving services under Medicaid
221 | waivers for 1 year beginning July 1, 2007, or from the date
222 | approved, whichever is later. Clients who have a substantial
223 | change in circumstances which threatens their health and safety
224 | may be reassessed during this year in order to determine the

225 necessity for a change in their support plan.

226 10. The agency shall develop a plan to eliminate
 227 redundancies and duplications between in-home support services,
 228 companion services, personal care services, and supported living
 229 coaching by limiting or consolidating such services.

230 11. The agency shall develop a plan to reduce the
 231 intensity and frequency of supported employment services to
 232 clients in stable employment situations who have a documented
 233 history of at least 3 years' employment with the same company or
 234 in the same industry.

235 Section 5. Subsections (4), (7), and (9) of section
 236 393.067, Florida Statutes, are amended to read:

237 393.067 Facility licensure.—

238 (4) The application shall be under oath and shall contain
 239 the following:

240 (a) The name and address of the applicant, if an applicant
 241 is an individual; if the applicant is a firm, partnership, or
 242 association, the name and address of each member thereof; if the
 243 applicant is a corporation, its name and address and the name
 244 and address of each director and each officer thereof; and the
 245 name by which the facility or program is to be known.

246 (b) The location of the facility or program for which a
 247 license is sought.

248 (c) The name of the person or persons under whose
 249 management or supervision the facility or program will be
 250 conducted.

251 (d) The number and type of residents or clients for which
 252 maintenance, care, education, or treatment is to be provided by

253 the facility or program.

254 (e) The number and location of the component centers or
 255 units which will compose the comprehensive transitional
 256 education program.

257 (f) A description of the types of services and treatment
 258 to be provided by the facility or program.

259 (g) Information relating to the number, experience, and
 260 training of the employees of the facility or program.

261 (h) Certification that the staff of the facility or
 262 program will receive training to detect, report and prevent
 263 sexual abuse, abuse, neglect, exploitation and abandonment as
 264 defined in s. 39.01 and s. 415.102, of residents and clients.

265 (i) Such other information as the agency determines is
 266 necessary to carry out the provisions of this chapter.

267 (7) The agency shall adopt rules establishing minimum
 268 standards for facilities and programs licensed under this
 269 section, including rules requiring facilities and programs to
 270 train staff to detect, report and prevent sexual abuse, abuse,
 271 neglect, exploitation and abandonment, as defined in s. 39.01
 272 and s. 415.102, of residents and clients, minimum standards of
 273 quality and adequacy of client care, incident reporting
 274 requirements, and uniform firesafety standards established by
 275 the State Fire Marshal which are appropriate to the size of the
 276 facility or of the component centers or units of the program.

277 (9) The agency may conduct unannounced inspections to
 278 determine compliance by foster care facilities, group home
 279 facilities, residential habilitation centers, and comprehensive
 280 transitional education programs with the applicable provisions

281 of this chapter and the rules adopted pursuant hereto, including
 282 the rules adopted for training staff of a facility or a program
 283 to detect, report, and prevent sexual abuse, abuse, neglect,
 284 exploitation and abandonment, as defined in s. 39.01 and s.
 285 415.102, of residents and clients. The facility or program shall
 286 make copies of inspection reports available to the public upon
 287 request.

288 Section 6. Subsections (1) and (2) of section 393.0673,
 289 Florida Statutes, are amended to read:

290 393.0673 Denial, suspension, or revocation of license;
 291 moratorium on admissions; administrative fines; procedures.—

292 (1) The agency may revoke or suspend a license or ~~impose~~
 293 ~~an administrative fine~~ a licensee, not to exceed \$1,000 per
 294 violation per day, if the agency determines the licensee has
 295 committed one or more of the following violations:

296 ~~(a) The licensee has:~~

297 ~~1~~(a). Falsely represented or omitted a material fact in
 298 its license application submitted under s. 393.067;

299 ~~2~~(b). Had prior action taken against it under the Medicaid
 300 or Medicare program; ~~or~~

301 ~~3~~(c). Failed to comply with the applicable requirements of
 302 this chapter or rules applicable to the licensee; ~~or~~

303 ~~(b_d) The Department of Children and Family Services has~~
 304 ~~verified that the licensee is responsible for the abuse,~~
 305 ~~neglect, or abandonment of~~ Abused, sexually abused, neglected or
 306 abandoned a child as defined in s. 39.01, F.S., or the abuse,
 307 ~~neglect, or exploitation of~~ abused, sexually abused, neglected
 308 or exploited a vulnerable adult as defined in s.415.102, F.S.;

309 (e) Knowingly submitted false or inaccurate information in
 310 order to obtain payment for services;

311 (f) Knowingly used the funds, property, or identity of a
 312 client for the purpose of self-gain;

313 (g) Knowingly compromised the health, safety, or welfare of
 314 a client;

315 (h) Knowingly violated the rights of a client as provided
 316 in s. 393.13; or

317 (i) Denied access to clients by the client's guardian, a
 318 minor's parent, waiver support coordinator, an agency employee,
 319 or other authorized person.

320 (2) The agency may deny an application for licensure
 321 submitted under s. 393.067 if:

322 (a) The applicant has:

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

325 2. Had prior action taken against it under the Medicaid or
 326 Medicare program;

327 3. Failed to comply with the applicable requirements of
 328 this chapter or rules applicable to the applicant; ~~or~~

329 4. Previously had a license to operate a residential
 330 facility revoked by the agency, the Department of Children and
 331 Family Services, or the Agency for Health Care Administration;
 332 ~~or~~

333 5. The Department of Children and Family Services has
 334 verified that the applicant is responsible for the abuse,
 335 neglect, or abandonment of Abused, sexually abused, neglected or
 336 abandoned a child as defined in s. 39.01, or the abuse, neglect,

- 337 ~~or exploitation of~~ abused, sexually abused, neglected or
 338 exploited a vulnerable adult as defined in s. 415.102, F.S.;
 339 6.Knowingly submitted false or inaccurate information in
 340 order to obtain payment for services;
 341 7.Knowingly used the funds, property, or identity of a
 342 client for the purpose of self-gain;
 343 8.Knowingly compromised the health, safety, or welfare of a
 344 client;
 345 9.Knowingly violated the rights of a client as provided in
 346 s. 393.13, F.S.; or
 347 10.Denied access to clients by the client's guardian, a
 348 minor's parent, waiver support coordinator, an agency employee,
 349 or other authorized person.

350 Section 7. Subsection (1) of section 393.125, Florida
 351 Statutes, is amended to read:

352 393.125 Hearing rights.—

353 (1) REVIEW OF AGENCY DECISIONS.—

354 (a) For Medicaid programs administered by the agency, any
 355 developmental services applicant or client, or his or her
 356 parent, guardian, guardian advocate, or authorized
 357 representative, may request a hearing in accordance with federal
 358 Medicaid law and rules and shall request such a hearing pursuant
 359 to ss. 120.569 and 120.57. These hearings shall be provided by
 360 the Department of Children and Family Services pursuant to s.
 361 409.285 and shall follow procedures consistent with applicable
 362 federal Medicaid law and rules.

363 (b) Any other developmental services applicant or client,
 364 or his or her parent, guardian, guardian advocate, or authorized

365 representative, who has any substantial interest determined by
 366 the agency, has the right to request an administrative hearing
 367 pursuant to ss. 120.569 and 120.57, which hearing shall be
 368 conducted pursuant to s. 120.57(1), (2) or (3).

369 ~~(b)~~(c) Notice of the right to an administrative hearing
 370 shall be given, both verbally and in writing, to the applicant
 371 or client, and his or her parent, guardian, guardian advocate,
 372 or authorized representative, at the same time that the agency
 373 gives the applicant or client notice of the agency's action. The
 374 notice shall be given, both verbally and in writing, in the
 375 language of the client or applicant and in English.

376 (c) A request for a hearing under this section shall be
 377 made to the agency, in writing, within 30 days of the
 378 applicant's or client's receipt of the notice.

379 Section 8. Paragraph (a) of subsection (3) of section
 380 393.13, Florida Statutes, is amended to read:

381 393.13 Treatment of persons with developmental
 382 disabilities.—

383 (3) RIGHTS OF ALL PERSONS WITH DEVELOPMENTAL
 384 DISABILITIES.—The rights described in this subsection shall
 385 apply to all persons with developmental disabilities, whether or
 386 not such persons are clients of the agency.

387 (a) Persons with developmental disabilities shall have a
 388 right to dignity, privacy, and humane care, including the right
 389 to be free from abuse, including sexual abuse, neglect and
 390 exploitation. ~~in residential facilities.~~

391 Section 9. Paragraph (c) is added to subsection (2) of
 392 section 393.506, Florida Statutes, to read:

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393 393.506 Administration of medication.—

394 (2) In order to supervise the self-administration of
395 medication or to administer medications as provided in
396 subsection (1), a direct service provider must satisfactorily
397 complete a training course of not less than 4 hours in
398 medication administration and be found competent to supervise
399 the self-administration of medication by a client or to
400 administer medication to a client in a safe and sanitary manner.
401 Competency must be assessed and validated at least annually in
402 an onsite setting and must include personally observing the
403 direct service provider satisfactorily:

404 (c) Competency in all routes of medication administration
405 as provided in subsection (1) must be assessed and validated at
406 least annually in an onsite setting with an actual client except
407 for the topical, transdermal, and otic routes, which may be
408 validated by simulation during the required training course, and
409 do not require annual revalidation.

410

411 Section 10. This act shall take effect upon becoming law.

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413