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# Appropriations Committee

Tuesday, February 28, 2012  
8:30 AM – 9:45 AM  
212 Knott Building

Meeting Packet

**Dean Cannon**  
Speaker

**Denise Grimsley**  
Chair



## The Florida House of Representatives Appropriations Committee

Dean Cannon  
Speaker

Denise Grimsley  
Chair

### AGENDA

Tuesday, February 28, 2012  
212 Knott Building  
8:30 AM – 9:45 AM

- I. Call to order/Roll Call
- II. Opening Remarks by Chair Grimsley
- III. **Consideration of the following bills:**

**CS/CS/HB 1355** Protection of Vulnerable Persons by Health & Human Services Committee, Judiciary Committee, Dorworth

**HB 7129** State Universities of Academic and Research Excellence and National Preeminence by Education Committee, Proctor

**HB 7133** Quality Improvement Initiatives for Entities Regulated by the Agency for Health Care Administration by Health & Human Services Committee, Gonzalez

- IV. Closing Remarks and Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1355 Protection of Vulnerable Persons  
**SPONSOR(S):** Health & Human Services Committee; Judiciary Committee; Dorworth and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 1816

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Judiciary Committee	18 Y, 0 N, As CS	Smith	Havlicak
2) Health & Human Services Committee	18 Y, 0 N, As CS	Poche	Gormley
3) Appropriations Committee		Pridgeon	Leznoff

### SUMMARY ANALYSIS

CS/CS/HB 1355 requires any person to report known or reasonably suspected physical or emotional abuse of a child by any adult person. The bill also requires any person to report known or reasonably suspected sexual abuse of a child by any person. Any report of child abuse, abandonment, or neglect by a person other than a child's caregiver, as defined in statute, must be accepted by the Florida Abuse Hotline (hotline), maintained by the Department of Children and Families (department), and forwarded to the appropriate sheriff's office.

The bill requires the department to enable the hotline to accept reports of known or suspected child abuse, abandonment, or neglect through web-based chat. Also, the department is directed to conduct a study on the feasibility of adding text and short message service formats as means for the hotline to accept and process reports of abuse. The department must also update the web-based reporting form for the hotline to receive appropriate information and allow the department to assess need and the appropriate response to the need. The bill requires the department to partner with community-based organizations and public service campaigns to promote public awareness of the hotline.

The bill imposes a \$1,000,000 fine on public and private colleges, universities and schools whose personnel or law enforcement agencies fail to report certain child abuse taking place on campus or at an event or function sponsored by the college, university, or school.

The bill requires the department to develop and implement a program to assist parents and custodians of children who call the hotline to seek assistance unrelated to a report of abuse or a crime involving a child. The bill establishes requirements for the program and specifies the services to be offered by the program.

The bill expands the scope of victims who are eligible to receive monetary relocation assistance to include a victim of sexual battery, and appropriates \$1.5 million from the General Revenue Fund for that purpose.

The bill increases criminal penalties by reclassifying certain violations involving sexual conduct with minors.

The bill will have a significant fiscal impact on state government.

The bill provides an effective date of October 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

A study conducted in 2008 indicated that an estimated 4% to 16% of children are physically abused each year in high-income nations including the United States. Additionally, as many as 15% of children are neglected, and up to 10% of girls and 5% of boys suffer severe sexual abuse. Although it is difficult to measure, researchers believe that as few as 1 in 10 of those instances of abuse are actually confirmed by social-service agencies.<sup>1</sup> Recent national events have centered on issues with adults failing to report known instances of ongoing child abuse.

#### **Reporting Child Abuse**

##### **Current Situation**

Section 39.201, F.S., requires a person to report certain known or suspected instances of child abuse. Specifically, the law mandates that a person report knowledge or suspicion of child abuse if the person knows, or has reasonable cause to suspect:

- A child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare<sup>2</sup>; or
- That a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care.

Section 39.201(2), F.S., prescribes the method of reporting child abuse. Instances of child abuse as described by s. 39.201(1), F.S., must be made "immediately to the department's<sup>3</sup> central abuse hotline." If a person is required by s. 39.201, F.S., to report known or suspected child abuse and fails to do so, s. 39.205(1), F.S., makes it a first degree misdemeanor<sup>4</sup> if the person knowingly or willfully failed to report, or knowingly or willfully prevented another person from reporting such abuse.

##### **Effect of the Bill**

#### **Reporting Physical, Emotional, and Sexual Abuse**

The bill requires any person to report known or reasonably suspected physical or emotional abuse of a child by any adult person. The bill also requires any person to report known or reasonably suspected sexual abuse of a child by any person. This will cause a significant increase in calls to the Florida Abuse Hotline. The department estimates at least 40,000 additional calls or a 10 percent increase to annual calls. Current law limits DCF to receive and investigate calls regarding abuse by caregivers.

The bill adds web-based chat as a method for receiving reports of child abuse, abandonment, or neglect by the central abuse hotline.

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<sup>1</sup> See Tiffany Sharples, *Most Child Abuse Goes Unreported*, Time Health, (Dec. 2, 2008), available at <http://www.time.com> (search "unreported child abuse" (last visited Jan. 19, 2012)).

<sup>2</sup> "Other person responsible for a child's welfare" includes many enumerated parties, including employees of a school or day care center. The definition exempts law enforcement officers and employees of municipal or county detention facilities acting in an official capacity, except as otherwise provided in the subsection. Section 39.01(47), F.S.

<sup>3</sup> "Department" means the Department of Children and Family Services.

<sup>4</sup> A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

The bill requires the central abuse hotline to accept any call reporting child abuse, abandonment, or neglect by someone other than a caregiver and to forward the call to the appropriate sheriff's office for further investigation.

The bill requires DCF to update the web-based form used to report child abuse, abandonment or neglect. In order to make the form more useful for investigatory purposes:

- The form must include qualifying questions which are designed to elicit more information responses to more accurately assess need and the appropriate response to such need;
- The form must indicate which response fields must be filled out in order to be considered completed; and
- The form must allow a reporter to save the document and return to it at a later date to complete all information and submit it to the central abuse hotline.

The bill mandates that DCF promote public awareness regarding the central abuse hotline. DCF must use community-based partner organizations and public service campaigns to provide information to the public about the hotline.

The knowing and willful failure of a person, who is required to report known or suspected child abuse, abandonment, or neglect is elevated from a first degree misdemeanor to a third degree felony. As a result, the potential prison sentence is raised from 1 year to 5 years<sup>5</sup>, and the potential fine is raised from a maximum of \$1,000 to a maximum of \$5,000.<sup>6</sup>

The bill also establishes, in s. 39.309, F.S., an alternative response to protective investigations. DCF is directed to develop and implement a program that provides social, rehabilitative, and other services to assist a parent or custodian of a child who contacts the central abuse hotline, not to report known or suspected child abuse or to report other activity that rises to the level of a crime, but to seek assistance. Services must promote the physical, mental, and emotional health of the child and be designed to prevent or mitigate the possibility that the child is referred to the central abuse hotline as an alleged victim of abuse, abandonment, or neglect. The bill directs DCF to partner with community-based care lead agencies and other agencies to develop and implement the program. To help facilitate cooperation in developing the program, the bill requires any agency seeking to become an eligible lead community-based provider to have an alternative response to protective investigations program in place before it can be consider for an outsourcing project of DCF.

### Educational Institutions

The bill creates subsections 39.205(3) and (4), F.S., which provide penalties for Florida educational institutions whose personnel fail to report certain child abuse taking place on the campus of the institution or during an event or function sponsored by the institution. The bill subjects the institution to a \$1 million fine for each failure to report child abuse, abandonment, or neglect.<sup>7</sup> The fine is to be assessed by the Board of Governors.

Specifically, these penalties apply to:

- (1) Any Florida College System institution, state university, or nonpublic college, university, or school<sup>8</sup> whose administrators knowingly and willfully fail to report, or knowingly and willfully prevent another from reporting known or suspected child abuse, abandonment, or neglect committed on the property of the institution, university, college, or school, or during an event or function sponsored by the institution, university, college, or school; and

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<sup>5</sup> S. 775.082(3)(d) and (4)(a), F.S.

<sup>6</sup> S. 775.083(1)(c) and (d), F.S.

<sup>7</sup> "All state funding" includes the Florida Resident Access Grant Program.

<sup>8</sup> As defined in ss. 1000.21, F.S., or 1005.02, F.S.

- (2) The law enforcement agency of any Florida College System institution, state university, or nonpublic college, university, or school<sup>9</sup> that fails to report any known or suspected child abuse, abandonment, or neglect committed on the property of the institution, university, college, or school, or during an event or function sponsored by the institution, university, college, or school.

The bill also creates subsection (5) of s. 39.205, F.S., which grants the institution, university, college, or school the right to challenge the determination by the Board of Governors that it acted knowingly and willfully and to challenge the imposition of a fine pursuant to sections 39.205(3), F.S., or 39.205(4), F.S. The appeal process will be conducted through administrative hearing, pursuant to the provisions of s. 120.57, F.S. The bill provides that a knowing and willful act is presumptively established if it is found that the administration of the institution, university, college, or school had actual knowledge and information of known or suspected child abuse.

The bill requires DCF to collect and analyze, in separate reports, statistics regarding abuse and sexual abuse that is reported from, or occurred on, any campus of a Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21, F.S., or s. 1005.02, F.S. The requirement is similar to the duty of DCF to create aggregate statistical reports, using data compiled through the central abuse hotline, regarding trends and patterns of child abuse, abandonment, and neglect.

Lastly, the bill requires elementary, middle, and high school teachers to participate in a continuing education program provided by DCF focused on identifying and reporting child abuse and neglect. This continuing education topic would be in addition to current continuing education requirements for teachers.

## **Relocation Assistance for Victims**

### **Current Situation**

#### **Relocation Assistance for Victims of Domestic Violence**

Section 960.198, F.S., authorizes the Department of Legal Affairs ("DLA") to award monetary payment to a victim of domestic violence in order to provide relocation assistance, under certain conditions. Specifically, the law authorizes DLA to award a victim of domestic violence who needs immediate assistance to escape from a domestic violence environment:

- a) A one-time payment not exceeding \$1,500 on any one claim; and
- b) A lifetime maximum of \$3,000.

Certain preconditions must be met before DLA may grant an award:

- a) There must be proof that a domestic violence offense was committed;
- b) The domestic violence offense must be reported to the proper authorities;
- c) The victim's need for assistance must be certified by a domestic violence center in Florida; and
- d) The center certification must assert that the victim is cooperating with law enforcement officials, if applicable, and must include documentation that the victim has developed a safety plan.

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<sup>9</sup> *Id.*

## **Effect of the Bill**

### Relocation Assistance for Victims of Sexual Battery

The bill expands the scope of victims who are eligible to receive monetary relocation assistance from DLA to include victims of sexual battery. It authorizes DLA to award a victim of sexual battery<sup>10</sup> who needs relocation assistance:

- a) A one-time payment not exceeding \$1,500 on any one claim; and
- b) A lifetime maximum of \$3,000.

Certain preconditions must be met before DLA may grant an award:

- a) There must be proof that a sexual battery offense was committed.
- b) The sexual battery offense must be reported to the proper authorities.
- c) The victim's need for assistance must be certified by a certified rape crisis center in this state.
- d) The center certification must assert that the victim is cooperating with law enforcement officials, if applicable, and must include documentation that the victim has developed a safety plan.
- e) The act of sexual battery must be committed in the victim's place of residence or in a location that would lead the victim to reasonably fear for his or her continued safety in the place of residence.

To prevent duplicate payments, the bill requires DLA to deny any claim for relocation payment for a sexual battery claim if it has previously approved or paid out a domestic violence relocation claim, pursuant to s. 960.198, F.S., to the same victim for the same incident.

The bill includes a relocation assistance fund for victims of sexual battery that is separate from the relocation assistance fund for victims of domestic violence. The bill appropriates \$1.5 million in nonrecurring funds from the General Revenue Fund to DLA for state FY 2012-2013 for the victims of sexual battery relocation assistance fund.

### Reclassification of Prostitution Crimes Involving Minors

#### **Current Situation**

Florida law presently prohibits conduct involving prostitution under chapter 796, F.S.

- Causing a Minor to Become Involved With Prostitution. Sections 796.03 and 796.035, F.S., prohibit a person from causing a minor to become involved in prostitution and other sexual activity. Specifically, under s. 796.03, F.S., it is a second degree felony<sup>11</sup> for a person to procure for prostitution, or cause to be prostituted, any person who is under the age of 18.

Under s. 796.035, F.S., it is a first degree felony<sup>12</sup> for any parent, legal guardian, or other person having custody or control of a minor, to sell or otherwise transfer custody or control of such minor, or offer to sell or otherwise transfer custody of the minor with knowledge that the minor will engage in prostitution, perform naked for compensation, or otherwise participate in the trade of sex trafficking as a consequence of the sale or transfer.

- Forcing, Compelling, or Coercing Prostitution. Under s. 796.04, F.S., it is a third degree felony<sup>13</sup> for a person to force, compel, or coerce another to become a prostitute.

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<sup>10</sup> As defined in s. 794.011, F.S.

<sup>11</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>12</sup> A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>13</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.



- Sex Trafficking. Under s. 796.045, F.S, it is a second degree felony<sup>14</sup> for a person to recruit, entice, harbor, transport, provide, or obtain by any means a person, knowing that force, fraud, or coercion will be used to cause that person to engage in prostitution. It is a first degree felony<sup>15</sup> if the offense is committed against a person under the age of 14 or if the offense results in death.
- Deriving Support from the Proceeds of Prostitution. Under s. 796.05, F.S., it is a third degree felony for a person who knows or has reasonable belief that another is engaged in prostitution to live or derive support or maintenance from what is believed to be the earnings or proceeds of such person's prostitution.
- Renting Space to be Used for Lewdness, Assignment, or Prostitution. Under s. 796.06, F.S., it is a second degree misdemeanor for the first violation, and a first degree misdemeanor for a subsequent violation, for a person to let or rent any place, structure, or part thereof, trailer or other conveyance with knowledge that it will be used for the purpose of lewdness, assignment, or prostitution.
- Definitions
  - "Assignment" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.<sup>16</sup>
  - "Lewdness" means any indecent or obscene act.<sup>17</sup>
  - "Prostitution" means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses.<sup>18</sup>
  - "Sexual activity" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another; anal or vaginal penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes.<sup>19</sup>

## Effect of the Bill

The bill creates s. 796.036, F.S., which provides for reclassification of certain violations involving minors.<sup>20</sup> Specifically, the bill provides for reclassification of violations "in which a minor engages in prostitution, lewdness, assignment, sexual conduct, or other conduct as defined in or prohibited [by chapter 796], but the minor is not the person charged with the violation." The bill provides for such reclassification as follows:

- A second degree misdemeanor becomes a first degree misdemeanor;
- A first degree misdemeanor becomes a third degree felony;
- A third degree felony becomes a second degree felony;
- A second degree felony becomes a first degree felony; and
- A first degree felony becomes a life felony.

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 39.201, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.

**Section 2:** Amends s. 39.205, F.S., relating to penalties relating to reporting of child abuse, abandonment, or neglect.

**Section 3:** Creates s. 39.909, F.S., relating to alternative response to protective investigation.

<sup>14</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>15</sup> A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>16</sup> Section 796.07, F.S.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> The new section created by the bill specifically states it does not apply to violations of ss. 796.03 and 796.035, F.S., presumably because those sections already apply to prohibited conduct involving minors.

- Section 4:** Amends s. 409.1671, F.S., relating to foster care and related services; outsourcing.  
**Section 5:** Creates s. 796.036, F.S., relating to violations involving minors; reclassification.  
**Section 6:** Amends s. 960.198, F.S., relating to relocation assistance for victims of domestic violence.  
**Section 7:** Creates s. 960.199, F.S., relating to relocation assistance for victims of sexual battery.  
**Section 8:** Appropriates \$1.5 million from the General Revenue Fund to the Department of Legal Affairs.  
**Section 9:** Amends s. 1012.98, F.S., relating to School Community Professional Development Act.  
**Section 10:** Provides that the act shall take effect October 1, 2012.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

#### Impact to Florida Abuse Hotline

DCF calculated the impact of the provisions of the bill to the workload of the central abuse hotline. The department used the following data and calculations to conclude that the bill has a fiscal impact to the department, in regard to the hotline, in the amount of \$2,300,516.<sup>21</sup>

Florida 2010 census data: 18,801,310

Florida's population of children represents 21.3% of the entire population per the 2010 Census or 4,004,679 children.

According to a national survey, in 2005:

- 1 in 2 children will experience physical assault.
- 1 in 12 children will experience sexual victimization.
- 1 in 7 children will experience maltreatment (excluding corporal punishment).
- 1 in 4 children experience property victimization.
- 1 in 3 children are witnesses of victimization of others/indirect victimization.<sup>22</sup>

Calculating Hotline call volume increase based on the projected number of children who are victims of physical assault (1 in 2, or 50 percent) means approximately 2,000,000 incidents would be reported to the Hotline annually. This projection is exclusive of children who experience sexual abuse or other types of child maltreatment.

Four percent of children who are victims of physical assaults report that the perpetrator is a stranger. This calculates to approximately 80,000 child victims of physical assaults at the hands of strangers on an annual basis in Florida.

If 50 percent of this population is reported to the Hotline, this would calculate to an additional 40,000 calls annually, a 10 percent increase of total calls to the Hotline.<sup>23</sup>

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<sup>21</sup> Florida Department of Children and Families, *HB 1355-Fiscal Analysis for the Department of Children and Families Hotline*, February 27, 2012 (communicated in email to Health Care Appropriations Subcommittee staff on the same date, on file with the Subcommittee).

<sup>22</sup> Finkelhor, D., Turner, H.A., and Hamby, S.L. (2005), *The victimization of children and youth: A comprehensive, national survey*, *Child Maltreatment*, 10(1): 5-25 (CV73).

<sup>23</sup> During FY 10-11, the Hotline received 407,000 calls; *see supra* at FN 21.

Based on the Hotline staffing mode currently used to determine required staffing levels, this additional call volume will require 42 additional Hotline counselors. Verint, the Hotline's forecasting and scheduling software, looks at historical call patterns in our 24/7 environment, taking into account peaks and valleys, to project the staff needed to have a 99 percent answer rate within 60 seconds. Based on a 10 percent increase in call volume, Verint projected an increase of 42 FTE Hotline Counselors to keep the service level at a 99 percent answer rate within 60 seconds. The Hotline has an 8:1 counselor/supervisor ratio; therefore an additional 5 FTE Hotline Supervisor positions would also be needed.

42 FTE counselors inclusive of benefits = \$1,864,427

5 FTE supervisors inclusive of benefits = \$295,089

Workstation, software licenses, drug testing and background screening for 47 employees (\$3,000 per employee) = \$141,000

**Fiscal Impact: \$2,300,516 General Revenue (\$2,159,516 Recurring, \$141,000 Nonrecurring, 47 FTE and 1,513,326 Salary Rate).**

### **Web-based Chat Requirement**

The Department has included web chat functionality in the requirement matrix for the Hotline Redesign which was funded last year. Therefore, the department does not anticipate further fiscal impact as a result of this requirement.<sup>24</sup>

### **Feasibility Study for Text Messaging**

Funding would enable the Department to hire a consultant to conduct a feasibility study on the potential use of text messaging as a means of reporting allegations of abuse and neglect to the Hotline. Funding for the feasibility study will be a one-time fee of \$90,000 in non-recurring general revenue funding.<sup>25</sup>

### **Relocation Assistance**

The bill authorizes DLA (under the Office of the Attorney General) to award a monetary sum of \$1,500 to a victim of sexual battery once certain preconditions are met. The 2010 Crime in Florida Annual Report indicated that there were 9,885 Forcible Sex Offenses. However, it is unknown how many victims would qualify or request relocation assistance.

The bill provides an appropriation for relocation assistance awards by appropriating \$1.5 million in nonrecurring funds from the General Revenue Fund to the DLA for state FY 2012-2013.

### **Educational Institutions**

The bill provides penalties for Florida educational institutions whose personnel or law enforcement agencies fail to report certain child abuse taking place at the institution. The bill subjects the institution to a \$1 million fine for each failure to report.

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<sup>24</sup> Florida Department of Children and Families, *HB 1355-Revised Fiscal Impact for Strike-All*, communicated via email to staff of the Health and Human Services Committee on February 24, 2012 (on file with the Committee).

<sup>25</sup> *Id.*; according to DCF, Joe Vastole, IT Applications Manager for DCF, provided this information.

### **Training for All Certified School Personnel**

The Department will require \$50,000 (non-recurring general revenue funds) for start up costs in order to obtain the course materials and support for training curriculum. The Department will require \$4,500 (recurring general revenue) for maintenance and support after the first year.<sup>26</sup>

### **Prison Beds**

On January 30, 2012, the Criminal Justice Impact Conference determined that the bill will have an insignificant prison bed impact on the Department of Corrections because of the low volume. However, the bill was amended in the Health and Human Service Committee providing for the reclassification of offenses in which a minor engages in prostitution, lewdness, assignation, sexual conduct or other conduct prohibited by ch. 796, F.S., but is not charged with the violation. That amendment is also expected to have an insignificant impact on state prison beds because of the low volume of the offense.

### **Total Impact**

Total General Revenue Impact is \$3,945,016 (\$2,164,016 Recurring, \$1,781,000 Nonrecurring). The Department of Children and Families will also require 47 Full Time Equivalent Positions (FTE) to implement the provisions of the bill with 1,513,326 in associated salary rate.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

The bill does not appear to have any impact on local government revenues.

##### **2. Expenditures:**

The bill increases penalties for certain prostitution related criminal offenses. It is unknown what impact this will have on local jail beds.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

#### **D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The provisions of the bill that do not address criminal laws do not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

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<sup>26</sup> *Id.*

The provisions of the bill addressing criminal provisions appear to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 25, 2012, the Judiciary Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment creates a relocation assistance fund for victims of sexual battery and appropriates \$1.5 million from the General Revenue Fund for that purpose. The analysis is drafted to the committee substitute as passed by the Judiciary Committee.

On February 23, 2012, the Health and Human Services Committee adopted a strike-all amendment to CS/HB 1355. The strike-all amendment:

- Required reporting of known, or a reasonable suspicion of, physical or emotional abuse of a child by an adult person.
- Required reporting of known, or a reasonable suspicion of, sexual abuse of a child by any person.
- Required known or suspected child abuse, abandonment, or neglect by a person to be reported to the Florida Abuse Hotline maintained by DCF.
- Permits reports of known or suspected child abuse, abandonment, or neglect to be made through web-based chat.
- Required reports of child abuse, abandonment, or neglect by a person other than a caregiver to be taken by the central abuse hotline and forwarded to the appropriate sheriff's office.
- Required DCF to update its web based reporting form for child abuse, abandonment, or neglect to:
  - Include qualifying questions that elicit informative responses to assess need and response;
  - Identify required fields for responses in order to be considered a completed reporting form; and
  - Allow a reported to save a report and return to the report to add information at a later time.
- Required the entire web based reporting form to be available for review to counselors as needed to update the Florida Safe Families Network or other systems.
- Required DCF to conduct a study of the feasibility of adding text and short message service formats to receive and process reports of child abuse, abandonment, or neglect to the central abuse hotline.
- Required DCF to promote a public awareness campaign regarding the central abuse hotline.
- Required DCF to collect and analyze reports of abuse and reports of sexual abuse reported from or occurring on the campus of a Florida College System institution, state university, or nonpublic college, university, or school as defined in s. 1000.21, F.S., and s. 1005.02, F.S.
- Increased the degree of criminal violation committed by a person who is required to report child abuse, abandonment, or neglect, and knowingly or willfully fails to do so to a third degree felony.
- Imposed a \$1 million fine on a Florida College System institution, state university, or nonpublic college, university, or school whose administrators knowingly and willfully failed to report each instance of known or suspected child abuse, abandonment, or neglect committed on campus or during an event sponsored by the college or university, or knowingly and willfully prevented someone from reporting the known or suspected child abuse, abandonment, or neglect.
- Imposed a \$1 million fine on a law enforcement agency of a Florida College System institution, state university, or nonpublic college, university, or school that fails to report known or suspected

child abuse, abandonment, or neglect occurring on campus or during an event sponsored by the college or university.

- Requires the Board of Governors to impose the \$1 million fines.
- Grants the right of the college or university to challenge the determination made by the Board of Governors that it acted knowingly and willfully and the imposition of a fine through the administrative hearing process in chapter 120, F.S.
- Established a presumption of a knowing and willful act if it is established the administration of an institution had actual knowledge and information of known or suspected child abuse, abandonment, or neglect.
- Created s. 39.309, F.S., regarding an alternative response to protective investigation, which:
  - Requires DCF to develop and implement a program of social, rehabilitative, and other services to assist a parent or custodian of a child who contacts the central abuse hotline, not reporting abuse or action rising to the level of a crime, to seek assistance.
  - Requires services to be designed to prevent the child being referred to the central abuse hotline as alleged victim of abuse, abandonment, or neglect.
  - Requires DCF to work with community-based care lead agencies and other agencies to implement the program.
- Amended the definition of “eligible lead community based provider” to require an agency seeking such designation to have an alternative response to protective investigation program pursuant to s. 39.909, F.S.
- Reclassified the felony or misdemeanor degree of criminal violations for prostitution, lewdness, assignation, sexual conduct, or other conduct prohibited by chapter, 796, F.S., involving a minor.
- Established relocation payments for victims of sexual battery and criteria for qualifying for such payments.
- Appropriated \$1.5 million for relocation payments for victims of sexual battery who qualify for such payments.
- Required elementary, middle, and high school teachers to participate in continuing education provided by DCF on identifying and reporting child abuse and neglect.

The bill was reported favorably as a committee substitute. The analysis reflects the committee substitute.



29 | eligible lead community-based providers to have  
 30 | alternative response to protective investigations  
 31 | programs pursuant to specified provisions; creating s.  
 32 | 796.036, F.S.; providing for upward reclassification  
 33 | of certain prostitution offenses involving minors;  
 34 | amending s. 960.198, F.S.; providing for denial of  
 35 | relocation payment for a domestic violence claim if  
 36 | the Department of Legal Affairs has previously paid a  
 37 | sexual battery relocation claim to the same victim for  
 38 | the same incident; creating s. 960.199, F.S.;  
 39 | providing for relocation assistance payments to  
 40 | victims of sexual battery; providing criteria for  
 41 | awards; providing for denial of relocation payment for  
 42 | a sexual battery claim if the department has  
 43 | previously paid a domestic violence relocation claim  
 44 | to the same victim for the same incident; providing an  
 45 | appropriation; amending s. 1012.98, F.S.; providing a  
 46 | continuing education requirement for certain teachers  
 47 | on identifying and reporting child abuse and neglect;  
 48 | providing an effective date.

49 |

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

51 |

52 | Section 1. Paragraph (a) of subsection (1) and subsections  
 53 | (2) and (4) of section 39.201, Florida Statutes, are amended to  
 54 | read:

55 | 39.201 Mandatory reports of child abuse, abandonment, or  
 56 | neglect; mandatory reports of death; central abuse hotline.—



57 (1)(a) Any person who knows, or has reasonable cause to  
 58 suspect, that a child is physically or emotionally abused,  
 59 abandoned, or neglected by an adult person, or sexually abused  
 60 by any person ~~a parent, legal custodian, caregiver, or other~~  
 61 ~~person responsible for the child's welfare, as defined in this~~  
 62 ~~chapter,~~ or that a child is in need of supervision and care and  
 63 has no parent, legal custodian, or responsible adult relative  
 64 immediately known and available to provide supervision and care  
 65 shall report such knowledge or suspicion to the department in  
 66 the manner prescribed in subsection (2).

67 (2)(a) Each report of known or suspected child abuse,  
 68 abandonment, or neglect by an adult person, or of sexual abuse  
 69 by any person ~~a parent, legal custodian, caregiver, or other~~  
 70 ~~person responsible for the child's welfare as defined in this~~  
 71 ~~chapter,~~ except those solely under s. 827.04(3), and each report  
 72 that a child is in need of supervision and care and has no  
 73 parent, legal custodian, or responsible adult relative  
 74 immediately known and available to provide supervision and care  
 75 shall be made immediately to the department's central abuse  
 76 hotline. Such reports may be made on the single statewide toll-  
 77 free telephone number or via fax, web-based chat, or web-based  
 78 report. Personnel at the department's central abuse hotline  
 79 shall determine if the report received meets the statutory  
 80 definition of child abuse, abandonment, or neglect. Any report  
 81 meeting one of these definitions shall be accepted for the  
 82 protective investigation pursuant to part III of this chapter.  
 83 Any report of child abuse, abandonment, or neglect by a person  
 84 other than the child's caregiver, as defined in s. 39.01, shall

85 be taken by the central abuse hotline and forwarded to the  
 86 appropriate county sheriff's office pursuant to paragraph (b).

87 (b) If the report is of an instance of known or suspected  
 88 child abuse by someone other than a parent, legal custodian,  
 89 caregiver, or other person responsible for the child's welfare  
 90 as defined in this chapter, the report or call shall be  
 91 immediately electronically transferred to the appropriate county  
 92 sheriff's office by the central abuse hotline.

93 (c) If the report is of an instance of known or suspected  
 94 child abuse, abandonment, or neglect that occurred out of state  
 95 and the alleged perpetrator and the child alleged to be a victim  
 96 live out of state, the central abuse hotline shall not accept  
 97 the report or call for investigation, but shall transfer the  
 98 information on the report to the appropriate state.

99 (d) If the report is of an instance of known or suspected  
 100 child abuse involving impregnation of a child under 16 years of  
 101 age by a person 21 years of age or older solely under s.  
 102 827.04(3), the report shall be made immediately to the  
 103 appropriate county sheriff's office or other appropriate law  
 104 enforcement agency. If the report is of an instance of known or  
 105 suspected child abuse solely under s. 827.04(3), the reporting  
 106 provisions of this subsection do not apply to health care  
 107 professionals or other persons who provide medical or counseling  
 108 services to pregnant children when such reporting would  
 109 interfere with the provision of medical services.

110 (e) Reports involving known or suspected institutional  
 111 child abuse or neglect shall be made and received in the same  
 112 manner as all other reports made pursuant to this section.

113 (f) Reports involving a known or suspected juvenile sexual  
 114 offender or a child who has exhibited inappropriate sexual  
 115 behavior shall be made and received by the department.

116 1. The department shall determine the age of the alleged  
 117 offender, if known.

118 2. If the alleged offender is 12 years of age or younger,  
 119 the central abuse hotline shall immediately electronically  
 120 transfer the report or call to the county sheriff's office. The  
 121 department shall conduct an assessment and assist the family in  
 122 receiving appropriate services pursuant to s. 39.307, and send a  
 123 written report of the allegation to the appropriate county  
 124 sheriff's office within 48 hours after the initial report is  
 125 made to the central abuse hotline.

126 3. If the alleged offender is 13 years of age or older,  
 127 the central abuse hotline shall immediately electronically  
 128 transfer the report or call to the appropriate county sheriff's  
 129 office and send a written report to the appropriate county  
 130 sheriff's office within 48 hours after the initial report to the  
 131 central abuse hotline.

132 (g) Reports involving surrendered newborn infants as  
 133 described in s. 383.50 shall be made and received by the  
 134 department.

135 1. If the report is of a surrendered newborn infant as  
 136 described in s. 383.50 and there is no indication of abuse,  
 137 neglect, or abandonment other than that necessarily entailed in  
 138 the infant having been left at a hospital, emergency medical  
 139 services station, or fire station, the department shall provide  
 140 to the caller the name of a licensed child-placing agency on a

141 rotating basis from a list of licensed child-placing agencies  
 142 eligible and required to accept physical custody of and to place  
 143 newborn infants left at a hospital, emergency medical services  
 144 station, or fire station. The report shall not be considered a  
 145 report of abuse, neglect, or abandonment solely because the  
 146 infant has been left at a hospital, emergency medical services  
 147 station, or fire station pursuant to s. 383.50.

148 2. If the call, fax, web-based chat, or web-based report  
 149 includes indications of abuse or neglect beyond that necessarily  
 150 entailed in the infant having been left at a hospital, emergency  
 151 medical services station, or fire station, the report shall be  
 152 considered as a report of abuse, neglect, or abandonment and  
 153 shall be subject to the requirements of s. 39.395 and all other  
 154 relevant provisions of this chapter, notwithstanding any  
 155 provisions of chapter 383.

156 (h) Hotline counselors shall receive periodic training in  
 157 encouraging reporters to provide their names when reporting  
 158 abuse, abandonment, or neglect. Callers shall be advised of the  
 159 confidentiality provisions of s. 39.202. The department shall  
 160 secure and install electronic equipment that automatically  
 161 provides to the hotline the number from which the call or fax is  
 162 placed or the Internet protocol (IP) address from which the  
 163 report is received. This number shall be entered into the report  
 164 of abuse, abandonment, or neglect and become a part of the  
 165 record of the report, but shall enjoy the same confidentiality  
 166 as provided to the identity of the reporter pursuant to s.  
 167 39.202.

168 (i) The department shall voice-record all incoming or

169 outgoing calls that are received or placed by the central abuse  
 170 hotline which relate to suspected or known child abuse, neglect,  
 171 or abandonment. The department shall maintain an electronic copy  
 172 of each fax and web-based report. The recording or electronic  
 173 copy of each fax and web-based report shall become a part of the  
 174 record of the report but, notwithstanding s. 39.202, shall be  
 175 released in full only to law enforcement agencies and state  
 176 attorneys for the purpose of investigating and prosecuting  
 177 criminal charges pursuant to s. 39.205, or to employees of the  
 178 department for the purpose of investigating and seeking  
 179 administrative penalties pursuant to s. 39.206. Nothing in this  
 180 paragraph shall prohibit the use of the recordings, the  
 181 electronic copies of faxes, and web-based reports by hotline  
 182 staff for quality assurance and training.

183 (j)1. The department shall update the web form used for  
 184 reporting child abuse, abandonment, or neglect to:

185 a. Include qualifying questions in order to obtain  
 186 necessary information required to assess need and a response.

187 b. Indicate which fields are required to submit the  
 188 report.

189 c. Allow a reporter to save his or her report and return  
 190 to it a later time.

191 2. The report shall be made available to the counselors in  
 192 its entirety as needed to update the Florida Safe Families  
 193 Network or other similar systems.

194 (k) The department shall conduct a study to determine the  
 195 feasibility of using text and short message service formats to  
 196 receive and process reports of child abuse, abandonment, or

197 | neglect to the central abuse hotline.

198 |       (4) The department shall establish and maintain a central  
 199 | abuse hotline to receive all reports made pursuant to this  
 200 | section in writing, via fax, via web-based reporting, via web-  
 201 | based chat, or through a single statewide toll-free telephone  
 202 | number, which any person may use to report known or suspected  
 203 | child abuse, abandonment, or neglect at any hour of the day or  
 204 | night, any day of the week. The department shall promote public  
 205 | awareness of the central abuse hotline through community-based  
 206 | partner organizations and public service campaigns. The central  
 207 | abuse hotline shall be operated in such a manner as to enable  
 208 | the department to:

209 |       (a) Immediately identify and locate prior reports or cases  
 210 | of child abuse, abandonment, or neglect through utilization of  
 211 | the department's automated tracking system.

212 |       (b) Monitor and evaluate the effectiveness of the  
 213 | department's program for reporting and investigating suspected  
 214 | abuse, abandonment, or neglect of children through the  
 215 | development and analysis of statistical and other information.

216 |       (c) Track critical steps in the investigative process to  
 217 | ensure compliance with all requirements for any report of abuse,  
 218 | abandonment, or neglect.

219 |       (d) Maintain and produce aggregate statistical reports  
 220 | monitoring patterns of child abuse, child abandonment, and child  
 221 | neglect. The department shall collect and analyze child-on-child  
 222 | sexual abuse reports and include the information in aggregate  
 223 | statistical reports. The department shall collect and analyze,  
 224 | in separate statistical reports, those reports of child abuse

225 and sexual abuse which are reported from or occurred on the  
 226 campus of any Florida College System institution, state  
 227 university, or nonpublic college, university, or school, as  
 228 defined in s. 1000.21 or s. 1005.02.

229 (e) Serve as a resource for the evaluation, management,  
 230 and planning of preventive and remedial services for children  
 231 who have been subject to abuse, abandonment, or neglect.

232 (f) Initiate and enter into agreements with other states  
 233 for the purpose of gathering and sharing information contained  
 234 in reports on child maltreatment to further enhance programs for  
 235 the protection of children.

236 Section 2. Subsections (3) through (6) of section 39.205,  
 237 Florida Statutes, are renumbered as subsections (6) through (9),  
 238 respectively, new subsections (3), (4), and (5) are added to  
 239 that section, and subsection (1) of that section is amended, to  
 240 read:

241 39.205 Penalties relating to reporting of child abuse,  
 242 abandonment, or neglect.—

243 (1) A person who is required to report known or suspected  
 244 child abuse, abandonment, or neglect and who knowingly and  
 245 willfully fails to do so, or who knowingly and willfully  
 246 prevents another person from doing so, commits ~~is guilty of a~~  
 247 felony misdemeanor of the third ~~first~~ degree, punishable as  
 248 provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084. A judge  
 249 subject to discipline pursuant to s. 12, Art. V of the Florida  
 250 Constitution shall not be subject to criminal prosecution when  
 251 the information was received in the course of official duties.

252 (3) Any Florida College System institution, state

253 university, or nonpublic college, university, or school, as  
 254 defined in s. 1000.21 or s. 1005.02, whose administrators  
 255 knowingly and willfully, upon receiving information from  
 256 faculty, staff, or other institution employees, fail to report  
 257 known or suspected child abuse, abandonment, or neglect  
 258 committed on the property of the institution, university,  
 259 college, or school, or during an event or function sponsored by  
 260 the institution, university, college, or school, or who  
 261 knowingly and willfully prevent another person from doing so,  
 262 shall be subject to fines by the Board of Governors of \$1  
 263 million for each such failure.

264 (4) Any Florida College System institution, state  
 265 university, or nonpublic college, university, or school, as  
 266 defined in s. 1000.21 or s. 1005.02, whose law enforcement  
 267 agency fails to report known or suspected child abuse,  
 268 abandonment, or neglect committed on the property of the  
 269 institution, university, college, or school, or during an event  
 270 or function sponsored by the institution, university, college,  
 271 or school, shall be subject to fines imposed by the Board of  
 272 Governors of \$1 million for each such failure.

273 (5) Any Florida College System institution, state  
 274 university, or nonpublic college, university or school, as  
 275 defined in s. 1000.21 or s. 1005.02, shall have the right to  
 276 challenge the Board of Governor's determination that the  
 277 institution acted knowingly and willfully under subsection (3)  
 278 or subsection (4) in an administrative hearing pursuant to s.  
 279 120.57; however, if it is found that actual knowledge and  
 280 information of known or suspected child abuse was in fact



281 received by the institution's administrators and was not  
 282 reported, a presumption of a knowing and willful act will be  
 283 established.

284 Section 3. Section 39.309, Florida Statutes, is created to  
 285 read:

286 39.309 Alternative response to protective investigation.-  
 287 The department shall, in order to implement an alternative  
 288 response to protective investigations program:

289 (1) Develop and implement a program of social services and  
 290 other supportive and rehabilitative services to be made  
 291 available to the parent or legal custodian of a child seeking  
 292 assistance pursuant to s. 39.201(2)(a). The social services and  
 293 other supportive and rehabilitative services shall promote the  
 294 child's physical, mental, and emotional health; provide a safe,  
 295 stable living environment; promote family autonomy; and  
 296 strengthen family life, whenever possible.

297 (2) Ensure that such services are targeted to prevent or  
 298 mitigate the possibility of a child being referred to the  
 299 hotline as an alleged victim of abuse, neglect, or abandonment,  
 300 or to reduce the incidents of abuse.

301 (3) Coordinate with community-based care lead agencies  
 302 pursuant to s. 409.1671 or other agencies.

303 Section 4. Paragraph (e) of subsection (1) of section  
 304 409.1671, Florida Statutes, is amended to read:

305 409.1671 Foster care and related services; outsourcing.-

306 (1)

307 (e) As used in this section, the term "eligible lead  
 308 community-based provider" means a single agency with which the

309 department shall contract for the provision of child protective  
 310 services in a community that is no smaller than a county. The  
 311 secretary of the department may authorize more than one eligible  
 312 lead community-based provider within a single county when to do  
 313 so will result in more effective delivery of foster care and  
 314 related services. To compete for an outsourcing project, such  
 315 agency must have:

316 1. The ability to coordinate, integrate, and manage all  
 317 child protective services in the designated community in  
 318 cooperation with child protective investigations.

319 2. The ability to ensure continuity of care from entry to  
 320 exit for all children referred from the protective investigation  
 321 and court systems.

322 3. The ability to provide directly, or contract for  
 323 through a local network of providers, all necessary child  
 324 protective services. Such agencies should directly provide no  
 325 more than 35 percent of all child protective services provided.

326 4. The willingness to accept accountability for meeting  
 327 the outcomes and performance standards related to child  
 328 protective services established by the Legislature and the  
 329 Federal Government.

330 5. The capability and the willingness to serve all  
 331 children referred to it from the protective investigation and  
 332 court systems, regardless of the level of funding allocated to  
 333 the community by the state, provided all related funding is  
 334 transferred.

335 6. The willingness to ensure that each individual who  
 336 provides child protective services completes the training

337 required of child protective service workers by the Department  
 338 of Children and Family Services.

339 7. The ability to maintain eligibility to receive all  
 340 federal child welfare funds, including Title IV-E and IV-A  
 341 funds, currently being used by the Department of Children and  
 342 Family Services.

343 8. Written agreements with Healthy Families Florida lead  
 344 entities in their community, pursuant to s. 409.153, to promote  
 345 cooperative planning for the provision of prevention and  
 346 intervention services.

347 9. A board of directors, of which at least 51 percent of  
 348 the membership is comprised of persons residing in this state.  
 349 Of the state residents, at least 51 percent must also reside  
 350 within the service area of the lead community-based provider.

351 10. An alternative response to protective investigations  
 352 program pursuant to 39.309.

353 Section 5. Section 796.036, Florida Statutes, is created  
 354 to read:

355 796.036 Violations involving minors; reclassification.-

356 (1) The felony or misdemeanor degree of any violation of  
 357 this chapter, other than s. 796.03 or s. 796.035, in which a  
 358 minor engages in prostitution, lewdness, assignation, sexual  
 359 conduct, or other conduct as defined in or prohibited by this  
 360 chapter, but the minor is not the person charged with the  
 361 violation, is reclassified as provided in this section.

362 (2) Offenses shall be reclassified as follows:

363 (a) A misdemeanor of the second degree is reclassified to  
 364 a misdemeanor of the first degree.

365        (b) A misdemeanor of the first degree is reclassified to a  
 366 felony of the third degree.

367        (c) A felony of the third degree is reclassified to a  
 368 felony of the second degree.

369        (d) A felony of the second degree is reclassified to a  
 370 felony of the first degree.

371        (e) A felony of the first degree is reclassified to a life  
 372 felony.

373        Section 6. Subsection (3) is added to section 960.198,  
 374 Florida Statutes, to read:

375        960.198 Relocation assistance for victims of domestic  
 376 violence.—

377        (3) Relocation payments for a domestic violence claim  
 378 shall be denied if the department has previously approved or  
 379 paid out a sexual battery relocation claim under s. 960.199 to  
 380 the same victim regarding the same incident.

381        Section 7. Section 960.199, Florida Statutes, is created  
 382 to read:

383        960.199 Relocation assistance for victims of sexual  
 384 battery.—

385        (1) The department may award a one-time payment of up to  
 386 \$1,500 on any one claim and a lifetime maximum of \$3,000 to a  
 387 victim of sexual battery as defined in s. 794.011 who needs  
 388 relocation assistance.

389        (2) In order for an award to be granted to a victim for  
 390 relocation assistance:

391        (a) There must be proof that a sexual battery offense was  
 392 committed.

393        (b) The sexual battery offense must be reported to the  
 394 proper authorities.

395        (c) The victim's need for assistance must be certified by  
 396 a certified rape crisis center in this state.

397        (d) The center certification must assert that the victim  
 398 is cooperating with law enforcement officials, if applicable,  
 399 and must include documentation that the victim has developed a  
 400 safety plan.

401        (e) The act of sexual battery must be committed in the  
 402 victim's place of residence or in a location that would lead the  
 403 victim to reasonably fear for his or her continued safety in the  
 404 place of residence.

405        (3) Relocation payments for a sexual battery claim shall  
 406 be denied if the department has previously approved or paid out  
 407 a domestic violence relocation claim under s. 960.198 to the  
 408 same victim regarding the same incident.

409        Section 8. For the 2012-2013 state fiscal year, the sum of  
 410 \$1.5 million in nonrecurring funds is appropriated from the  
 411 General Revenue Fund to the Department of Legal Affairs, Office  
 412 of the Attorney General, for the relocation of victims of sexual  
 413 battery as provided in s. 960.199, Florida Statutes, as created  
 414 by this act.

415        Section 9. Subsection (12) is added to section 1012.98,  
 416 Florida Statutes, to read:

417        1012.98 School Community Professional Development Act.—

418        (12) The department shall require teachers in grades 1-12  
 419 to participate in continuing education training provided by the  
 420 Department of Children and Family Services on identifying and

CS/CS/HB 1355

2012

421 | reporting child abuse and neglect.

422 | Section 10. This act shall take effect October 1, 2012.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Appropriations Committee  
 2 Representative Dorworth offered the following:

4 **Amendment**

5 Remove lines 258-276 and insert:

6 committed on the property of the university, college, or school,  
 7 or during an event or function sponsored by the university,  
 8 college, or school, or who knowingly and willfully prevent  
 9 another person from doing so, shall be subject to fines of \$1  
 10 million for each such failure.

11 (a) A Florida College System institution subject to a fine  
 12 shall be assessed by the State Board of Education.

13 (b) A state university subject to a fine shall be assessed  
 14 by the Board of Governors.

15 (c) A nonpublic college, university or school subject to a  
 16 fine shall be assessed by the Commission for Independent  
 17 Education.

18 (4) Any Florida College System institution, state  
 19 university, or nonpublic college, university, or school, as

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 1355 (2012)

Amendment No. 1

20 defined in s. 1000.21 or s. 1005.02, whose law enforcement  
21 agency fails to report known or suspected child abuse,  
22 abandonment, or neglect committed on the property of the  
23 university, college, or school, or during an event or function  
24 sponsored by the university, college, or school, shall be  
25 subject to fines of \$1 million for each such failure, assessed  
26 in the same manner as subsection (3).

27 (5) Any Florida College System institution, state  
28 university, or nonpublic college, university or school, as  
29 defined in s. 1000.21 or s. 1005.02, shall have the right to  
30 challenge the determination that the  
31



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 1355 (2012)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative Dorworth offered the following:

3  
4 **Amendment (with title amendment)**

5 Between lines 421 and 422, insert:

6 Section 10. For Fiscal Year 2012-13, 47 full-time  
7 equivalent positions, with associated salary rate of \$1,513,326  
8 are authorized and the sums of \$2,164,016 in recurring funds and  
9 \$281,000 in nonrecurring funds is appropriated from the General  
10 Revenue Fund to the Department of Children and Family Services  
11 for additional costs associated with the changes in mandatory  
12 reporting of child abuse, abandonment, or neglect pursuant to s.  
13 39.201, Florida Statutes.

14  
15  
16  
17 -----  
18 **T I T L E A M E N D M E N T**

19 Remove line 48 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 1355 (2012)

Amendment No. 2

20 providing an appropriation; authorizing full-time equivalent  
21 positions with associated salary rates within the Department of  
22 Children & Family Services; providing an effective date.  
23



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7129 PCB EDC 12-02 State Universities of Academic and Research Excellence and National Preeminence

SPONSOR(S): Education Committee, Proctor

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee	11 Y, 7 N	Graf	Klebacha
1) Appropriations Committee		Heflin <i>(Act)</i>	Leznoff <i>(Signature)</i>

SUMMARY ANALYSIS

The bill establishes the State Universities of Academic and Research Excellence and National Preeminence Act (Act). The Act is a collaborative partnership between the Board of Governors (BOG) and the Legislature to elevate the academic and research excellence and national preeminence of the highest performing state research universities in Florida.

A state research university that substantially meets 11 of the 14 academic and research excellence standards established in the bill may:

- Establish student tuition and fees at differentiated and market rates; and
- Require incoming first-time-in-college students to take 9-12 credit hours of coursework specifically determined by the university at the university.

A qualified Prepaid Program beneficiary is exempt from the payment of any increase in tuition and fees if an advance payment contract for such qualified beneficiary predates the first year an SUS institution receives tuition and fee authority; and if the advance payment contract for such qualified beneficiary remains in effect. A qualified Prepaid Program beneficiary who enters into an advance payment contract in the first year an SUS institution receives tuition and fee authority, or in the years thereafter, must pay the difference between the highest rate of tuition and fees covered by the advance payment contract and the tuition and fees assessed by the SUS institution of national preeminence that such qualified beneficiary attends.

Additionally, a state research university that substantially meets the requirements of the bill must submit a tuition and fee rate proposal annually by May 31 detailing the requested budget authority in the Education and General Student and Other Fees Trust Fund needed to implement the new tuition structure to the BOG with the university work plans.

Finally, a state research university that substantially meets the requirements of the bill must maintain fees used to pledge or secure debt at an appropriate fee level to meet all debt service obligations of that university.

The bill will result in an increase in appropriations to provide sufficient budget authority in the Education/General Student and Other Fee Trust Fund to accommodate the expenditure of additional revenues generated by the approved increased tuition and fee rate proposal.

See FISCAL COMMENTS.

The bill shall take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **State University System of Florida**

The State University System of Florida (SUS) provides students with undergraduate and graduate level instruction leading to baccalaureate, masters, doctoral, and professional degrees. SUS institutions also conduct research and engage in public service.<sup>1</sup> The SUS is comprised of the following 11 institutions:<sup>2</sup>

- Florida Agricultural and Mechanical University
- Florida Atlantic University
- Florida Gulf Coast University
- Florida International University
- Florida State University
- New College of Florida
- University of Central Florida
- University of Florida
- University of North Florida
- University of South Florida
- University of West Florida

As set forth in the Florida Constitution, state-level governance of the SUS is provided by the Board of Governors (BOG) and Legislature.<sup>3</sup> The BOG is comprised of 17 members – the Commissioner of Education, the chair of the Advisory Council of Faculty Senates or the equivalent, the Florida Student Association president, and 14 citizen-appointments by the Governor. Governor appointees must be confirmed by the Florida Senate.<sup>4</sup>

Each institution in the SUS is governed locally by a board of trustees<sup>5</sup> comprised of 13 members – the chair of the faculty senate or the equivalent, the president of the student body of that institution, six members appointed by the Governor, and five members appointed by the BOG. The members appointed by the Governor and the BOG must be confirmed by the Florida Senate.<sup>6</sup> The local boards of trustees must govern their institutions in accordance with BOG rules and regulations.<sup>7</sup> Each local board's responsibilities include strategic planning and adopting policies regarding admissions, educational programming, administration, personnel, contracts, grants, and facilities.<sup>8</sup>

##### **State University System Governance**

###### *Present Situation*

###### *Board of Governors*

The BOG is the constitutionally created body required to “operate, regulate, control, and be fully responsible for the management of the whole university system.”<sup>9</sup> The BOG’s responsibilities include defining the distinctive mission of each SUS institution and its articulation with public schools and Florida College System (FCS) institutions, ensuring the well-planned coordination and operation of the

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<sup>1</sup> Art. IX, s. 7, Fla. Const.

<sup>2</sup> Section 1000.21(6), F.S.

<sup>3</sup> Art. IX, s. 7(d), Fla. Const.

<sup>4</sup> *Id.*

<sup>5</sup> Art. IX, s. 7(c), Fla. Const.; s. 1001.71(1), F.S.

<sup>6</sup> Section 1001.71(1), F.S.

<sup>7</sup> Art. IX, s. 7(c), Fla. Const.; *see also* Florida Board of Governors Regulation 1.001 (Feb. 16, 2012).

<sup>8</sup> Florida Board of Governors Regulation 1.001(3)-(7).

<sup>9</sup> Art. IX, s. 7(d), Fla. Const.

system, and avoiding wasteful duplication of facilities or programs.<sup>10</sup> The BOG, or the BOG's designee has responsibility for:<sup>11</sup>

- Defining the distinctive mission of each SUS institution.
- Defining the articulation of each SUS institution in conjunction with the Legislature's authority over the public schools and the FCS institutions.
- Ensuring the well-planned coordination and operation of the SUS.
- Avoiding wasteful duplication of facilities or programs within the SUS.
- Accounting for expenditure of funds appropriated by the Legislature for the SUS as provided by law.
- Submitting a budget request for legislative appropriations for the institutions under the supervision of the BOG as provided by law.
- Adopting strategic plans for the SUS and each SUS institution.
- Approving, reviewing, and terminating degree programs of the SUS.
- Governing admissions to the SUS institutions.
- Serving as the public employer to all public employees of the state universities for collective bargaining purposes.
- Establishing a personnel system for SUS institutions' employees.<sup>12</sup>
- Complying with, and enforcing for institutions under the BOG's jurisdiction, all applicable local, state, and federal laws.

The BOG's oversight of the SUS is subject to the Legislature's power to appropriate funds, as well as the Legislature's responsibility to provide for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.<sup>13</sup>

### *Legislature*

With regard to the SUS, the Legislature is responsible for:<sup>14</sup>

- Making provision by law for the establishment, maintenance, and operation of institutions of higher learning and other public education programs.
- Appropriating state funds for the SUS through the General Appropriations Act or other law.
- Establishing tuition and fees.
- Establishing policies relating to merit- and need-based student financial aid.
- Establishing policies relating to the expenditure of, accountability for, and management of funds appropriated by the Legislature or revenues authorized by the Legislature, including but not limited to, policies relating to: budgeting; deposit of funds; investments; accounting; purchasing, procurement, and contracting; insurance; audits; maintenance and construction of facilities; property; bond financing; leasing; and information reporting.
- Maintaining the actuarial and fiscal soundness of centrally administered state systems by requiring SUS institutions to continue to participate in programs such as the Florida Retirement System, state group health insurance programs, and the state casualty insurance program.
- Establishing and regulating the use of state powers and protections, including, but not limited to, eminent domain, certified law enforcement, and sovereign immunity.
- Establishing policies relating to the health, safety, and welfare of students, employees, and the public while present on the campuses of SUS institutions.

<sup>10</sup> Art. IX, s. 7(d), Fla. Const.; ss. 1001.705 and 1001.706, F.S.

<sup>11</sup> Section 1001.705(2), F.S.

<sup>12</sup> Although the Florida Board of Governors are responsible for establishing a personnel system for all state universities, the Department of Management Services shall retain control over the state group insurance and retirement plans established in ss. 110.123, 110.1232, 110.1234, 110.1238, and 110.161, and in chapters 121, 122, and 238. Section 1001.705(2)(k), F.S.

<sup>13</sup> Art. IX, s. 1(a) and 7(d), Fla. Const.; ss. 1001.705 and 1001.706, F.S.

<sup>14</sup> Section 1001.705(3), F.S.

## *State University System Governance Agreement*

In 2007, a group of citizens filed a lawsuit against the Legislature, which sought to clarify the scope of the BOG's constitutional authority and identify the entity that has the authority to set SUS tuition and fees. Subsequently, this lawsuit was joined by the BOG.

On March 24, 2010, the Chair of the BOG, the Chancellor of the SUS, legislative leaders and the Governor signed an SUS Governance Agreement acknowledging their shared constitutional authority for the state universities as set forth in the Constitution of the State of Florida. The components of the SUS Governance Agreement include master planning and coordination of Florida's higher education systems, strategic planning, university governance, financial aid programs; the Administrative Procedures Act and BOG regulations, tuition and fees. As a result of the SUS Governance Agreement, the BOG filed a notice of dismissal, with prejudice, of their claims in the 2007 lawsuit filed against the Legislature. The presiding officers agreed to file legislation in accordance with the framework set forth in the governance agreement and to exercise their best efforts to accomplish the final passage of the legislation.<sup>15</sup>

Legislation enacted in 2010 amended various sections of Florida law to implement the provisions of the governance agreement by:<sup>16</sup>

- Creating the Higher Education Coordinating Council to identify unmet needs and to facilitate solutions to disputes regarding the creation of new degree programs and the establishment of new institutes, campuses, or centers; and serve as an advisory board to the Legislature.
- Expressing legislative intent that the BOG align the missions of each university with factors relating to students, faculty, research, and statutorily required strategic and accountability plans.
- Eliminating the requirement of legislative approval for certain programs that lead to licensure and repealing the specific statutory authority for certain programs at specified SUS institutions.
- Repealing section 1001.74, Florida Statutes, relating to the powers and duties of the university boards of trustees in recognition of the BOG's exclusive authority to delegate power and duties to the university boards of trustees.
- Acknowledging the BOG is responsible for the personnel programs for university employees, requiring the BOG to confirm the presidential selection of a university board of trustees, and stating that the Department of Management Services will continue to control the state group insurance and retirement plans.
- Exempting state universities from certain requirements regarding communications and data processing.
- Allowing a university to participate in the state-maintained SUNCOM Network communications services at the university's discretion.
- Acknowledging the BOG's authority to adopt regulations when acting pursuant to its constitutional duties and responsibilities.
- Requiring the BOG to comply with the Administrative Procedure Act when acting pursuant to statutory authority, unless specifically authorized or required to adopt regulations.
- Authorizing the Department of State to remove from the Florida Administrative Code rules superseded by BOG and university boards of trustees' regulations adopted pursuant to their constitutional or specific statutory authority.
- Authorizing the BOG to approve university board of trustees' proposal to: implement flexible tuition policies<sup>17</sup> as long as such policies are aligned to a university's mission and the policies do not increase the state's liability or obligations, including but not limited to the Bright Futures

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<sup>15</sup>Florida Legislature, *State University System Governance Agreement* (March 24, 2010); see also ch. 2010-78, L.O.F.; staff of the Florida House of Representatives, *Legislative Bill Analysis for HB 7237* (2010).

<sup>16</sup> Chapter. 2010-78, L.O.F.; staff of the Florida House of Representatives, *Legislative Bill Analysis for HB 7237* (2010).

<sup>17</sup> Flexible tuition policies include block tuition, block tuition differential, market rate tuition for graduate level online courses, and market rate tuition for graduate level continuing education courses. Section 1009.24(15)(a)3., F.S.

Scholarship program and the Florida Prepaid Tuition Program; establish a fee not specifically authorized in law; and increase the cap for certain existing fees<sup>18</sup>.

- Requiring the BOG to consider certain factors when reviewing fee proposals and flexible tuition policies: the services or operations currently being funded by the fee; whether those services or operations can be performed more efficiently to reduce the need for an increase; the additional or enhanced services to be funded by the fee increase; whether alternative resources are available to meet the need; and whether the financial impact on students is warranted in light of other charges assessed to students.
- Requiring the BOG to submit an annual report to the President of the Senate, the Speaker of the House of Representatives, and the Governor summarizing the tuition and fee proposals received by the BOG during the preceding year and the actions taken by the BOG in response to such proposals.
- Requiring that fees for services be based on reasonable costs of services.
- Limiting an increase to an existing fee or a new fee established to a maximum of once each fiscal year and requiring the fee increase to be implemented beginning with the fall term.

On December 30, 2010, the Second Judicial Circuit of Leon County entered summary judgment in favor of the Legislature in the 2007 lawsuit, holding among other things, that the Legislature's power to appropriate SUS funding includes the authority to establish tuition and fee levels.<sup>19</sup>

### *Conversations with SUS Institution Presidents*

In January 2012, each SUS institution president participated in conversations with the House Education Committee regarding ideas to facilitate institutional and system excellence. The goal of these conversations was to elicit input and suggestions regarding actions that would best serve SUS institutions, while also strengthening Florida's state university system. The conversations included discussions on institutional mission; tuition flexibilities; and accountability standards to increase productivity, raise quality, and maximize state and student investments in higher education.

Representatives from the Southern Regional Education Board (SREB) and the Office of Program Policy Analysis and Government Analysis (OPPAGA) presented data to show how Florida's universities compare nationally based on widely used performance measures.<sup>20</sup> Such measures typically include basic indicators of institutional performance such as graduation rate and freshman retention rate.

The SUS graduation rate and freshman retention rate are strong compared to the largest public university systems in the country. Specifically, the SUS ranks fourth among the ten largest public university systems on six-year graduation rate and second on freshman retention rate. However, despite Florida's competitive national standing in graduation and retention rates, the BOG and the university board of trustees recognize that there is room for improvement.<sup>21</sup> Currently, only one of the SUS's eleven public institutions is a member of the Association of American Universities (AAU), the University of Florida.<sup>22</sup>

The AAU is an invitation-only, nonprofit association of 59 U.S. and 2 Canadian preeminent public and private research universities. AAU was founded in 1900 to advance the international standing of U.S.

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<sup>18</sup> The cap may be increased for the following fees: an application fee; an orientation fee; a fee for security, access, or identification cards; a fee assessed for special types of registration; a fee assessed for late payment of tuition and fees; a fee for the replacement of transcripts and diplomas; and a nonrefundable admissions deposit. Section 1009.24(14)(a)-(g) and (15)(a)2., F.S.

<sup>19</sup> *Graham, et al. v. Atwater and Cretul*, Final Summary Declaratory Judgment, Case No. 2007-CA-1818(2<sup>nd</sup> Cir. Ct. Dec. 30, 2010).

<sup>20</sup> Florida Legislature, *House Education Committee Meeting Packets* (Jan. 12, 2012; Jan 13, 2012; Jan. 18, 2012; and Jan. 19, 2012), available at

<http://myfloridahouse.gov/Sections/Documents/publications.aspx?CommitteeId=2591&PublicationType=Committees&DocumentType=Meeting%20Packets&Session=2012&SessionId=70> (last visited Feb. 17, 2012).

<sup>21</sup> State University System of Florida, Board of Governors, *State University System Graduation and Retention Rates Are Nationally Competitive*, Information Brief (Sept. 28, 2011), available at <http://www.flbog.org/resources/publications/infobriefs.php> (last visited Feb. 23, 2011).

<sup>22</sup> Association of American Universities, *Member Institutions and Years of Admission*, available at <http://www.aau.edu/about/article.aspx?id=5476> (last visited Feb. 17, 2012).



research universities. Today, AAU focuses on issues that are important to research-intensive universities, such as funding for research, research and education policy, and graduate and undergraduate education.<sup>23</sup>

### Effect of Proposed Changes

The bill creates the State Universities of Academic and Research Excellence and National Preeminence Act and establishes a collaborative partnership between the BOG and the Legislature to raise the academic and research excellence and national preeminence of the highest performing state research universities in Florida. This partnership is based on the SUS Governance Agreement that affirmed the commitment of the BOG and the Legislature to continue collaboration on accountability measures, the use of data, and recommendations derived from such data.

## **Tuition and Fees**

### Present Situation

SUS institutions generate revenues by assessing tuition<sup>24</sup> and fees. Undergraduate tuition for Florida resident students is established by the Legislature<sup>25</sup>; and tuition for graduate and professional students, and out-of-state fees<sup>26</sup> for all programs are established by the board of trustees for each SUS institution and approved by the BOG.<sup>27</sup> The board of trustees for each SUS institution may establish the following fees subject to the approval of the BOG: activity and service fee, health fee, athletic fee, and tuition differential fee<sup>28</sup>. The Legislature establishes the financial aid fee, Capital Improvement Trust Fund fee, building fee, and distance learning course fee as a specified dollar amount or percent of tuition.<sup>29</sup> In addition, the board of trustees for each SUS institution may assess additional fees upon approval by the BOG.<sup>30</sup> Revenue generated from these fees must be expended as provided in law.<sup>31</sup>

During 2011-2012, the tuition and fee average for Florida's public universities increased by 11.8 percent to \$5,626 per year, moving the SUS from 48<sup>th</sup> to 45<sup>th</sup> rank in cost of tuition and fees nationally. During the same period, the national tuition and fee average increased by 8.3 percent, albeit representing a higher tuition and fee average relative to Florida, at \$8,244.<sup>32</sup>

The Legislature appropriates budget authority in the Education and General Student and Other Fees Trust Fund to authorize universities to expend the revenues collected from tuition and fees. Universities have the authority to expend funds up to an amount not exceeding the budget authority appropriated annually in the General Appropriations Act (GAA). If tuition and fee revenue collections exceed the appropriated level of budget authority in the trust fund, the BOG may request additional authority on

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<sup>23</sup> Association of American Universities, *About AAU*, available at <http://www.aau.edu/about/default.aspx?id=58> (last visited Feb. 17, 2012).

<sup>24</sup> Tuition is defined as the "basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state. A charge for any other purpose shall not be included within this fee." Section 1009.01(1), F.S.

<sup>25</sup> Effective July 1, 2011, the resident undergraduate tuition for lower-level and upper-level coursework shall be \$103.32 per credit hour. Section 1009.24(4)(a), F.S.

<sup>26</sup> Out-of-state fee is defined as the "additional fee for instruction provided by a public postsecondary educational institution in this state, which fee is charged to a student who does not qualify for the in-state tuition rate pursuant to s. 1009.21. A charge for any other purpose shall not be included in this fee." Section 1009.01(2), F.S.

<sup>27</sup> Section 1009.24(4)(c), F.S.

<sup>28</sup> Tuition differential is defined as the "supplemental fee charged to a student by a public university in this state." The amount of this fee for undergraduate courses is limited to the extent that the "aggregate sum of undergraduate tuition and fees, including the tuition differential fee at a state university system institution may not exceed the national average of undergraduate tuition and fees at 4-year degree-granting public postsecondary educational institutions." Sections 1009.01(3) and 1009.24(16)(b)4., F.S.

<sup>29</sup> Section 1009.24(4), (7), (8)-(13), and (15)-(17), F.S.; Florida Board of Governors Regulations 7.001(6) and (14) (Nov. 4, 2010) and 7.003(4), (5), (16), (17), and (23) (Nov. 4, 2010).

<sup>30</sup> Section 1009.24 (14), F.S.

<sup>31</sup> Section 1009.24, F.S.

<sup>32</sup> State University System of Florida, Board of Governors, *New National Rankings Released for States' Tuition and Fees*, Press Release (Oct. 26, 2011), available at <http://flbog.edu/pressroom/news.php?id=418> (last visited Feb. 23, 2012).

behalf of the university through a budget amendment that must be approved by the Legislative Budget Commission if the request exceeds \$1,000,000.<sup>33</sup>

### Effect of Proposed Changes

Beginning with the 2012-2013 academic year, the bill authorizes a state research university that substantially meets the academic and research excellence standards established in the bill to increase student tuition and fees to differentiated and market rates in addition to the tuition differential fee once each academic year beginning with the Fall term, notwithstanding the percentages and dollar amount limitations under current law as approved by that SUS institution's board of trustees and the BOG<sup>34</sup>.

For the 2012-2013 fiscal year, an institution qualified for additional tuition and fee authority provided by the bill is required to submit a tuition and fee proposal to the BOG for approval. Upon approval by the BOG, an amendment to increase the budget authority from the Education and General Student and Other Fees Trust Fund to accommodate the expenditure of additional revenues generated by the approved increased tuition and fee rate proposal. Beginning in the 2013-2014 fiscal year, and thereafter, an institution qualified for additional tuition and fee authority provided by the bill is required to submit a tuition and fee proposal by May 31 of each year to provide adequate time for the BOG to include the necessary budget authority from the trust fund in their annual Legislative Budget Request (LBR).

The authority to establish student tuition and fees at differentiated and market rates is contingent upon the BOG verifying that the SUS institution substantially meets at least 11 of the following 14 academic and research excellence standards:

- An average weighted grade point average of 3.8 or higher on a 4.0 scale and an average SAT score of 1800 or higher for fall semester incoming freshman, as reported annually.
- A top 50 ranking on at least two well-known and highly respected national public university rankings, reflecting national preeminence, using most recent rankings.
- A freshman retention rate of 90 percent or higher for full-time first-time-in-college students, as reported annually to the Integrated Postsecondary Education Data System (IPEDS).
- A 6-year graduation rate of 70 percent or higher for full-time first-time-in-college students, as reported annually to the IPEDS.
- Six or more faculty members at the state university who are members of a national academy, as reported annually by The Center for Measuring University Performance for the Top American Research Universities (TARU).
- Total annual research expenditures, including federal research expenditures, of \$200 million or more, as reported annually by the TARU.
- Total annual research expenditures in diversified nonmedical sciences of \$100 million or more, as reported annually by the National Science Foundation (NSF).
- A top 100 university national ranking for research expenditures in five or more science, technology, engineering, or mathematics fields of study, as reported annually by the NSF.
- One hundred or more total patents awarded by the United States Patent and Trademark Office for the most recent 3-year period.
- Two hundred fifty or more doctoral degrees awarded annually, as reported by TARU.
- Two hundred or more post-doctoral appointed annually, as reported by TARU.
- A national ranking in quality higher than predicted based available financial resources rankings, as reported annually by U.S. News and World Report.
- An endowment of \$400 million or more, as reported annually by the TARU.
- Annual giving of \$50 million or more, as reported annually by the TARU.

To ensure uniformity and objectivity, the bill requires that data for the academic and research excellence standards be obtained from the following nationally recognized sources:

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<sup>33</sup> Section 216.181(11), F.S.

<sup>34</sup> Section 1009.24, F.S.

## Integrated Postsecondary Education Data System

IPEDS is a "system of interrelated surveys conducted annually by the U.S. Department of Education's National Center for Education Statistics (NCES). IPEDS gathers information from every college, university, and technical and vocational institution that participates in the federal student financial aid programs. The Higher Education Act of 1965<sup>35</sup>, as amended, requires institutions that participate in federal student aid programs [to] report data on enrollments, program completions, graduation rates, faculty and staff, finances, institutional prices, and student financial aid. These data are made available to students and parents through the *College Navigator* college search Web site and to researchers and others through the *IPEDS Data Center*."<sup>36</sup>

IPEDS data are categorized in seven areas: institutional characteristics, institutional prices, enrollment, student financial aid, degrees and certificates conferred, student persistence and success, and institutional human and fiscal resources.<sup>37</sup> These data are commonly used as the foundation of state and national reports.

## The Center for Measuring University Performance

The Center for Measuring University Performance (Center) is a research enterprise focused on comparative performance of major research universities.<sup>38</sup> The Center publishes an annual report, *The Top American Research Universities* (TARU), which provides analysis and data to assess the performance of research universities based on nine research-specific measures.<sup>39</sup> The TARU report includes institutions with a certain level of federal research expenditures.<sup>40</sup> These data are the same or similar to data used by nationally recognized ranking systems.

## The National Science Foundation (NSF)

NSF is an independent federal agency created by Congress in 1950 "to promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense; and for other purposes."<sup>41</sup> NSF ranks institutions based on research and development expenditures in science and engineering fields.<sup>42</sup>

## U.S. News and World Report

The U.S. News and World Report publishes a report ranking colleges and universities on sixteen key measures of quality. The measures fall into seven broad categories: peer assessment; graduation and retention rates; faculty resources (e.g., class size); student selectivity (e.g., average admissions test

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<sup>35</sup> The Higher Education Opportunity Act (HEOA) was enacted on August 14, 2008, and reauthorizes the Higher Education Act (HEA) of 1965, as amended. U.S. Department of Education, *Higher Education Opportunity Act-2008*, available at <http://www2.ed.gov/policy/highered/leg/hea08/index.html#ipeds> (last visited Feb. 15, 2012).

<sup>36</sup> Integrated Postsecondary Education Data System, About IPEDS, available at <http://nces.ed.gov/ipeds/about/> (last visited Feb. 15, 2012); see also Pub. L. No.110-315, 122 Stat. 3102 (Aug. 14, 2008).

<sup>37</sup> Integrated Postsecondary Education Data System, About IPEDS, available at <http://nces.ed.gov/ipeds/about/> (last visited Feb. 20, 2012).

<sup>38</sup> The Center for Measuring University Performance, *The Center for Measuring University Performance*, available at <http://mup.asu.edu/index.html> (last visited Feb. 16, 2012).

<sup>39</sup> The Top American Research Universities, *2010 Annual Report*, available at <http://mup.asu.edu/research.html>, (last visited Feb. 15, 2012).

<sup>40</sup> The 2010 report used \$40 million as the cutoff for federal research expenditures in fiscal year 2008. The same dollar cutoff was used for fiscal year 2007 federal research expenditures. The Top American Research Universities, *2010 Annual Report*, available at <http://mup.asu.edu/research.html>, (last visited Feb. 15, 2012).

<sup>41</sup> 42 U.S.C.A. s. 1861; see also National Science Foundation, *About the National Science Foundation*, available at <http://www.nsf.gov/about/> (last visited Feb. 15, 2012).

<sup>42</sup> National Science Foundation, *Academic Research and Development Expenditures: Fiscal Year 2009*, available at [http://www.nsf.gov/statistics/nsf11313/content.cfm?pub\\_id=4065&id=2](http://www.nsf.gov/statistics/nsf11313/content.cfm?pub_id=4065&id=2) (last visited Feb. 15, 2012).

scores of incoming students); financial resources<sup>43</sup>; alumni giving; and only for national universities and national liberal arts colleges, graduation rate performance and high school counselor undergraduate academic reputation ratings.<sup>44</sup> One particular ranking identified in the bill compares each university's national ranking on available financial resources to each university's national quality ranking.

## Florida Prepaid College Program

### Present Situation

The Stanley G. Tate Florida Prepaid College Program (Prepaid Program) is offered to assist families in planning and saving for a college education.<sup>45</sup> The program is administered by the Florida Prepaid College Board.<sup>46</sup>

The Prepaid Program is a qualified tuition plan, which is a tax advantaged college plan authorized by section 529 of the Internal Revenue Code. Contributions to these plans grow tax-deferred, and when the qualified beneficiary<sup>47</sup> is ready for college, withdrawals for qualified higher education expenses are exempt from federal income and State of Florida taxes.<sup>48</sup>

The Prepaid Program provides for the purchase of advance payment contracts<sup>49</sup> for postsecondary education. These advance payment contracts lock in many of the costs associated with attendance at institutions within the FCS and SUS at the time such advance payment contract is purchased. For a qualified beneficiary to attend a FCS or SUS institution, the locked-in costs include registration fees, tuition differential fee<sup>50</sup>, and local fees for 120 semester credit hours at a FCS or SUS institution. Additionally, a separate contract may also be purchased for university dormitory costs.<sup>51</sup>

The benefits of a Prepaid advance payment contract activate automatically in the qualified beneficiary's projected year of high school graduation.<sup>52</sup>

### Effect of Proposed Changes

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<sup>43</sup> Financial resources are measured by the average spending per full-time-equivalent student on instruction, research, public service, academic support, student services, and institutional support for specified years. U.S. News and World Report, *Methodology: Undergraduate Ranking Criteria and Weights*, available at <http://www.usnews.com/education/best-colleges/articles/2011/09/12/methodology-undergraduate-ranking-criteria-and-weights-2012> (last visited Feb. 15, 2012).

<sup>44</sup> U.S. News and World Report, *Methodology: Undergraduate Ranking Criteria and Weights*, available at <http://www.usnews.com/education/best-colleges/articles/2011/09/12/methodology-undergraduate-ranking-criteria-and-weights-2012> (last visited Feb. 15, 2012).

<sup>45</sup> Section 1009.98(1), F.S.; Florida Prepaid College Plans, *Compare Plans*, <http://www.myfloridaprepaid.com/compare-plans/> (last visited Feb. 21, 2012).

<sup>46</sup> Section 1009.971(1), F.S.

<sup>47</sup> A qualified beneficiary is "a resident of [Florida] at the time a purchaser enters into an advance payment contract on behalf of the resident; a nonresident who is the child of a noncustodial parent who is a resident of [Florida] at the time that such parent enters into an advance payment contract on behalf of the child;" or "a graduate of an accredited high school in [Florida] who is a resident of [Florida] at the time he or she is designated to receive benefits of the advance payment contract." Section 1009.97(3)(f), F.S.

<sup>48</sup> 26 U.S.C. s. 529(b)(1); Florida Prepaid College Plans, *Comparing 529 Plans*, available at <http://www.myfloridaprepaid.com/newsroom/media-kit.aspx>; see also Internal Revenue Service, *Special IRS Web Section Highlights Back-to-School Tax Breaks; Popular 529 Plans Expanded, New \$2,500 College Credit Available*, available at <http://www.irs.gov/newsroom/article/0,,id=213012,00.html> (last visited Feb. 21, 2012).

<sup>49</sup> Advance payment contract is defined as a contract entered into by the Florida Prepaid College Board and a purchaser. A purchaser is a person who makes or is obligated to make advance registration or dormitory residence payments in accordance with an advance payment contract. Section 1009.97 (3)(a), (b), and (e), F.S.

<sup>50</sup> Section 1009.24(16), F.S.; see also Florida Board of Governors Regulation 7.001(6) and (14).

<sup>51</sup> Rule 19B-5.001, F.A.C.

<sup>52</sup> A Prepaid Contract may be utilized up to three years prior to the projected college enrollment date if the child graduates from high school early. Additionally, if a beneficiary does not start college immediately after his or her high school graduation, the beneficiary's account stays current for 10 years from the date of graduation and may be extended by written request to the Board. Rule 19B-5.003(4) and (5), F.A.C.

The bill exempts a qualified beneficiary from the payment of any increase in tuition and fees if an advance payment contract for such qualified beneficiary predates the first year a state research university receives tuition and fee authority under the bill, and if the advance payment contract for such qualified beneficiary remains in effect.

If a qualified beneficiary enters into an advance payment contract in the first year a state research university receives tuition and fee authority under the bill, or in the years thereafter, they are responsible for the difference between the highest rate of tuition and fees covered by the advance payment contract and the tuition and fees assessed by the university that they attend.

Currently under the university plan the Florida Prepaid College Board pays the SUS institutions based on the number of credits hours invoiced for a qualified beneficiary multiplied by the applicable tuition, local fee, and tuition differential fee rate covered by the qualified beneficiary's advance payment contract.<sup>53</sup> Under current law, a SUS institution is authorized to increase tuition and fees by no more than 15 percent of the total tuition and fees each year relative to the tuition and fees charged by that institution in the preceding fiscal year.<sup>54</sup> As a result, due to prepaid contract beneficiaries being exempt from additional tuition and fees provided under the bill, any increase in tuition or fees by a state research university that meets the requirements of the bill would need to be absorbed by that university.

## **Acceleration Mechanisms**

### Present Situation

Articulated acceleration mechanisms are available to secondary and postsecondary students attending public educational institutions and serve to shorten the time necessary for a student to complete the requirements for a high school diploma and a postsecondary degree. Such mechanisms allow Florida schools to increase the depth of study in a particular subject and expand available curricular options.<sup>55</sup> Articulated acceleration mechanisms include dual enrollment, early admission, Advanced Placement (AP), the International Baccalaureate (IB) Program, the Advanced International Certificate of Education (AICE) Program, and credit by examination. Credit earned through the Florida Virtual School also provides additional opportunities for early graduation and acceleration.<sup>56</sup>

### Effect of Proposed Changes

The bill authorizes a state research university eligible under the bill to require incoming first-time-in-college students to take 9-12 credit hours of coursework specifically determined by the university at the university. The specified coursework may not be earned through transfer credit or articulated acceleration mechanisms such as Advanced Placement (AP), the International Baccalaureate (IB) Program, the Advanced International Certificate of Education (AICE) Program, credit by examination, Dual Enrollment, and College Level Examination Program (CLEP).

## **BOG Responsibilities**

The bill encourages the BOG to identify and grant additional authority and flexibilities to facilitate achievement of institutional and system goals. In addition, the BOG is encouraged to identify state university programs of academic and research excellence and make recommendations to the Legislature for flexibilities designed to elevate such programs on national rankings.

Finally, the bill requires the BOG to oversee the implementation of this section.

## **B. SECTION DIRECTORY:**

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<sup>53</sup> E-mail, Florida Prepaid College Board (Feb. 22, 2012).

<sup>54</sup> Section 1009.24(16)(b)3., F.S.

<sup>55</sup> Section 1007.27(1), F.S.

<sup>56</sup> *Id.*; s. 1007.22(2), F.S.

**Section 1.** Creates s. 1001.765, relating to state universities of academic and research excellence and national preeminence; to establish the State Universities of Academic and Research Excellence and National Preeminence Act, establish a collaborative partnership between the BOG and the Legislature, establish authorities for tuition and fee flexibilities, establish academic and research excellence standards, outline requirements regarding bonding of fees, establish procedures for obtaining budget authority, establish requirements related to specified courses; and establish BOG responsibilities.

**Section 2.** Provides that the bill shall take effect upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill authorizes a state research university that substantially meets the requirements of the bill to submit to the BOG, an increased tuition and fee rate proposal by May 31 detailing the requested budget authority needed to implement the proposal.

For the 2012-2013 fiscal year, each state university meeting the requirements for preeminence as of February 1, 2012, shall submit to the BOG for approval the university's proposal for increasing tuition and fee rates for the 2012-2013 academic year no later than May 31, 2012. Upon approval of the university's proposal by the BOG, the BOG shall request an amendment to 2012-13 fiscal year appropriations to increase budget authority in the Education/General Student and Other Fee Trust Fund to accommodate the expenditure of additional revenues generated by the approved increased tuition and fee rate proposal.

Subsequently, each year by May 31, a state university meeting the requirements for preeminence shall submit to the BOG the university's tuition and fee rate proposal. Upon approval of the university's proposal the BOG shall include in its Legislative Budget Request the increase in budget authority necessary to accommodate tuition and fee revenues generated by the university's approved rates in the Education/General Student and Other Fees Trust Fund.

The bill requires a state research university that substantially meets the requirements of the bill to maintain fees that are used to pledge or secure debt at an appropriate fee level to meet all debt service obligations of that university.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

None. This bill does not appear to affect county or municipal governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 21, 2012, the Education Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarified 2 of the 14 academic and research excellence standards established in the bill. The amendment:

- Removed the limitations on the criteria that a top 100 university national ranking for research expenditures in five or more science, technology, engineering, or mathematics fields of study be based on public universities. By so doing, the amendment expanded such ranking to include both public and private universities.

Replaced the source for data on total patents awarded from IPEDS to the United States Patent and Trademark Office.

1                                   A bill to be entitled  
 2       An act relating to state universities of academic and  
 3       research excellence and national preeminence; creating  
 4       s. 1001.765, F.S.; providing a short title;  
 5       establishing a collaborative partnership between the  
 6       Board of Governors of the State University System and  
 7       the Legislature to elevate the academic and research  
 8       excellence and national preeminence of the highest-  
 9       performing state research universities; authorizing a  
 10      state research university that meets specified  
 11      criteria, verified by the Board of Governors, to  
 12      establish student tuition and fees at differentiated  
 13      and market rates; providing certain conditions for  
 14      implementing tuition and fee increases; establishing  
 15      academic and research excellence standards for state  
 16      universities of national preeminence; specifying  
 17      requirements relating to debt service obligations;  
 18      establishing procedures to obtain certain budget  
 19      authorization for the 2012-2013 fiscal year;  
 20      establishing procedures for institutional legislative  
 21      budget requests for certain tuition and fee increases;  
 22      authorizing state universities of national preeminence  
 23      to establish required courses for certain students;  
 24      encouraging the Board of Governors to identify, grant,  
 25      and recommend flexibilities to achieve goals and  
 26      improve the national rankings of programs of  
 27      excellence; requiring the Board of Governors to  
 28      oversee implementation; providing an effective date.



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

Section 1. Section 1001.765, Florida Statutes, is created to read:

1001.765 State universities of academic and research excellence and national preeminence.—

(1) This section may be cited as the "State Universities of Academic and Research Excellence and National Preeminence Act."

(2) A collaborative partnership is established between the Board of Governors and the Legislature to elevate the academic and research excellence and national preeminence of Florida's highest-performing state research universities in accordance with this section. The partnership stems from the State University System Governance Agreement executed on March 24, 2010, wherein the Board of Governors and leaders of the Legislature agreed to a framework for the collaborative exercise of their joint authority and shared responsibility for the State University System. Specifically, the governance agreement confirmed the commitment of the Board of Governors and the Legislature to continue collaboration on accountability measures, the use of data, and recommendations derived from such data.

(3) (a) Beginning with the 2012-2013 academic year, a state research university that has substantially met at least 11 of the academic and research excellence standards identified in subsection (4), as verified by the Board of Governors, may

57 | establish student tuition and fees at differentiated and market  
 58 | rates in addition to the tuition differential fee,  
 59 | notwithstanding the percentages and dollar amount limitations in  
 60 | s. 1009.24, as approved by the university's board of trustees  
 61 | and the Board of Governors. Tuition and fee increases may occur  
 62 | no more than once each academic year and must be implemented  
 63 | beginning with the fall term.

64 |       (b) A qualified beneficiary having a prepaid advance  
 65 | payment contract pursuant to s. 1009.98(2)(b) that was in effect  
 66 | prior to the first year a state university receives tuition and  
 67 | fee authority under this subsection, and that remains in effect,  
 68 | is exempt from the payment of any increase to tuition and fees  
 69 | assessed pursuant to this subsection. A qualified beneficiary  
 70 | having a prepaid advance payment contract pursuant to s.  
 71 | 1009.98(2)(b) that is entered into the first year a state  
 72 | university receives tuition and fee authority under this  
 73 | subsection, or thereafter, is liable for the difference between  
 74 | the highest rate of tuition and fees covered by the advance  
 75 | payment contract and the tuition and fees assessed pursuant to  
 76 | this subsection by the state university the student attends.

77 |       (4) Academic and research excellence standards for state  
 78 | universities of national preeminence are:

79 |           (a) An average weighted grade point average of 3.8 or  
 80 | higher on a 4.0 scale and an average SAT score of 1800 or higher  
 81 | for fall semester incoming freshman, as reported annually.

82 |           (b) A top 50 ranking on at least two well-known and highly  
 83 | respected national public university rankings, reflecting  
 84 | national preeminence, using most recent rankings.

85 (c) A freshman retention rate of 90 percent or higher for  
 86 full-time first-time-in-college students, as reported annually  
 87 to the Integrated Postsecondary Education Data System (IPEDS).

88 (d) A 6-year graduation rate of 70 percent or higher for  
 89 full-time first-time-in-college students, as reported annually  
 90 to the IPEDS.

91 (e) Six or more faculty members at the state university  
 92 who are members of a national academy, as reported by the Center  
 93 for Measuring University Performance in the Top American  
 94 Research Universities (TARU) annual report.

95 (f) Total annual research expenditures, including federal  
 96 research expenditures, of \$200 million or more, as reported in  
 97 the TARU annual report.

98 (g) Total annual research expenditures in diversified  
 99 nonmedical sciences of \$100 million or more, based on data  
 100 reported annually by the National Science Foundation (NSF).

101 (h) A top 100 university national ranking for research  
 102 expenditures in five or more science, technology, engineering,  
 103 or mathematics fields of study, as reported annually by the NSF.

104 (i) One hundred or more total patents awarded by the  
 105 United States Patent and Trademark Office for the most recent 3-  
 106 year period.

107 (j) Two hundred fifty or more doctoral degrees awarded  
 108 annually, as reported in the TARU annual report.

109 (k) Two hundred or more postdoctoral appointees annually,  
 110 as reported in the TARU annual report.

111 (l) A national quality ranking higher than predicted based  
 112 on available financial resources rankings, as reported annually

113 | by U.S. News and World Report.

114 | (m) An endowment of \$400 million or more, as reported in  
 115 | the TARU annual report.

116 | (n) Annual giving of \$50 million or more, as reported in  
 117 | the TARU annual report.

118 | (5) Fees collected pursuant to s. 1009.24 that are used to  
 119 | pledge or secure revenue bonds or to secure debt shall be  
 120 | maintained at the appropriate level to meet all debt service  
 121 | obligations of the state university.

122 | (6) (a) For the 2012-2013 fiscal year, a state university  
 123 | that meets the requirements of subsection (3), as of February 1,  
 124 | 2012, shall submit to the Board of Governors, no later than May  
 125 | 31, 2012, the university's proposal for increasing tuition and  
 126 | fee rates for the 2012-2013 academic year as provided for in  
 127 | this section. Upon approval of the university's proposal, the  
 128 | Board of Governors shall request an amendment to increase the  
 129 | budget authority in the Education/General Student and Other Fees  
 130 | Trust Fund necessary to accommodate the additional tuition and  
 131 | fee revenues generated by the university's approved rates.  
 132 | Notwithstanding the \$1 million limitation on increases to an  
 133 | approved operating budget contained in ss. 216.181(11) and  
 134 | 216.292(3), a budget amendment exceeding that dollar amount is  
 135 | subject to notice and objection procedures set forth in s.  
 136 | 216.177.

137 | (b) A state university that meets the requirements of  
 138 | subsection (3) shall annually submit to the Board of Governors,  
 139 | no later than May 31, the university's tuition and fee rate  
 140 | proposal as provided for in this section. Upon approval of the

141 university's proposal, the Board of Governors shall request, in  
 142 the board's annual legislative budget request, budget authority  
 143 in the Education/General Student and Other Fees Trust Fund  
 144 necessary to accommodate tuition and fee revenues generated by  
 145 the university's approved rates.

146 (7) In order to provide a jointly shared educational  
 147 experience, a state university that has met the requirements of  
 148 subsection (3) may require its incoming first-time-in college  
 149 students to take a 9-to-12-credit set of courses specifically  
 150 determined by the university. The state university may require  
 151 that this set of courses be taken at the university and may  
 152 stipulate that credit for such courses may not be earned through  
 153 any acceleration mechanism, pursuant to s. 1007.27 or s.  
 154 1007.271, or other transfer credit.

155 (8) The Board of Governors is encouraged to identify and  
 156 grant additional authority and flexibilities as may be  
 157 appropriate to achieve state university and State University  
 158 System goals. In addition, the Board of Governors is encouraged  
 159 to identify state university programs of academic and research  
 160 excellence and make recommendations to the Legislature for  
 161 flexibilities designed to move those programs higher in  
 162 appropriate nationally recognized rankings.

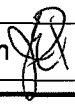
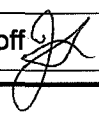
163 (9) The Board of Governors shall oversee implementation of  
 164 this section.

165 Section 2. This act shall take effect upon becoming a law.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7133    PCB HHSC 12-04    Quality Improvement Initiatives for Entities Regulated by the Agency for Health Care Administration  
**SPONSOR(S):** Health & Human Services Committee, Gonzalez  
**TIED BILLS:**                    **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health & Human Services Committee	18 Y, 0 N	Shaw	Gormley
1) Appropriations Committee		Pridgeon 	Leznoff 

**SUMMARY ANALYSIS**

The bill implements quality improvement incentives and other measures for entities regulated by the Agency for Health Care Administration including assisted living facilities, nursing homes, and hospitals and managed care plans.

The bill increases the quality of assisted living facilities (ALFs) by:

- Creating a licensure program for ALF administrators.
- Increasing training and competency testing requirements for ALFs administrators.
- Creating higher standards for licensure as a limited mental health ALF.
- Increasing penalties for ALFs that have Class I or Class II violations.
- Imposing a mandatory penalty of \$10,000 when by a violation by an ALF results in a resident's death.
- Directs the Department of Children and Families to contract for mental health training for ALF staff.
- Provides that training for an ALF administrator can be through a public or private college, or through a contract with the Department of Elder Affairs and a statewide assisted living association.

The bill also encourages quality by establishing a pay-for-performance program for hospitals, skilled nursing facilities, and managed care plans servicing Medicaid patients which will be implemented in FY 2015-16. The program will examine certain outcome measures to rank the providers in each category. The highest ranked providers will receive a positive adjustments to rates up to 1 percent of current payment rates.

The bill will have a significant fiscal impact on state government.

The bill provides an effective date of July 1, 2012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

An Assisted Living Facility (ALF) is a facility "... which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator."<sup>1</sup> Through the use of long-term care, ALFs allow residents to age in place in a residential environment.<sup>2</sup>

##### Licensure

To operate, an ALF must be licensed by AHCA, be under the supervision of an administrator, comply with sanitation, fire safety and zoning requirements, and comply with staffing requirements.

Three specialty licenses<sup>3</sup> are available to an ALF: Limited Mental Health (LMH) License, Limited Nursing Services (LNS) License, and Extended Congregate Care (ECC) License. As of December 1, 2011, there were 2,985 ALFs in Florida, containing 68,190 private beds and 15,416 Optional State Supplementation (OSS) beds.<sup>4</sup> Of these facilities, 1,108 had LMH licenses, 1,083 had LNS licenses, and 267 had ECC licenses, totaling 1,350 facilities with specialty licenses.<sup>5</sup>

##### License Qualifications

An ALF must be licensed AHCA to operate in Florida<sup>6</sup>, unless exempt from licensure.<sup>7</sup> To apply for a standard license, the facility must comply with part II of Chapter 408 (general healthcare licensing provisions) and must submit the following to AHCA:

- Information regarding all other facilities operated by the administrator;
- The name, social security number, education, and experience of the administrator;
- The location of the a facility with proof of zoning compliance;
- Proof of fire safety compliance; and
- Proof of passing a sanitation inspection.<sup>8</sup>

##### Administrator Qualifications

ALFs are required to be under the supervision of an administrator, who is "responsible for the operation and maintenance of the facility including management of all staff and the provision of adequate care to all residents..." To qualify as an administrator, an individual must meet certain qualifications, but is not required to obtain any type of license or certification. ALF administrators must:

- Be at least 21 years old;
- If employed after August 1, 1990, have a high school diploma (or equivalency) or have been employed as the administrator or operator of an ALF in Florida for 1 of the past 3 years in which the facility met minimum standards;
- If employed after October 30, 1995, have a high school diploma (or equivalency);

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<sup>1</sup> S. 429.02(5), F.S.

<sup>2</sup> S. 429.01(2), F.S.

<sup>3</sup> See discussion below for details of the specialty licenses.

<sup>4</sup> Assisted Living Facility Directory, available at: [http://ahca.myflorida.com/MCHO/Long\\_Term\\_Care/Assisted\\_living/alf.shtml](http://ahca.myflorida.com/MCHO/Long_Term_Care/Assisted_living/alf.shtml).

<sup>5</sup> Assisted Living Facility Directory, available at: [http://ahca.myflorida.com/MCHO/Long\\_Term\\_Care/Assisted\\_living/alf.shtml](http://ahca.myflorida.com/MCHO/Long_Term_Care/Assisted_living/alf.shtml).

<sup>6</sup> S. 429.07(1), F.S.

<sup>7</sup> S. 429.04, F.S.

<sup>8</sup> S. 429.11, F.S.



- Comply with level 2 background screening; and
- Complete the core training requirement.<sup>9</sup>

Administrators may supervise up to three ALFs. If an administrator supervises more than one ALF, they must appoint a manager who is 21 years old and has completed the core training requirement to each facility. This appointment must be in writing.<sup>10</sup>

### Licensure Violations

AHCA is required to cite facilities for violations of facility standards according to the severity of the violation. Violations are categorized in four classes:

- Class I violations “present an imminent danger to the clients of the provider or a substantial probability that death or serious physical or emotional harm would result therefrom.”
- Class II violations “directly threaten the physical or emotional health, safety, or security of the clients, other than class I violations.”
- Class III violations “indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations.”
- Class IV violations “do not threaten the health, safety, or security of clients.”<sup>11</sup>

ALFs which commit violations are subject to sanctions, including possible license revocation. AHCA is also required to impose a fine on facilities for violations as follows:

- A fine between \$5,000 and \$10,000 for each cited class I violation;
- A fine between \$1,000 and \$5,000 for each cited class II violation;
- A fine between \$500 and \$1,000 for each cited class III violation; and
- A fine between \$100 and \$200 for each cited class IV violation.<sup>12</sup>

AHCA may impose a moratorium, or a requirement that the ALF not accept any new residents,<sup>13</sup> “if the agency determines that any condition related to the provider or licensee presents a threat to the health, safety, or welfare of a client.”<sup>14</sup> AHCA must also revoke the license of an ALF which has been cited for two or more similar class I violations within the last two years.<sup>15</sup> AHCA may deny or revoke a license for the following acts performed by any facility employee:

- An intentional or negligent act seriously affecting the health, safety, or welfare of a resident of the facility;
- The determination by AHCA that the owner lacks the financial ability to provide continuing adequate care to residents;
- Misappropriation or conversion of the property of a resident of the facility;
- Failure to follow the criteria and procedures provided under part I of chapter 394 relating to the transportation, voluntary admission, and involuntary examination of a facility resident;
- A citation of any of the following deficiencies as specified in s. 429.19, F.S.:
  - One or more cited class I deficiencies.
  - Three or more cited class II deficiencies.
  - Five or more cited class III deficiencies that have been cited on a single survey and have not been corrected within the times specified.
- Failure to comply with the background screening standards of this part, s. 408.809(1), F.S., or ch. 435;
- Violation of a moratorium;

<sup>9</sup> Rule 58A-5.019, F.A.C.

<sup>10</sup> Rule 58A-5.019, F.A.C.

<sup>11</sup> S. 408.813, F.S.

<sup>12</sup> S. 429.19, F.S.

<sup>13</sup> S. 408.803(10), F.S.

<sup>14</sup> S. 408.814, F.S.

<sup>15</sup> S. 429.14 (4), F.S.

- Failure of the license applicant, the licensee during relicensure, or a licensee that holds a provisional license to meet the minimum license requirements of this part, or related rules, at the time of license application or renewal;
- An intentional or negligent life-threatening act in violation of the uniform fire safety standards for assisted living facilities or other fire safety standards that threatens the health, safety, or welfare of a resident of a facility, as communicated to the agency by the local authority having jurisdiction or the State Fire Marshal;
- Knowingly operating any unlicensed facility or providing without a license any service that must be licensed under this chapter or ch. 400;
- Any act constituting a ground upon which application for a license may be denied.<sup>16</sup>

AHCA may also deny or revoke a facility license if the administrator of an owner-operator facility makes fraudulent statements regarding the correction of a violation.<sup>17</sup>

In cases where AHCA revokes a facility's license because of a threat to health, safety, or welfare of a resident, the Division of Administrative Hearings of the Department of Management Services must review the revocation within 120 days after receipt of the facility's request for a hearing.<sup>18</sup>

### Inspections

All facilities must be inspected by AHCA biennially, for license renewal.<sup>19</sup> AHCA must also conduct a biennial survey to ensure compliance with facility standards and resident rights.<sup>20</sup> An abbreviated version of this survey may be conducted if the applicant does not have any of the following:

- Class I or class II violations or uncorrected class III violations;
- Confirmed long-term care ombudsman council complaints; or
- Confirmed licensing complaints within the two licensing periods immediately preceding the current renewal date.<sup>21</sup>

AHCA must conduct at least one monitoring visit of each facility that had a Class I or II violation of or three uncorrected class III violations in the previous year during years that the survey is not done.<sup>22</sup>

### Specialty Facilities

A number of optional specialty licenses are available in addition to the general ALF license. These licenses include a Limited Mental Health License (LMH), Extended Congregate Care License (ECC), and Limited Nursing Services License (LNS).

#### *Limited Mental Health License*

A mental health resident is "an individual who receives social security disability income due to a mental disorder as determined by the Social Security Administration or receives supplemental security income due to a mental disorder as determined by the Social Security Administration and receives optional state supplementation."<sup>23</sup> A LMH license is required for any facility serving 3 or more mental health residents.<sup>24</sup> To obtain this license, the facility may not have any current uncorrected deficiencies or violations and facility administrator, as well as staff providing direct care to residents must complete 6

<sup>16</sup> S. 429.14 (1), F.S.

<sup>17</sup> S. 429.19, F.S.

<sup>18</sup> S. 429.14 (5), F.S.

<sup>19</sup> S. 408.811, F.S.

<sup>20</sup> S. 429.28, F.S.

<sup>21</sup> Rule 58A-5.033, F.A.C.

<sup>22</sup> S. 429.28, F.S.

<sup>23</sup> S. 429.02, F.S.

<sup>24</sup> S. 429.075, F.S.

hours of training related to LMH duties, which is either provided by or approved by DCF.<sup>25</sup> A LMH license can be obtained during initial licensure, during relicensure, or upon request of the licensee.<sup>26</sup>

Facilities with LMH licenses have a number of responsibilities not required by other types of ALFs. Each mental health resident in an ALF with a LMH license is assigned a case manager, "who is responsible for coordinating the development of and implementation of the community living support plan."<sup>27</sup> A community living support plan" includes information about the supports, services, and special needs of the resident which enable the resident to live in the assisted living facility and a method by which facility staff can recognize and respond to the signs and symptoms particular to that resident which indicate the need for professional services," and is written by the mental health resident, the case manager, and the ALF administrator.<sup>28</sup> A cooperative agreement is also only required in facilities with a LMH license. This is a written agreement between a mental health care provider and an ALF administrator to "specify directions for accessing emergency and after-hours care for the mental health resident."<sup>29</sup> The community living support plan and the cooperative agreement are required for all mental health residents in a facility with a LMH license and may be combined in one document.<sup>30</sup>

### *Extended Congregate Care License*

The ECC specialty license allows an ALF to provide, directly or through contract, services performed by licensed nurses and supportive services to individuals who would otherwise be disqualified from continued residency in an ALF.<sup>31</sup> In order for ECC services to be provided, AHCA must first determine that all requirements in law and rule are met. ECC licensure is regulated pursuant to s. 429.07, F.S., and Rule 58A-5, F.A.C.

The primary purpose of ECC services is to allow residents, as their acuity level rises, to remain in a familiar setting. An ALF licensed to provide ECC services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the ECC facility. A licensed facility must adopt its own requirements within guidelines for continued residency set forth by rule. However, the facility may not serve residents who require 24-hour supervision.

### *Limited Nursing Services License*

Limited nursing services are services beyond those provided by standard licensed ALFs.

Facilities licensed to provide limited nursing services must employ or contract with a nurse to provide necessary services to facility residents.<sup>32</sup> Licensed LNS facilities must maintain written progress reports on each resident receiving LNS. A registered nurse representing AHCA must visit these facilities at least twice a year to monitor residents and determine compliance.<sup>33</sup> A nursing assessment must be conducted at least monthly on each resident receiving limited nursing services.<sup>34</sup>

### Training and Examination

Administrators and managers must complete a core training program and pass a competency test with a score of 75.<sup>35</sup> The competency tests must be developed by DOEA, in conjunction with AHCA and providers. Administrators who attended training prior to July 1, 1997, and managers who attended

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<sup>25</sup> S. 429.075, F.S.

<sup>26</sup> S. 429.075, F.S.

<sup>27</sup> S. 394.4574, F.S.

<sup>28</sup> S. 429.02(7), F.S.

<sup>29</sup> S. 429.02 (8), F.S.

<sup>30</sup> S. 429.07(3)(a), F.S.

<sup>31</sup> S. 429.07(3)(b), F.S.

<sup>32</sup> Rule 58A-5.031(2), F.A.C.

<sup>33</sup> S. 429.07(2)(c), F.S.

<sup>34</sup> S. 429.07(2)(c), F.S.

<sup>35</sup> Rule 58A-5.0191, F.A.C.

training prior to April 20, 1998, are not required to take the competency exam.<sup>36</sup> However, all administrators and managers must complete 12 hours of continuing education training for ALFs every 2 years.<sup>37</sup>

The core training must be 26 hours long and this must be completed within 3 months of employment.<sup>38</sup> The training for administrators and managers must be conducted by trainers registered with DOEA, who have the required experience and credentials.<sup>39</sup> The core training program must cover the following topics:

- State ALF laws and rules;
- Resident rights and identifying and reporting abuse, neglect, and exploitations;
- Special needs of elderly persons, persons with mental illness, and persons with developmental disabilities;
- Nutrition and food service;
- Medication management;
- Fire safety requirements; and
- Care of people with Alzheimer's disease and related disorders.<sup>40</sup>

Staff must receive in-service training, covering topics in the following areas, unless exempt:

- 1 hour of infection control training;
- 1 hour of incident reporting/emergency operations of the facility;
- 1 hour of resident rights/abuse reporting;
- 3 hours of resident behavior and needs/assistance of activities of daily living; and
- Elopement response policies and procedures.<sup>41</sup>

Those who have completed the core training and certified nursing assistants, nurses, and home health aides are exempt from portions of these training requirements. Administrators and staff must complete the following a course on HIV/AIDS and a CPR course, unless exempt. Additional training requirements apply to staff that prepare or serve food, assist with medication, those responsible for food organizing service, and employees in facilities with specialty licenses.<sup>42</sup>

To qualify as a trainer, a person must meet the following requirements:

- Complete the core training requirements;
- Successfully pass the competency test;
- Comply with the continuing education requirements of 12 hours every 2 years;
- Qualify in experience in one of the following ways:
  - Hold 4-year degree and have experience working in a management position in an ALF for 3 years after being core certified;
  - Worked in a management position in an ALF for 5 years after being core certified and 1 year teach experience as an educator or staff trainer for those who work in ALFs or long-term care settings; or
  - Previously employed as a core trainer for DOEA.<sup>43</sup>

### Long-Term Care Ombudsman Program

The Long-Term Care Ombudsman program within DOEA, must "identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities relating to actions or omissions by providers or representatives of providers of long-term care services, other public or private agencies,

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<sup>36</sup> Rule 58A-5.0191, F.A.C.

<sup>37</sup> S. 429.52, F.S.

<sup>38</sup> Rule 58A-5.0191, F.A.C.

<sup>39</sup> S. 429.52, F.S.

<sup>40</sup> S. 429.52, F.S.

<sup>41</sup> Rule 58A-5.0191, F.A.C.

<sup>42</sup> Rule 58A-5.0191, F.A.C.

<sup>43</sup> S. 429.52, F.S.

guardians, or representative payees that may adversely affect.”<sup>44</sup> The program consists of a state and local council, both of which serve under the ombudsman,<sup>45</sup> an individual appointed by Secretary of DOEA to head the ombudsman program.<sup>46</sup> The complaints, as well as the identities of the complainants made to the Ombudsman councils are confidential, with few exceptions.<sup>47</sup> Upon admission to an ALF, residents must be provided a brochure with contact information of the local ombudsman council,<sup>48</sup> to enable the residents to report mistreatments within the ALF.

Between 1/1/05 and 6/30/11 there have been 22,268 complaints made to through the ombudsman program. 988, approximately 38% of these complaints were regarding abuse, gross neglect, and exploitation.<sup>49</sup> Of the total 22,268 complaints, 7,443, approximately 33% were in reference to facilities holding LMH licenses.<sup>50</sup>

### Assisted Living Workgroup

In 2011 the Miami Herald released a four-part newspaper series, addressing instances of improper treatment inside ALFs.<sup>51</sup> In July 2011, AHCA created the Assisted Living Workgroup (ALW), in response for the Governor’s request “to examine the regulation and oversight of assisted living facilities in Florida.”<sup>52</sup> The ALW consisted of three meetings throughout the state<sup>53</sup> and included 14 members including two members of legislature and 12 members involved in the ALF industry.<sup>54</sup> Staff of state agencies also attended the meeting, as nonvoting members of the ALW.<sup>55</sup>

At the conclusion of the final meeting, the ALW made a number of recommendations to the Legislature. The recommendations focus on changes in areas including administrator qualifications, training and staffing standards, surveys and inspections, licensure, resident discharge, information and reporting, enforcement of regulations, resident advocacy, mental health ALFs, multiple regulators of ALFs, and home and community based care.<sup>56</sup>

### Hospital Safety

Hospitals are licensed pursuant to part I of chapter 395, F.S. The Agency for Health Care Administration (AHCA) has the authority to develop rules to implement the provisions of the chapter.<sup>57</sup> The rules must include fair and minimum standards to ensure that hospitals are maintaining adequate staffing levels,<sup>58</sup> have a comprehensive emergency management plan which is update annually,<sup>59</sup> and are operated in a manner consistent with applicable statutes and rules.<sup>60</sup>

In addition, the agency is required to establish rules for infection control and sanitary conditions that will protect patient care and safety.<sup>61</sup> Rules for infection control require the establishment of an Infection

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<sup>44</sup> S. 400.0065, F.S.

<sup>45</sup> S. 400.0065, F.S.

<sup>46</sup> S. 400.0060, F.S.

<sup>47</sup> S. 400.0077, F.S.

<sup>48</sup> Rule 58A-5.0181, F.A.C.

<sup>49</sup> Ombudsman Complaints, *available at*: <http://ahca.myflorida.com/SCHS/ALWG2011/alwg2011.shtml>.

<sup>50</sup> Ombudsman Complaints, *available at*: <http://ahca.myflorida.com/SCHS/ALWG2011/alwg2011.shtml>.

<sup>51</sup> *Neglected to Death Series*, The Miami Herald, *available at*: [http://www.miamiherald.com/neglected\\_to\\_death/](http://www.miamiherald.com/neglected_to_death/).

<sup>52</sup> Assisted Living Workgroup, Final Report and Recommendations, *available at*: <http://ahca.myflorida.com/SCHS/ALWG2011/alwg2011.shtml>.

<sup>53</sup> Assisted Living Workgroup, Final Report and Recommendations, *available at*: <http://ahca.myflorida.com/SCHS/ALWG2011/alwg2011.shtml>.

<sup>54</sup> Assisted Living Workgroup Members, *available at* <http://ahca.myflorida.com/SCHS/ALWG2011/wgmembers.shtml>.

<sup>55</sup> Assisted Living Workgroup Organizational Structure, *available at*: <http://ahca.myflorida.com/SCHS/ALWG2011/alwg2011.shtml>.

<sup>56</sup> Assisted Living Workgroup, Final Report and Recommendations, *available at*: <http://ahca.myflorida.com/SCHS/ALWG2011/alwg2011.shtml>.

<sup>57</sup> S. 395.1055(1), F.S.

<sup>58</sup> S. 395.1055(1)(a), F.S.

<sup>59</sup> S. 395.1055(1)(c), F.S.

<sup>60</sup> S. 395.1055(1)(d), F.S.

<sup>61</sup> S. 395.1055(1)(b), F.S.

Control Program designed to protect patients and staff from communicable diseases and other infections found in an ambulatory surgical center environment.<sup>62</sup> Similar rules have been established for hospitals.<sup>63</sup>

### Pay for Performance Programs

The Centers for Medicare and Medicaid Services defines “pay-for-performance” as “the use of payment methods and other incentives to encourage quality improvement and patient-focused high-value care”.<sup>64</sup> Pay-for-performance programs are designed to offer financial incentives to physicians and other health care providers to meet defined quality, efficiency, or other targets.<sup>65</sup>

Beginning in 1991 with Wisconsin, states have been utilizing pay-for-performance in Medicaid as a way to incentivize the health plans with which they contract to improve their performance. More recently, models are emerging by which states are focusing the incentives directly on providers, both physician practices and hospitals. Some states are considering innovative models that would provide incentives for nursing homes and other institutional settings.<sup>66</sup> A review of states that have implemented pay-for-performance in Medicaid managed care found that the top five goals were to reward high-quality care, reduce variation in patterns of care, improve performance on specific measures, support broader quality strategies, including value-based purchasing, and improve access to care and support for the safety net.<sup>67</sup>

As costs escalate rapidly, large purchasers of health care services—employers, health plans, and government programs—are embracing pay-for-performance in an effort to link health care spending to quality and use limited financial resources more effectively.<sup>68</sup> The Medicaid program is a partnership between the federal government and the states, with each state having significant independence in program design and operation. As such, many states have taken the initiative to start pay-for-performance programs unique to their situations. Moreover, CMS has been promoting quality and value-based purchasing through its Medicaid/State Children’s Health Insurance Program Quality Initiative.<sup>69</sup>

### Florida Center for Health Information and Policy Analysis

The Florida Center for Health Information and Policy Analysis (Center) is responsible for collecting, compiling, coordinating, analyzing, and disseminating health related data and statistics for the purpose of developing public policy and promoting the transparency of consumer health care information through [www.FloridaHealthFinder.gov](http://www.FloridaHealthFinder.gov).<sup>70</sup> These data provide accurate and timely health care information to consumers, policy analysts, administrators, and researchers in order to evaluate cost, quality, and access to care. The Florida Center is also responsible for collecting adverse incident reports from hospitals, ambulatory surgery centers, health maintenance organizations, nursing homes, and assisted living facilities.

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<sup>62</sup> Rule 59A-5.011, F.A.C.

<sup>63</sup> Rule 59A-3.250, F.A.C.

<sup>64</sup> Center for Medicaid and State Operations, Centers for Medicaid and Medicare Services, *State Health Official Letter #06-003*, April 6, 2006.

<sup>65</sup> Agency for Healthcare Research and Quality, Rockville, MD, *Pay for Performance (P4P): AHRQ Resources*, March 2006; available at <http://www.ahrq.gov/qual/pay4per.htm>. (last viewed on February 22, 2012).

<sup>66</sup> The Commonwealth Fund, *States in Action- Medicaid Pay-for-Performance: Ongoing Challenges, New Opportunities*, Jan./Feb. 2007; available at <http://www.commonwealthfund.org/Newsletters/States-in-Action/2007/Jan/January-February-2007/Profile--In-Depth-Look-at-an-Initiative-that-Is-Making-a-Difference/Medicaid-Pay-for-Performance--Ongoing-Challenges--New-Opportunities.aspx> (last viewed on February 22, 2012).

<sup>67</sup> L. Duchon and V. Smith, *Quality Performance Measurement in Medicaid and SCHIP: Results of a 2006 National Survey of State Officials*, Health Management Associates for National Association of Children's Hospitals, September 2006.

<sup>68</sup> Kuhmerker, Kathryn, and Hartman, Thomas, The Commonwealth Fund, IPRO, *Pay-for-Performance in State Medicaid Programs- A Survey of State Medicaid Directors and Programs*, page 1, April 2007.

<sup>69</sup> *Id.* at page 2; see also <http://www.cms.hhs.gov/MedicaidSCHIPQualPrac/>.

<sup>70</sup> See Agency for Health Care Administration, Florida Center for Health Information and Policy Analysis, available at <http://ahca.myflorida.com/SCHS/index.shtml> (last viewed on February 22, 2012).

The Office of Data Collection & Quality Assurance DCQA within the Center currently collects patient discharge data from all licensed acute care hospitals, including psychiatric and comprehensive rehabilitation hospitals, ambulatory surgical centers and emergency departments. The data is the primary source of information for the evaluation of health care utilization and the assessment of community health for the improvement of public health planning initiatives.

### **Effect of Proposed Changes:**

#### **ALF Administrators**

The bill creates a license for ALF administrators and requires that as of July 1, 2013, all ALF administrators be licensed. The ALF administrator licensure program will be implemented by AHCA.

To qualify for licensure as an ALF administrator an individual must:

- Be 21 years old,
- Complete 30 hours of core training and 10 hours of supplemental training,
- Pass a competency test with a score of 80, and
- Complete the required background screening.

Currently, ALF administrators are not licensed, but are required, through the ALF license, to be 21 years old<sup>71</sup>, pass a competency test with a score of 75,<sup>72</sup> complete 26 hours of core training,<sup>73</sup> and complete the required background screening.<sup>74</sup> ALF administrators are also currently required to complete 12 hours of continuing education biennially;<sup>75</sup> the bill would increase this continuing education requirement to 18 hours every 2 years.

The bill sets a licensure fee of \$150 for the initial ALF administrator license and for the renewal of that license. Administrator licenses must be renewed biennially.

An individual may be licensed as an ALF administrator without completing the training or taking the competency test if the individual:

- Has been employed as an administrator for 2 of the 5 years immediately preceding July 1, 2013, is in compliance with the continuing education requirements, and was not an administrator for a facility that was cited for a Class I or Class II violation within the past two years; or
- Is licensed in accordance with part II of Chapter 468 (nursing home administration) and is in compliance with the continuing education requirements of that chapter.

The bill requires AHCA to revoke or deny an administrator license if the applicant or licensee:

- Was the administrator of, or had a controlling interest in, an ALF or nursing home when that facility was cited for violations resulting in denial or revocation of a license;
- Has a final agency action for unlicensed activity pursuant to Chapter 429 or Part II of Chapter 408 or authorizing statutes; or
- Was the administrator of, or had a controlling interest in, an ALF or nursing home when that facility was cited for violations within the previous three years that resulted in the death of a resident.

An applicant or a licensee may challenge a denial, revocation, or any other action against the license by AHCA under the provisions of Chapter 120, F.S.<sup>76</sup>

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<sup>71</sup> Rule 58A-5.0191(1)(a), F.A.C.

<sup>72</sup> Rule 58A-5.0191(1)(b), F.A.C.

<sup>73</sup> Rule 58A-5.0191(1)(a), F.A.C.

<sup>74</sup> S. 429.174, F.S.

<sup>75</sup> S. 429.52, F.S.

<sup>76</sup> S. 408.817, F.S.

The bill allows AHCA to issue ALF administrator licenses for a period less than 2 years in order to stagger license expiration dates. AHCA must charge a prorated licensure fee for any shortened period. The authority expires on December 31, 2013.

The bill gives AHCA rulemaking authority regarding administrator licenses.

### Training and Competency Test

#### *Training*

The bill requires administrators to complete a core training course, to complete a supplemental course, and to pass a test on the content of those courses prior to licensure. The core training and competency test are currently required, but currently administrators have 3 months after employment as the administrator to complete these requirements.<sup>77</sup> The bill also modifies the required continuing education training.

The bill requires DOEA, in consultation with AHCA, DCF, and stakeholders, to approve a standardized 40 hour core training curriculum. This training must be offered in English and Spanish and must be updated timely to reflect changes in law, rules, and best practices. The core training must be completed by administrators to qualify for licensure. The core training curriculum must include the same topics as currently required, as well as:

- Elopement prevention;
- Aggression and behavior management, de-escalation techniques, and proper protocols and procedures of the Baker Act;
- Do not resuscitate orders;
- Infection control;
- Admission, continuing residency and industry best practices; and
- Phases of care.

The bill requires administrators to complete a supplemental 10 hour course prior to licensure. The course must be developed by DOEA, in consultation with DCF and stakeholders, and must include the following topics:

- Extended congregate care;
- Limited mental health; and
- Business operations, including human resources, financial management, and supervision of staff.

The requirements for training for staff, other than the administrator, are currently set by rule by DOEA.<sup>78</sup> The bill maintains the current training requirements for staff, including that staff training may be in-service, and codifies the requirements in statute. The bill requires that staff training cover, at a minimum, the following topics:

- Reporting major incidents and reporting adverse incidents;
- Resident rights and identifying and reporting abuse, neglect, and exploitation;
- Emergency procedures, including fire safety and resident elopement response policies and procedure; and
- General information on interacting with individuals with Alzheimer's disease and related disorders.

The bill requires DOEA, in consultation with AHCA and stakeholders to approve curricula for continuing education requirements. The curricula must include topics similar to that of the core training. This must be offered through online courses and any fees associated with the continuing education must be paid by the licensee or the facility. The education must cover:

- Elopement prevention;

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<sup>77</sup> Rule 58A-5.0191(1)(b), F.A.C.

<sup>78</sup> Rule 58A-5.0191, F.A.C.



- De-escalation techniques; and
- Phases of care and interacting with residents.

The bill requires that as of January 1, 2013, all staff and administrator training must be conducted by any:

- Florida College System institution;
- Non-public post-secondary institution licensed or exempt from licensure pursuant to Chapter 1005; or
- Statewide association which contracts with DOEA to provide training. "Statewide association" means any statewide entity which represents and provides technical assistance to ALFs. DOEA may specify in contract minimum trainer qualifications.

The bill requires ALF trainers to keep a record of individuals who complete training and submit the record AHCA within 30 days of completing the course.

The bill maintains DOEA's rulemaking authority regarding training.

### *Competency Test*

Administrators are currently required to pass a competency examination.<sup>79</sup> The bill maintains this requirement, but alters DOEA's involvement in this test. Currently, DOEA establishes a competency test and a minimum score required to pass the core competency training.<sup>80</sup> The bill removes DOEA's authority to determine a passing score and requires a score of 80 to pass the competency test. DOEA currently requires a score of 75 to pass the competency test.<sup>81</sup> The bill also requires DOEA to approve, rather than to develop the test. The test must be reviewed and updated annually to reflect any changes in the laws, rules, and best practices. It must be offered in English and Spanish and may be offered through testing centers.

### Inspections

The bill requires additional inspections for facilities which have been cited for a Class I violation or two or more Class II violations from separate surveys within a 60 day period. The bill requires those facilities to have two additional inspections conducted every six months for a year and requires AHCA to assess a fee of \$69 per bed for each of the additional inspections. These additional fees may not exceed \$12,000.

AHCA is required to verify that any violation is corrected which was identified during an inspection. This verification must take place through subsequent inspections. The bill provides that a Class III or Class IV violation unrelated to residents right or resident care can be verified through written documentation submitted by the facility rather than by reinspection.

The bill allows facilities accredited by the Joint Commission, the Council on Accreditation, or the Commission on Accreditation of Rehabilitation Facilities to be inspected less frequently than the required biennial inspection. The bill requires these facilities to be inspected at least once every five years.

### Sanctions

The bill changes fines for facilities with a history of violations and facilities with violations resulting in serious consequences. The bill requires AHCA to impose a \$10,000 fine for any violation resulting in the death of a resident. The bill requires AHCA to double the fine for a subsequent violation if the facility is cited for a violation in the same class as a prior violation cited in the past 24 months.

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<sup>79</sup> S. 429.52(2), F.S.

<sup>80</sup> S. 429.52(2), F.S.

<sup>81</sup> Rule 58A-5.0191, F.A.C.

## Mental Health Residents

Currently, DCF has a number of responsibilities for mental health residents who live in LMH facilities. "Mental health residents" are defined to include only those individuals who receive social security disability income due to a mental disorder as determined by the Social Security Administration or receives supplemental security income due to a mental disorder as determined by the Social Security Administration and receives optional state supplementation.<sup>82</sup> DCF's responsibilities include ensuring that such a mental health resident has been evaluated and determined appropriate to live in an ALF, ensuring that an ALF is provided documentation that the resident meets the definition of a mental health resident, ensuring that a mental health resident is assigned a case manager, and ensuring that mental health residents have the required plans and agreements with the ALFs in which they reside.<sup>83</sup> The bill makes these responsibilities applicable to mental health residents who live in any ALF, rather than just residents who live in an ALFs with a LMH license.

The bill requires DCF to include a provision in contracts with community mental health service providers to assign a case manager for a mental health resident, prepare a community living support plan, and enter into a cooperative agreement with the ALF. The bill also requires case managers to update the community living support plan as needed, to ensure that the ongoing needs of the residents are addressed.

The bill requires DCF to impose contract penalties on providers who fail to comply with requirements for mental health residents and requires AHCA to establish contract penalties to Medicaid prepaid plans which fail to comply with requirements for mental health residents. The bill requires DCF and AHCA to enter into an interagency agreement to establish responsibilities and procedures to enforce the abovementioned changes.

The bill prohibits a facility from obtaining a LMH license under certain scenarios. The bill denies facilities a LMH license if they have been subject to administrative sanctions during the last 2 years, or since initial licensure if they have not been licensed for 2 years, because of:

- One or more class I violation imposed by final agency action;
- Three or more class II violations imposed by final agency action;
- Ten or more uncorrected class II violations, in accordance with s. 408.811 (4);
- Denial, suspension, or revocation of a license for another facility in which the license applicant had at least 25% ownership; or
- Imposition of a moratorium or injunctive proceedings pursuant to ALF or nursing home laws and regulations.

The bill requires DCF to contract training of staff and administrators of an ALF with a LMH license. Currently DCF may either perform this in house or contract the training.<sup>84</sup> The bill also allows the training provider to charge a reasonable fee for training.

## Abuse

Mandatory reporting requires that those listed report abuse, neglect, or exploitation of vulnerable adults to the central abuse hotline. The bill creates a mandatory reporting requirement for employees or agents of state or local agencies with regulatory responsibilities over, or who provides services to persons residing in ALFs.

## Ombudsman Program

All residents and their representatives are required to receive information regarding the State Long-Term Care Ombudsman Program. The bill changes the required contents to include information on

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<sup>82</sup> S. 394.4574, F.S. and s. 429.02(15), F.S.

<sup>83</sup> S. 394.4574, F.S.

<sup>84</sup> S. 429.075, F.S.

confidentiality of the complainant and the confidentiality of the complaint in cases where the complaint will result in the identification of the resident about whom the complaint is made.

### Interagency Communication

The bill requires that AHCA, DOEA, DCF, and Agency for Persons with Disabilities develop or modify electronic systems of communication among state-supported automated systems, if funds are available. The goal is to ensure that relevant information pertaining to the regulation of ALFs and facility staff is timely and effectively communicated among agencies to protect residents.

### Advisory Council

The bill requires DOEA to establish an advisory council to review facts and circumstances of unexpected deaths and elopements which harmed residents in ALFs, to gain understanding of causes and contributing factors to these issues and to identify gaps, deficiencies, or problems regarding delivery of services. The council must recommend industry best practices, training and education requirements, and changes in the law, rules, or policies in order to prevent unexpected deaths and elopements. The council must also prepare a statistical report annually, regarding the incidence and causes of unexpected deaths and elopements resulting in harm within ALFs during the previous year. This must be submitted by December 31 of each year to the Governor, Senate President, and Speaker of the House of Representatives.

The advisory council must contain the following members:

- The Secretary of DOEA, or a designee, who will serve as the chair;
- The Secretary of AHCA, or a designee;
- The Secretary of DCF, or a designee;
- The State Long-Term Care Ombudsman, or a designee;
- An owner or administrator of an ALF with less than 17 beds, selected by the Governor;
- An owner or administrator of an ALF with more than 17 beds, selected by the Governor;
- An owner or administrator of an ALF with a LMH license, selected by the Governor; and
- A representative from each of three statewide associations that represent ALFs, selected by the Governor.
- A resident of an ALF, selected by the Governor.

The chair may appoint ad hoc committees as needed to carry out council duties. The members appointed by the Governor must be appointed to staggered terms of office, not exceeding 2 years. These members are also not eligible for reappointment. The council must meet at the call of the chair, at least twice per year. Members of the council are unpaid, but are entitled for reimbursement per diem and travel expenses incurred, to the extent that funds are available.

### Quality Adjustments to Medicaid Rates

The bill requires the AHCA, through the Florida Center for Health Information and Policy Analysis, to collect, analyze, and distribute health information and statistics for the purpose of evaluating the performance of programs and providers. Information and statistics are also to be made available to aid independent and collaborative quality improvement activities in the delivery of and payment for health services. The bill requires the AHCA to release information and statistics to quality improvement collaboratives for evaluation of the incidence of potentially preventable events, defined in the bill, which is deemed necessary for administration of the Medicaid program. All state and federal privacy regulations with regard to information dispensed for the purpose of Medicaid program administration remain in effect.

The bill creates a program that provides for positive adjustments in Medicaid payment rates for hospitals, nursing homes, and managed care plans that show measurable improvement in the quality of health care services provided to patients ("payment for performance" plan). Adjustments will be based on specific outcome measures and documented efforts to improve the delivery of health care services.

The program will include appropriate risk adjustments, will exclude measurable outcomes that cannot be deemed to have been preventable, and waive adjustments for providers with too few cases to establish reliable rates. The program will be implemented in state fiscal year 2015-16.

The program will use outcome measures to allocate positive payment adjustments; the measures will vary depending on the provider. The program will examine potentially preventable events in hospitals, such as potentially preventable admissions and potentially preventable complications. For skilled nursing facilities, the program will examine the rate of residents experiencing falls with major injuries, the rate of potentially preventable hospital admissions, and the percent of residents with new or worsened pressure ulcers. For managed care plans, the program will examine potentially preventable initial hospital admissions, potentially preventable emergency department visits, and potentially preventable ancillary services. The bill permits the agency, after the third period of performance payments using these criteria, to establish alternate benchmarks upon which future performance payments will be based.

The program will establish expected rates of potentially preventable events, defined within the section, for each facility or provider. The program will calculate the actual rate of potentially preventable events, which are defined within the section, for each facility by measuring those events that occurred during FY 2011-2012 or the most recent 12-month period. The program is directed to use Medicaid claims data, Medicaid encounter data, and hospital discharge data, as well as methods for measuring outcome measures used by other payers, to measure and establish these rates. A technical advisory panel for each category of provider will be established to assist the agency in development and implementing the program.

The program will establish expected rates of potentially preventable events for each subsequent fiscal year after the base year for each provider. The observed rate, which is the actual measured rate of potentially preventable events, will be compared with the expected rate. The difference in the two rates will result in a performance rate. Hospitals, skilled nursing facilities, and managed care plans will be ranked based on the improvement rate. Positive rate adjustments will be awarded to the highest ranking facilities and providers. Positive rate adjustments will also be awarded to a certain number of facilities and providers, not ranked in the top tier, which evidence the best year-to-year rate of improvement.

Performance-based payment adjustment may be made up to 1 percent of payment rates for hospital inpatient and outpatient services, nursing home care, and capitation rates for prepaid health plans. In addition, adjustments for documented activities to improve performance may be made up to .25 percent of applicable payment rates.

For at least the first three rate setting periods after the program is implemented, hospitals in the top ten percentiles will receive a payment adjustment up to 1 percent. The ten hospitals with the best year-to-year improvement, which are not ranked in the top ten percentiles, will receive a payment adjustment up to 0.25 percent. Skilled nursing facilities ranked in the top three percentiles will be eligible for the higher payment adjustment, and the ten facilities with the best year-to-year improvement, which are not ranked in the top three percentiles, will receive the smaller adjustment. The top ten managed care plans, also ranked by performance rate, will receive a positive payment adjustment up to 1 percent.

The bill provides examples of quality improvement activities which hospitals and skilled nursing facilities may engage in that may lead to positive payment adjustments. For hospitals, activities include complying with requirements to reduce hospital acquired infections and engaging in a quality improvement collaborative which focuses on reducing potentially preventable admissions or readmissions, or hospital acquired infections. For skilled nursing facilities, activities include engaging in a comprehensive fall prevention program and engaging in a quality improvement collaborative focusing on reducing potentially preventable hospital admissions, potentially preventable emergency department visits, and the percent of residents with new or worsened pressure ulcers.

The bill defines several terms used in the payment for performance plan:

- Expected rate;
- Hospital acquired infections;
- Observed rate;
- Potentially preventable admission;
- Potentially preventable ancillary service;
- Potentially preventable complication;
- Potentially preventable emergency department visit;
- Potentially preventable event;
- Potentially preventable readmission; and
- Quality improvement collaborative.

The bill amends Chapter 395, regulating hospitals, to add to current requirements for reasonable and fair minimum standards for infection control and sanitation activities to protect patient care and safety. The bill requires AHCA to adopt rules that require hospital staff responsible for cleaning and disinfecting patient rooms use masks and gloves while cleaning, and to follow label directions with regard to the requisite time period that a disinfectant must remain on a surface to allow for proper disinfection. The facility must document compliance with the procedures established in the bill. Failure to comply with the procedures subjects the facility to possible administrative fines, assessed for each day the procedures are violated.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 394.4574, relating to Department responsibilities for mental health residents in an assisted living facility.

**Section 2:** Amends s. 395.1055, relating to rules and enforcement.

**Section 3:** Amends s. 400.0078, relating to citizen access to State Long-Term Care Ombudsman Program services.

**Section 4:** Amends s. 408.05, relating to Florida Center for Health Information and Policy Analysis.

**Section 5:** Amends s. 408.802, relating to applicability.

**Section 6:** Amends s. 408.820, relating to exemptions.

**Section 7:** Amends s. 409.986, relating to quality adjustments to Medicaid Rates.

**Section 8:** Amends s. 415.1034, relating to mandatory reporting of abuse, neglect, or exploitation of vulnerable adults.

**Section 9:** Amends s. 429.07, relating to license required.

**Section 10:** Amends s. 429.075, relating to limited mental health license.

**Section 11:** Amends s. 429.0751, relating to mental health residents.

**Section 12:** Amends s. 429.19, relating to violations.

**Section 13:** Creates s. 429.231, relating to advisory council.

**Section 14:** Amends s. 429.34, relating to right of entry and inspections.

**Section 15:** Creates s. 429.50, relating to assisted living facility administrator.

**Section 16:** Creates an unnumbered section of law relating to staggering administrator license expiration dates.

**Section 17:** Amends s. 429.52, relating to staff, administrator, and administrator license applicant training and education programs.

**Section 18:** Amends s. 429.54, relating to interagency communication.

**Section 19:** Provides an effective date of July 1, 2012.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

AHCA estimates that it will collect \$555,150 in increased regulatory revenues through the implementation of the \$150 initial ALF administrator license and for the biennial renewal of the licensure fee.

#### 2. Expenditures:

AHCA will have increased workload related to administering the ALF administrator license and the increased inspections of ALFs. AHCA will require 13.0 FTE, 543,781 in salary rate and \$901,826 in salaries, benefits and expense funding. Expenditures will exceed expected revenues by approximately \$346,676.

Provisions related to Quality Adjustments for Medicaid rates may have an impact on Medicaid expenditures when implemented in Fiscal Year 2015-16. The exact impact is indeterminate. Provisions related to mental health residents in ALFs may also increase Medicaid costs. The exact amount is indeterminate.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Applicants will be required to pay a \$150 fee to obtain and renew an ALF administrator license. Additionally, applicants will have to pay for training and testing fees. ALFs may also pay increased fees for additional inspections if they are cited for violations in accordance with the provisions of the bill.

### D. FISCAL COMMENTS:

The provisions of the bill will cause a negative impact the Health Care Trust Fund within AHCA. The proposed House General Appropriations Act (HB 5001) provided 5.0 FTE, 218,819 in salary rate and \$347,427 in General Revenue funding for staff increases for regulation of ALFs. This appropriation would offset the revenue deficit in the Health Care Trust Fund.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The Agency for Health Care Administration is given rulemaking authority to administer the ALF administrator license. The Department of Elder Affairs is given increased rulemaking authority to administer the ALF administrator testing and training program.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                   A bill to be entitled  
2           An act relating to quality improvement initiatives for  
3           entities regulated by the Agency for Health Care  
4           Administration; amending s. 394.4574, F.S.; providing  
5           responsibilities of the Department of Children and  
6           Family Services and mental health service providers  
7           for mental health residents who reside in assisted  
8           living facilities; directing the agency to impose  
9           contract penalties on Medicaid prepaid health plans  
10          under specified circumstances; directing the  
11          department to impose contract penalties on mental  
12          health service providers under specified  
13          circumstances; directing the department and the agency  
14          to enter into an interagency agreement for the  
15          enforcement of their respective responsibilities and  
16          procedures related thereto; amending s. 395.1055,  
17          F.S.; revising provisions relating to agency rules  
18          regarding standards for infection control,  
19          housekeeping, and sanitary conditions in a hospital;  
20          requiring housekeeping and sanitation staff to employ  
21          and document compliance with specified cleaning and  
22          disinfecting procedures; authorizing imposition of  
23          administrative fines for noncompliance; amending s.  
24          400.0078, F.S.; requiring specified information  
25          regarding the confidentiality of complaints to the  
26          State Long-Term Care Ombudsman Program to be provided  
27          to residents of a long-term care facility upon  
28          admission to the facility; amending s. 408.05, F.S.;



29 directing the agency to collect, compile, analyze, and  
 30 distribute specified health care information for  
 31 specified uses; providing for the agency to release  
 32 data necessary for the administration of the Medicaid  
 33 program to quality improvement collaboratives for  
 34 specified purposes; amending s. 408.802, F.S.;

35 providing that the provisions of part II of ch. 408,  
 36 F.S., the Health Care Licensing Procedures Act, apply  
 37 to assisted living facility administrators; amending  
 38 s. 408.820, F.S.; exempting assisted living facility  
 39 administrators from specified provisions of part II of  
 40 ch. 408, F.S., the Health Care Licensing Procedures  
 41 Act; creating s. 409.986, F.S.; providing definitions;

42 directing the agency to establish and implement  
 43 methodologies to adjust Medicaid rates for hospitals,  
 44 nursing homes, and managed care plans; providing  
 45 criteria for and limits on the amount of Medicaid  
 46 payment rate adjustments; directing the agency to seek  
 47 federal approval to implement a performance payment  
 48 system; providing for implementation of the system in  
 49 fiscal year 2015-2016; authorizing the agency to  
 50 appoint a technical advisory panel; providing  
 51 applicability of the performance payment system to  
 52 general hospitals, skilled nursing facilities, and  
 53 managed care plans and providing criteria therefor;

54 amending s. 415.1034, F.S.; providing that specified  
 55 persons who have regulatory responsibilities over or  
 56 provide services to persons residing in certain

57 facilities must report suspected incidents of abuse to  
 58 the central abuse hotline; amending s. 429.02, F.S.;  
 59 revising definitions applicable to the Assisted Living  
 60 Facilities Act; amending s. 429.07, F.S.; requiring  
 61 that an assisted living facility be under the  
 62 management of a licensed assisted living facility  
 63 administrator; amending s. 429.075, F.S.; providing  
 64 additional requirements for a limited mental health  
 65 license; removing specified assisted living facility  
 66 requirements; authorizing a training provider to  
 67 charge a fee for the training required of facility  
 68 administrators and staff; revising provisions for  
 69 application for a limited mental health license;  
 70 creating s. 429.0751, F.S.; providing requirements for  
 71 an assisted living facility that has mental health  
 72 residents; requiring the assisted living facility to  
 73 enter into a cooperative agreement with a mental  
 74 health care service provider; providing for the  
 75 development of a community living support plan;  
 76 specifying who may have access to the plan; requiring  
 77 documentation of mental health resident assessments;  
 78 amending s. 429.178, F.S.; conforming cross-  
 79 references; amending s. 429.19, F.S.; providing fines  
 80 and penalties for specified violations by an assisted  
 81 living facility; creating s. 429.231, F.S.; directing  
 82 the Department of Elderly Affairs to create an  
 83 advisory council to review the facts and circumstances  
 84 of unexpected deaths in assisted living facilities and

85 of elopements that result in harm to a resident;  
 86 providing duties; providing for appointment and terms  
 87 of members; providing for meetings; requiring a  
 88 report; providing for per diem and travel expenses;  
 89 amending s. 429.34, F.S.; providing a schedule for the  
 90 inspection of assisted living facilities; providing  
 91 exceptions; providing for fees for additional  
 92 inspections after specified violations; creating s.  
 93 429.50, F.S.; prohibiting a person from performing the  
 94 duties of an assisted living facility administrator  
 95 without a license; providing qualifications for  
 96 licensure; providing exceptions; providing license and  
 97 license renewal fees; providing grounds for revocation  
 98 or denial of licensure; providing rulemaking  
 99 authority; authorizing the agency to issue a temporary  
 100 license to an assisted living facility administrator  
 101 under certain conditions and for a specified period of  
 102 time; amending s. 429.52, F.S.; providing training,  
 103 competency testing, and continuing education  
 104 requirements for assisted living facility  
 105 administrators and license applicants; specifying  
 106 entities that may provide training; providing a  
 107 definition; requiring assisted living facility  
 108 trainers to keep certain training records and submit  
 109 those records to the agency; providing rulemaking  
 110 authority; amending s. 429.54, F.S.; requiring the  
 111 Agency for Health Care Administration, the Department  
 112 of Elderly Affairs, the Department of Children and

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113 Family Services, and the Agency for Persons with  
 114 Disabilities to develop or modify electronic  
 115 information systems and other systems to ensure  
 116 efficient communication regarding regulation of  
 117 assisted living facilities, subject to the  
 118 availability of funds; providing an effective date.  
 119

120 Be It Enacted by the Legislature of the State of Florida:  
 121

122 Section 1. Section 394.4574, Florida Statutes, is amended  
 123 to read:

124 394.4574 Department responsibilities for a mental health  
 125 resident who resides in an assisted living facility ~~that holds a~~  
 126 ~~limited mental health license.~~

127 (1) The term "mental health resident," for purposes of  
 128 this section, means an individual who receives social security  
 129 disability income due to a mental disorder as determined by the  
 130 Social Security Administration or receives supplemental security  
 131 income due to a mental disorder as determined by the Social  
 132 Security Administration and receives optional state  
 133 supplementation.

134 (2) The department must ensure that:

135 (a) A mental health resident has been assessed by a  
 136 psychiatrist, clinical psychologist, clinical social worker, or  
 137 psychiatric nurse, or an individual who is supervised by one of  
 138 these professionals, and determined to be appropriate to reside  
 139 in an assisted living facility. The documentation must be  
 140 provided to the administrator of the facility within 30 days

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141 after the mental health resident has been admitted to the  
 142 facility. An evaluation completed upon discharge from a state  
 143 mental hospital meets the requirements of this subsection  
 144 related to appropriateness for placement as a mental health  
 145 resident if it was completed within 90 days prior to admission  
 146 to the facility.

147 (b) A cooperative agreement, as required in s. 429.0751  
 148 ~~429.075~~, is developed between the mental health care services  
 149 provider that serves a mental health resident and ~~the~~  
 150 ~~administrator of the assisted living facility with a limited~~  
 151 ~~mental health license in which the mental health resident is~~  
 152 ~~living. Any entity that provides Medicaid prepaid health plan~~  
 153 ~~services shall ensure the appropriate coordination of health~~  
 154 ~~care services with an assisted living facility in cases where a~~  
 155 ~~Medicaid recipient is both a member of the entity's prepaid~~  
 156 ~~health plan and a resident of the assisted living facility. If~~  
 157 ~~the entity is at risk for Medicaid targeted case management and~~  
 158 ~~behavioral health services, the entity shall inform the assisted~~  
 159 ~~living facility of the procedures to follow should an emergent~~  
 160 ~~condition arise.~~

161 (c) The community living support plan, as defined in s.  
 162 429.02, has been prepared by a mental health resident and a  
 163 mental health case manager of that resident in consultation with  
 164 the administrator of the facility or the administrator's  
 165 designee. The plan must be provided to the administrator of the  
 166 assisted living facility ~~with a limited mental health license in~~  
 167 ~~which the mental health resident lives. The support plan and the~~  
 168 ~~agreement may be in one document.~~

169 (d) The assisted living facility ~~with a limited mental~~  
 170 ~~health license~~ is provided with documentation that the  
 171 individual meets the definition of a mental health resident.

172 (e) The mental health services provider assigns a case  
 173 manager to each mental health resident who lives in an assisted  
 174 living facility ~~with a limited mental health license~~. The case  
 175 manager is responsible for coordinating the development of and  
 176 implementation of the community living support plan defined in  
 177 s. 429.02. The plan must be updated as needed, but at least  
 178 annually, to ensure that the ongoing needs of the residents are  
 179 addressed.

180 (3) A Medicaid prepaid health plan shall ensure the  
 181 appropriate coordination of health care services with an  
 182 assisted living facility when a Medicaid recipient is both a  
 183 member of the entity's prepaid health plan and a resident of the  
 184 assisted living facility. If the Medicaid prepaid health plan is  
 185 responsible for Medicaid-targeted case management and behavioral  
 186 health services, the plan shall inform the assisted living  
 187 facility of the procedures to follow when an emergent condition  
 188 arises.

189 (4) The department shall include in contracts with mental  
 190 health service providers provisions that require the service  
 191 provider to assign a case manager for a mental health resident,  
 192 prepare a community living support plan, enter into a  
 193 cooperative agreement with the assisted living facility, and  
 194 otherwise comply with the provisions of this section. The  
 195 department shall establish and impose contract penalties for  
 196 mental health service providers under contract with the

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197 department that fail to comply with this section.

198 (5) The Agency for Health Care Administration shall  
 199 establish and impose contract penalties for Medicaid prepaid  
 200 health plans that fail to comply with this section.

201 (6) The department shall enter into an interagency  
 202 agreement with the Agency for Health Care Administration that  
 203 delineates their respective responsibilities and procedures for  
 204 enforcing the requirements of this section with respect to  
 205 assisted living facilities and mental health service providers.

206 (7)~~(3)~~ The Secretary of Children and Family Services, in  
 207 consultation with the Agency for Health Care Administration,  
 208 shall annually require each district administrator to develop,  
 209 with community input, detailed plans that demonstrate how the  
 210 district will ensure the provision of state-funded mental health  
 211 and substance abuse treatment services to residents of assisted  
 212 living facilities ~~that hold a limited mental health license.~~  
 213 These plans must be consistent with the substance abuse and  
 214 mental health district plan developed pursuant to s. 394.75 and  
 215 must address case management services; access to consumer-  
 216 operated drop-in centers; access to services during evenings,  
 217 weekends, and holidays; supervision of the clinical needs of the  
 218 residents; and access to emergency psychiatric care.

219 Section 2. Paragraph (b) of subsection (1) of section  
 220 395.1055, Florida Statutes, is amended to read:

221 395.1055 Rules and enforcement.—

222 (1) The agency shall adopt rules pursuant to ss.  
 223 120.536(1) and 120.54 to implement the provisions of this part,  
 224 which shall include reasonable and fair minimum standards for

225 ensuring that:

226 (b) Infection control, housekeeping, sanitary conditions,  
 227 and medical record procedures that will adequately protect  
 228 patient care and safety are established and implemented. These  
 229 procedures shall require housekeeping and sanitation staff to  
 230 wear masks and gloves when cleaning patient rooms, to disinfect  
 231 environmental surfaces in patient rooms in accordance with the  
 232 time instructions on the label of the disinfectant used by the  
 233 hospital, and to document compliance with this paragraph. The  
 234 agency may impose an administrative fine for each day that a  
 235 violation of this paragraph occurs.

236 Section 3. Subsection (2) of section 400.0078, Florida  
 237 Statutes, is amended to read:

238 400.0078 Citizen access to State Long-Term Care Ombudsman  
 239 Program services.—

240 (2) ~~Every resident or representative of a resident shall~~  
 241 ~~receive,~~ Upon admission to a long-term care facility, each  
 242 resident or representative of a resident must receive  
 243 information regarding the purpose of the State Long-Term Care  
 244 Ombudsman Program, the statewide toll-free telephone number for  
 245 receiving complaints, the confidentiality of a complaint if the  
 246 complaint will result in the identification of the resident  
 247 about whom the complaint is made and the confidentiality of the  
 248 complainant's name and identity, and other relevant information  
 249 regarding how to contact the program. Residents or their  
 250 representatives must be furnished additional copies of this  
 251 information upon request.

252 Section 4. Subsection (3) of section 408.05, Florida



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253 Statutes, is amended to read:

254 408.05 Florida Center for Health Information and Policy  
255 Analysis.—

256 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—The agency  
257 shall collect, compile, analyze, and distribute ~~In order to~~  
258 ~~produce comparable and uniform~~ health information and  
259 statistics. Such information shall be used for developing the  
260 ~~development of~~ policy recommendations, evaluating program and  
261 provider performance, and facilitating the independent and  
262 collaborative quality improvement activities of providers,  
263 payors, and others involved in the delivery of health services.

264 The agency shall perform the following functions:

265 (a) Coordinate the activities of state agencies involved  
266 in the design and implementation of the comprehensive health  
267 information system.

268 (b) Undertake research, development, and evaluation  
269 respecting the comprehensive health information system.

270 (c) Review the statistical activities of state agencies to  
271 ensure that they are consistent with the comprehensive health  
272 information system.

273 (d) Develop written agreements with local, state, and  
274 federal agencies for the sharing of health-care-related data or  
275 using the facilities and services of such agencies. State  
276 agencies, local health councils, and other agencies under state  
277 contract shall assist the center in obtaining, compiling, and  
278 transferring health-care-related data maintained by state and  
279 local agencies. Written agreements must specify the types,  
280 methods, and periodicity of data exchanges and specify the types

281 of data that will be transferred to the center.

282 (e) Establish by rule the types of data collected,  
 283 compiled, processed, used, or shared. Decisions regarding center  
 284 data sets should be made based on consultation with the State  
 285 Consumer Health Information and Policy Advisory Council and  
 286 other public and private users regarding the types of data which  
 287 should be collected and their uses. The center shall establish  
 288 standardized means for collecting health information and  
 289 statistics under laws and rules administered by the agency.

290 (f) Establish minimum health-care-related data sets which  
 291 are necessary on a continuing basis to fulfill the collection  
 292 requirements of the center and which shall be used by state  
 293 agencies in collecting and compiling health-care-related data.  
 294 The agency shall periodically review ongoing health care data  
 295 collections of the Department of Health and other state agencies  
 296 to determine if the collections are being conducted in  
 297 accordance with the established minimum sets of data.

298 (g) Establish advisory standards to ensure the quality of  
 299 health statistical and epidemiological data collection,  
 300 processing, and analysis by local, state, and private  
 301 organizations.

302 (h) Prescribe standards for the publication of health-  
 303 care-related data reported pursuant to this section which ensure  
 304 the reporting of accurate, valid, reliable, complete, and  
 305 comparable data. Such standards should include advisory warnings  
 306 to users of the data regarding the status and quality of any  
 307 data reported by or available from the center.

308 (i) Prescribe standards for the maintenance and

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309 preservation of the center's data. This should include methods  
 310 for archiving data, retrieval of archived data, and data editing  
 311 and verification.

312 (j) Ensure that strict quality control measures are  
 313 maintained for the dissemination of data through publications,  
 314 studies, or user requests.

315 (k) Develop, in conjunction with the State Consumer Health  
 316 Information and Policy Advisory Council, and implement a long-  
 317 range plan for making available health care quality measures and  
 318 financial data that will allow consumers to compare health care  
 319 services. The health care quality measures and financial data  
 320 the agency must make available shall include, but is not limited  
 321 to, pharmaceuticals, physicians, health care facilities, and  
 322 health plans and managed care entities. The agency shall update  
 323 the plan and report on the status of its implementation  
 324 annually. The agency shall also make the plan and status report  
 325 available to the public on its Internet website. As part of the  
 326 plan, the agency shall identify the process and timeframes for  
 327 implementation, any barriers to implementation, and  
 328 recommendations of changes in the law that may be enacted by the  
 329 Legislature to eliminate the barriers. As preliminary elements  
 330 of the plan, the agency shall:

331 1. Make available patient-safety indicators, inpatient  
 332 quality indicators, and performance outcome and patient charge  
 333 data collected from health care facilities pursuant to s.  
 334 408.061(1)(a) and (2). The terms "patient-safety indicators" and  
 335 "inpatient quality indicators" shall be as defined by the  
 336 Centers for Medicare and Medicaid Services, the National Quality

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337 Forum, the Joint Commission ~~on Accreditation of Healthcare~~  
 338 ~~Organizations~~, the Agency for Healthcare Research and Quality,  
 339 the Centers for Disease Control and Prevention, or a similar  
 340 national entity that establishes standards to measure the  
 341 performance of health care providers, or by other states. The  
 342 agency shall determine which conditions, procedures, health care  
 343 quality measures, and patient charge data to disclose based upon  
 344 input from the council. When determining which conditions and  
 345 procedures are to be disclosed, the council and the agency shall  
 346 consider variation in costs, variation in outcomes, and  
 347 magnitude of variations and other relevant information. When  
 348 determining which health care quality measures to disclose, the  
 349 agency:

350 a. Shall consider such factors as volume of cases; average  
 351 patient charges; average length of stay; complication rates;  
 352 mortality rates; and infection rates, among others, which shall  
 353 be adjusted for case mix and severity, if applicable.

354 b. May consider such additional measures that are adopted  
 355 by the Centers for Medicare and Medicaid Studies, National  
 356 Quality Forum, the Joint Commission ~~on Accreditation of~~  
 357 ~~Healthcare Organizations~~, the Agency for Healthcare Research and  
 358 Quality, Centers for Disease Control and Prevention, or a  
 359 similar national entity that establishes standards to measure  
 360 the performance of health care providers, or by other states.

361  
 362 When determining which patient charge data to disclose, the  
 363 agency shall include such measures as the average of  
 364 undiscounted charges on frequently performed procedures and

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365 preventive diagnostic procedures, the range of procedure charges  
 366 from highest to lowest, average net revenue per adjusted patient  
 367 day, average cost per adjusted patient day, and average cost per  
 368 admission, among others.

369         2. Make available performance measures, benefit design,  
 370 and premium cost data from health plans licensed pursuant to  
 371 chapter 627 or chapter 641. The agency shall determine which  
 372 health care quality measures and member and subscriber cost data  
 373 to disclose, based upon input from the council. When determining  
 374 which data to disclose, the agency shall consider information  
 375 that may be required by either individual or group purchasers to  
 376 assess the value of the product, which may include membership  
 377 satisfaction, quality of care, current enrollment or membership,  
 378 coverage areas, accreditation status, premium costs, plan costs,  
 379 premium increases, range of benefits, copayments and  
 380 deductibles, accuracy and speed of claims payment, credentials  
 381 of physicians, number of providers, names of network providers,  
 382 and hospitals in the network. Health plans shall make available  
 383 to the agency any such data or information that is not currently  
 384 reported to the agency or the office.

385         3. Determine the method and format for public disclosure  
 386 of data reported pursuant to this paragraph. The agency shall  
 387 make its determination based upon input from the State Consumer  
 388 Health Information and Policy Advisory Council. At a minimum,  
 389 the data shall be made available on the agency's Internet  
 390 website in a manner that allows consumers to conduct an  
 391 interactive search that allows them to view and compare the  
 392 information for specific providers. The website must include

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393 such additional information as is determined necessary to ensure  
 394 that the website enhances informed decisionmaking among  
 395 consumers and health care purchasers, which shall include, at a  
 396 minimum, appropriate guidance on how to use the data and an  
 397 explanation of why the data may vary from provider to provider.

398 4. Publish on its website undiscounted charges for no  
 399 fewer than 150 of the most commonly performed adult and  
 400 pediatric procedures, including outpatient, inpatient,  
 401 diagnostic, and preventative procedures.

402 (1) Assist quality improvement collaboratives by releasing  
 403 information to the providers, payors, or entities representing  
 404 and working on behalf of providers and payors. The agency shall  
 405 release such data, which is deemed necessary for the  
 406 administration of the Medicaid program, to quality improvement  
 407 collaboratives for evaluation of the incidence of potentially  
 408 preventable events.

409 Section 5. Subsection (31) is added to section 408.802,  
 410 Florida Statutes, to read:

411 408.802 Applicability.—The provisions of this part apply  
 412 to the provision of services that require licensure as defined  
 413 in this part and to the following entities licensed, registered,  
 414 or certified by the agency, as described in chapters 112, 383,  
 415 390, 394, 395, 400, 429, 440, 483, and 765:

416 (31) Assisted living facility administrators, as provided  
 417 under part I of chapter 429.

418 Section 6. Subsection (29) is added to section 408.820,  
 419 Florida Statutes, to read:

420 408.820 Exemptions.—Except as prescribed in authorizing

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421 statutes, the following exemptions shall apply to specified  
 422 requirements of this part:

423 (29) Assisted living facility administrators, as provided  
 424 under part I of chapter 429, are exempt from ss. 408.806(7),  
 425 408.810(4)-(10), and 408.811.

426 Section 7. Section 409.986, Florida Statutes, is created  
 427 to read:

428 409.986 Quality adjustments to Medicaid rates.-

429 (1) As used in this section, the term:

430 (a) "Expected rate" means the risk-adjusted rate for each  
 431 provider that accounts for the severity of illness, All Patient  
 432 Refined-Diagnosis Related Groups, and the age of a patient.

433 (b) "Hospital-acquired infections" means infections not  
 434 present and without evidence of incubation at the time of  
 435 admission to a hospital.

436 (c) "Observed rate" means the actual number for each  
 437 provider of potentially preventable events divided by the number  
 438 of cases in which potentially preventable events may have  
 439 occurred.

440 (d) "Potentially preventable admission" means an admission  
 441 of a person to a hospital that might have reasonably been  
 442 prevented with adequate access to ambulatory care or health care  
 443 coordination.

444 (e) "Potentially preventable ancillary service" means a  
 445 health care service provided or ordered by a physician or other  
 446 health care provider to supplement or support the evaluation or  
 447 treatment of a patient, including a diagnostic test, laboratory  
 448 test, therapy service, or radiology service, that may not be

449 reasonably necessary for the provision of quality health care or  
 450 treatment.

451 (f) "Potentially preventable complication" means a harmful  
 452 event or negative outcome with respect to a person, including an  
 453 infection or surgical complication, that:

454 1. Occurs after the person's admission to a hospital or  
 455 long-term care facility; and

456 2. May have resulted from the care, lack of care, or  
 457 treatment provided during the hospital or long-term care  
 458 facility stay rather than from a natural progression of an  
 459 underlying disease.

460 (g) "Potentially preventable emergency department visit"  
 461 means treatment of a person in a hospital emergency room or  
 462 freestanding emergency medical care facility for a condition  
 463 that does not require or should not have required emergency  
 464 medical attention because the condition can or could have been  
 465 treated or prevented by a physician or other health care  
 466 provider in a nonemergency setting.

467 (h) "Potentially preventable event" means a potentially  
 468 preventable admission, a potentially preventable ancillary  
 469 service, a potentially preventable complication, a potentially  
 470 preventable emergency department visit, a potentially  
 471 preventable readmission, or a combination of those events.

472 (i) "Potentially preventable readmission" means a return  
 473 hospitalization of a person within 15 days that may have  
 474 resulted from deficiencies in the care or treatment provided to  
 475 the person during a previous hospital stay or from deficiencies  
 476 in posthospital discharge followup. The term does not include a



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477 hospital readmission necessitated by the occurrence of unrelated  
 478 events after the discharge. The term includes the readmission of  
 479 a person to a hospital for:

480 1. The same condition or procedure for which the person  
 481 was previously admitted;

482 2. An infection or other complication resulting from care  
 483 previously provided; or

484 3. A condition or procedure that indicates that a surgical  
 485 intervention performed during a previous admission was  
 486 unsuccessful in achieving the anticipated outcome.

487 (j) "Quality improvement collaboration" means a structured  
 488 process involving multiple providers and subject matter experts  
 489 to focus on a specific aspect of quality care in order to  
 490 analyze past performance and plan, implement, and evaluate  
 491 specific improvement methods.

492 (2) The agency shall establish and implement methodologies  
 493 to adjust Medicaid payment rates for hospitals, nursing homes,  
 494 and managed care plans based on evidence of improved patient  
 495 outcomes. Payment adjustments shall be dependent on  
 496 consideration of specific outcome measures for each provider  
 497 category, documented activities by providers to improve  
 498 performance, and evidence of significant improvement over time.  
 499 Measurement of outcomes shall include appropriate risk  
 500 adjustments, exclude cases that cannot be determined to be  
 501 preventable, and waive adjustments for providers with too few  
 502 cases to calculate reliable rates.

503 (a) Performance-based payment adjustments may be made up  
 504 to 1 percent of each qualified provider's rate for hospital

505 inpatient services, hospital outpatient services, nursing home  
 506 care, and the plan-specific capitation rate for prepaid health  
 507 plans. Adjustments for activities to improve performance may be  
 508 made up to 0.25 percent based on evidence of a provider's  
 509 engagement in activities specified in this section.

510 (b) Outcome measures shall be established for a base year,  
 511 which may be state fiscal year 2010-2011 or a more recent 12-  
 512 month period.

513 (3) Methodologies established pursuant to this section  
 514 shall use existing databases, including Medicaid claims,  
 515 encounter data compiled pursuant to s. 409.9122(14), and  
 516 hospital discharge data compiled pursuant to s. 408.061(1)(a).  
 517 To the extent possible, the agency shall use methods for  
 518 determining outcome measures in use by other payors.

519 (4) The agency shall seek any necessary federal approval  
 520 for the performance payment system and implement the system in  
 521 state fiscal year 2015-2016.

522 (5) The agency may appoint a technical advisory panel for  
 523 each provider category in order to solicit advice and  
 524 recommendations during the development and implementation of the  
 525 performance payment system.

526 (6) The performance payment system for hospitals shall  
 527 apply to general hospitals as defined in s. 395.002. The outcome  
 528 measures used to allocate positive payment adjustments shall  
 529 consist of one or more potentially preventable events such as  
 530 potentially preventable readmissions and potentially preventable  
 531 complications.

532 (a) For each 12-month period after the base year, the

533 agency shall determine the expected rate and the observed rate  
 534 for specific outcome indicators for each hospital. The  
 535 difference between the expected and observed rates shall be used  
 536 to establish a performance rate for each hospital. Hospitals  
 537 shall be ranked based on performance rates.

538 (b) For at least the first three rate-setting periods  
 539 after the performance payment system is implemented, a positive  
 540 payment adjustment shall be made to hospitals in the top 10  
 541 percentiles, based on their performance rates, and the 10  
 542 hospitals with the best year-to-year improvement among those  
 543 hospitals that did not rank in the top 10 percentiles. After the  
 544 third period of performance payment, the agency may replace the  
 545 criteria specified in this subsection with quantified benchmarks  
 546 for determining which providers qualify for positive payment  
 547 adjustments.

548 (c) Quality improvement activities that may earn positive  
 549 payment adjustments include:

550 1. Complying with requirements that reduce hospital-  
 551 acquired infections pursuant to s. 395.1055(1)(b); or

552 2. Actively engaging in a quality improvement  
 553 collaboration that focuses on reducing potentially preventable  
 554 admissions, potentially preventable readmissions, or hospital-  
 555 acquired infections.

556 (7) The performance payment system for skilled nursing  
 557 facilities shall apply to facilities licensed pursuant to part  
 558 II of chapter 400 with current Medicaid provider service  
 559 agreements. The outcome measures used to allocate positive  
 560 payment adjustments shall consist of one or more of the

561 following rates: the percentage of residents experiencing falls  
 562 with major injuries, the percentage of residents with  
 563 potentially preventable hospital admissions, the percentage of  
 564 residents using potentially preventable emergency department  
 565 services, or the percentage of residents with pressure ulcers  
 566 that are new or worsened.

567 (a) For each 12-month period after the base year, the  
 568 agency shall determine the expected rate and the observed rate  
 569 for specific outcome indicators for each skilled nursing  
 570 facility. The difference between the expected and observed rates  
 571 shall be used to establish a performance rate for each skilled  
 572 nursing facility. Facilities shall be ranked based on  
 573 performance rates.

574 (b) For at least the first three rate-setting periods  
 575 after the performance payment system is implemented, a positive  
 576 payment adjustment shall be made to facilities in the top three  
 577 percentiles, based on their performance rates, and the 10  
 578 facilities with the best year-to-year improvement among  
 579 facilities that did not rank in the top three percentiles. After  
 580 the third period of performance payment, the agency may replace  
 581 the criteria specified in this subsection with quantified  
 582 benchmarks for determining which facilities qualify for positive  
 583 payment adjustments.

584 (c) Quality improvement activities that may earn positive  
 585 payment adjustments include:

- 586 1. Actively engaging in a comprehensive fall-prevention  
 587 program.
- 588 2. Actively engaging in a quality improvement

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589 collaboration that focuses on reducing potentially preventable  
 590 hospital admissions or reducing the percentage of residents with  
 591 pressure ulcers that are new or worsened.

592 (8) A performance payment system shall apply to all  
 593 managed care plans. The outcome measures used to allocate  
 594 positive payment adjustments shall consist of one or more  
 595 potentially preventable events, such as potentially preventable  
 596 initial hospital admissions, potentially preventable emergency  
 597 department visits, or potentially preventable ancillary  
 598 services.

599 (a) For each 12-month period after the base year, the  
 600 agency shall determine the expected rate and the observed rate  
 601 for specific outcome indicators for each managed care plan. The  
 602 difference between the expected and observed rates shall be used  
 603 to establish a performance rate for each plan. Managed care  
 604 plans shall be ranked based on performance rates.

605 (b) For at least the first three rate-setting periods  
 606 after the performance payment system is implemented, a positive  
 607 payment adjustment shall be made to the top 10 managed care  
 608 plans. After the third period during which the performance  
 609 payment system is implemented, the agency may replace the  
 610 criteria specified in this subsection with quantified benchmarks  
 611 for determining which plans qualify for positive payment  
 612 adjustments.

613 Section 8. Paragraph (a) of subsection (1) of section  
 614 415.1034, Florida Statutes, is amended to read:

615 415.1034 Mandatory reporting of abuse, neglect, or  
 616 exploitation of vulnerable adults; mandatory reports of death.-

617 (1) MANDATORY REPORTING.—  
 618 (a) Any person, including, but not limited to, ~~any~~:  
 619 1. A physician, osteopathic physician, medical examiner,  
 620 chiropractic physician, nurse, paramedic, emergency medical  
 621 technician, or hospital personnel engaged in the admission,  
 622 examination, care, or treatment of vulnerable adults;  
 623 2. A health professional or mental health professional  
 624 other than one listed in subparagraph 1.;  
 625 3. A practitioner who relies solely on spiritual means for  
 626 healing;  
 627 4. Nursing home staff; assisted living facility staff;  
 628 adult day care center staff; adult family-care home staff;  
 629 social worker; or other professional adult care, residential, or  
 630 institutional staff;  
 631 5. A state, county, or municipal criminal justice employee  
 632 or law enforcement officer;  
 633 6. An employee of the Department of Business and  
 634 Professional Regulation conducting inspections of public lodging  
 635 establishments under s. 509.032;  
 636 7. A Florida advocacy council member or long-term care  
 637 ombudsman council member; ~~or~~  
 638 8. A bank, savings and loan, or credit union officer,  
 639 trustee, or employee; or  
 640 9. An employee or agent of a state or local agency who has  
 641 regulatory responsibilities over or who provides services to  
 642 persons residing in a state-licensed assisted living facility,  
 643  
 644 who knows, or has reasonable cause to suspect, that a vulnerable

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645 adult has been or is being abused, neglected, or exploited must  
 646 ~~shall~~ immediately report such knowledge or suspicion to the  
 647 central abuse hotline.

648 Section 9. Subsections (7) and (8) of section 429.02,  
 649 Florida Statutes, are amended to read:

650 429.02 Definitions.—When used in this part, the term:

651 (7) "Community living support plan" means a written  
 652 document prepared by a mental health resident and the resident's  
 653 mental health case manager in consultation with the  
 654 administrator of an assisted living facility ~~with a limited~~  
 655 ~~mental health license~~ or the administrator's designee. A copy  
 656 must be provided to the administrator. The plan must include  
 657 information about the supports, services, and special needs of  
 658 the resident which enable the resident to live in the assisted  
 659 living facility and a method by which facility staff can  
 660 recognize and respond to the signs and symptoms particular to  
 661 that resident which indicate the need for professional services.

662 (8) "Cooperative agreement" means a written statement of  
 663 understanding between a mental health care provider and the  
 664 administrator of the assisted living facility ~~with a limited~~  
 665 ~~mental health license~~ in which a mental health resident is  
 666 living. The agreement must specify directions for accessing  
 667 emergency and after-hours care for the mental health resident. A  
 668 single cooperative agreement may service all mental health  
 669 residents who are clients of the same mental health care  
 670 provider.

671 Section 10. Subsection (1) of section 429.07, Florida  
 672 Statutes, is amended to read:

673 429.07 License required; fee.-

674 (1) The requirements of part II of chapter 408 apply to  
 675 the provision of services that require licensure pursuant to  
 676 this part and part II of chapter 408 and to entities licensed by  
 677 or applying for such licensure from the agency pursuant to this  
 678 part. A license issued by the agency is required in order to  
 679 operate an assisted living facility in this state. Effective  
 680 July 1, 2013, an assisted living facility may not operate in  
 681 this state unless the facility is under the management of an  
 682 assisted living facility administrator licensed pursuant to s.  
 683 429.50.

684 Section 11. Section 429.075, Florida Statutes, is amended  
 685 to read:

686 429.075 Limited mental health license.-In order to serve  
 687 three or more mental health residents, an assisted living  
 688 facility ~~that serves three or more mental health residents~~ must  
 689 obtain a limited mental health license.

690 (1) To obtain a limited mental health license, a facility:

691 (a) Must hold a standard license as an assisted living  
 692 facility; and

693 (b) Must not have been subject to administrative sanctions  
 694 during the previous 2 years, or since initial licensure if the  
 695 assisted living facility has been licensed for less than 2  
 696 years, for any of the following reasons:

697 1. One or more class I violations imposed by final agency  
 698 action;

699 2. Three or more class II violations imposed by final  
 700 agency action;



701           3. Ten or more class III violations that were not  
 702 corrected in accordance with s. 408.811(4);

703           4. Denial, suspension, or revocation of a license for  
 704 another assisted living facility licensed under this part in  
 705 which the license applicant had at least a 25-percent ownership  
 706 interest; or

707           5. Imposition of a moratorium pursuant to this part or  
 708 part II of chapter 408 or initiation of injunctive proceedings.  
 709 ~~any current uncorrected deficiencies or violations, and must~~  
 710 ~~ensure that,~~

711           (2) Within 6 months after receiving a limited mental  
 712 health license, the facility administrator and the staff of the  
 713 facility who are in direct contact with mental health residents  
 714 must complete training of no less than 6 hours related to their  
 715 duties. This training shall be approved by the Department of  
 716 Children and Family Services. A training provider may charge a  
 717 reasonable fee for the training.

718           (3) Application for a limited mental health license ~~Such~~  
 719 ~~designation~~ may be made at the time of initial licensure or  
 720 relicensure or upon request in writing by a licensee under this  
 721 part and part II of chapter 408. Notification of approval or  
 722 denial of the license ~~such request~~ shall be made in accordance  
 723 with this part, part II of chapter 408, and applicable rules.  
 724 ~~This training will be provided by or approved by the Department~~  
 725 ~~of Children and Family Services.~~

726           (4)~~(2)~~ Facilities licensed to provide services to mental  
 727 health residents shall provide appropriate supervision and  
 728 staffing to provide for the health, safety, and welfare of such

729 residents.

730 ~~(3) A facility that has a limited mental health license~~  
 731 ~~must:~~

732 ~~(a) Have a copy of each mental health resident's community~~  
 733 ~~living support plan and the cooperative agreement with the~~  
 734 ~~mental health care services provider. The support plan and the~~  
 735 ~~agreement may be combined.~~

736 ~~(b) Have documentation that is provided by the Department~~  
 737 ~~of Children and Family Services that each mental health resident~~  
 738 ~~has been assessed and determined to be able to live in the~~  
 739 ~~community in an assisted living facility with a limited mental~~  
 740 ~~health license.~~

741 ~~(c) Make the community living support plan available for~~  
 742 ~~inspection by the resident, the resident's legal guardian, the~~  
 743 ~~resident's health care surrogate, and other individuals who have~~  
 744 ~~a lawful basis for reviewing this document.~~

745 ~~(d) Assist the mental health resident in carrying out the~~  
 746 ~~activities identified in the individual's community living~~  
 747 ~~support plan.~~

748 ~~(4) A facility with a limited mental health license may~~  
 749 ~~enter into a cooperative agreement with a private mental health~~  
 750 ~~provider. For purposes of the limited mental health license, the~~  
 751 ~~private mental health provider may act as the case manager.~~

752 Section 12. Section 429.0751, Florida Statutes, is created  
 753 to read:

754 429.0751 Mental health residents.—An assisted living  
 755 facility that has one or more mental health residents must:

756 (1) Enter into a cooperative agreement with the mental

757 health care service provider responsible for providing services  
 758 to the mental health resident, including a mental health care  
 759 service provider responsible for providing private pay services  
 760 to the mental health resident, to ensure coordination of care.

761 (2) Consult with the mental health case manager and the  
 762 mental health resident in the development of a community living  
 763 support plan and maintain a copy of each mental health  
 764 resident's community living support plan.

765 (3) Make the community living support plan available for  
 766 inspection by the resident, the resident's legal guardian, the  
 767 resident's health care surrogate, and other individuals who have  
 768 a lawful basis for reviewing this document.

769 (4) Assist the mental health resident in carrying out the  
 770 activities identified in the individual's community living  
 771 support plan.

772 (5) Have documentation that is provided by the Department  
 773 of Children and Family Services that each mental health resident  
 774 has been assessed and determined to be able to live in the  
 775 community in an assisted living facility.

776 Section 13. Paragraphs (a) and (b) of subsection (2) of  
 777 section 429.178, Florida Statutes, are amended to read:

778 429.178 Special care for persons with Alzheimer's disease  
 779 or other related disorders.-

780 (2)(a) An individual who is employed by a facility that  
 781 provides special care for residents with Alzheimer's disease or  
 782 other related disorders, and who has regular contact with such  
 783 residents, must complete up to 4 hours of initial dementia-  
 784 specific training developed or approved by the department. The

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785 training shall be completed within 3 months after beginning  
 786 employment and shall satisfy the core training requirements of  
 787 s. 429.52(2)(d) ~~429.52(2)(g)~~.

788 (b) A direct caregiver who is employed by a facility that  
 789 provides special care for residents with Alzheimer's disease or  
 790 other related disorders, and who provides direct care to such  
 791 residents, must complete the required initial training and 4  
 792 additional hours of training developed or approved by the  
 793 department. The training shall be completed within 9 months  
 794 after beginning employment and shall satisfy the core training  
 795 requirements of s. 429.52(2)(d) ~~429.52(2)(g)~~.

796 Section 14. Subsection (2) of section 429.19, Florida  
 797 Statutes, is amended to read:

798 429.19 Violations; imposition of administrative fines;  
 799 grounds.—

800 (2) Each violation of this part and adopted rules shall be  
 801 classified according to the nature of the violation and the  
 802 gravity of its probable effect on facility residents.

803 (a) The agency shall indicate the classification on the  
 804 written notice of the violation as follows:

805 ~~1.(a)~~ Class "I" violations are defined in s. 408.813. The  
 806 agency shall issue a citation regardless of correction. The  
 807 agency shall impose an administrative fine for a cited class I  
 808 violation in an amount not less than \$5,000 and not exceeding  
 809 \$10,000 for each violation.

810 ~~2.(b)~~ Class "II" violations are defined in s. 408.813. The  
 811 agency may issue a citation regardless of correction. The agency  
 812 shall impose an administrative fine for a cited class II

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813 violation in an amount not less than \$1,000 and not exceeding  
814 \$5,000 for each violation.

815 ~~3.(e)~~ Class "III" violations are defined in s. 408.813.  
816 The agency shall impose an administrative fine for a cited class  
817 III violation in an amount not less than \$500 and not exceeding  
818 \$1,000 for each violation.

819 ~~4.(d)~~ Class "IV" violations are defined in s. 408.813. The  
820 agency shall impose an administrative fine for a cited class IV  
821 violation in an amount not less than \$100 and not exceeding \$200  
822 for each violation.

823 (b) In lieu of the penalties provided in paragraph (a),  
824 the agency shall impose a \$10,000 penalty for a violation that  
825 results in the death of a resident.

826 (c) Notwithstanding paragraph (a), if the assisted living  
827 facility is cited for a violation in the same class as a prior  
828 violation cited within the past 24 months, the agency shall  
829 double the fine for a subsequent violation.

830 Section 15. Section 429.231, Florida Statutes, is created  
831 to read:

832 429.231 Advisory council; membership; duties.-

833 (1) The department shall establish an advisory council to  
834 review the facts and circumstances of unexpected deaths in  
835 assisted living facilities and of elopements that result in harm  
836 to a resident. The purpose of this review is to:

837 (a) Achieve a greater understanding of the causes and  
838 contributing factors of the unexpected deaths and elopements.

839 (b) Identify any gaps, deficiencies, or problems in the  
840 delivery of services to the residents.

841 (2) Based on the review, the advisory council shall make  
 842 recommendations for:

843 (a) Industry best practices that could be used to prevent  
 844 unexpected deaths and elopements.

845 (b) Training and educational requirements for employees  
 846 and administrators of assisted living facilities.

847 (c) Changes in the law, rules, or other policies to  
 848 prevent unexpected deaths and elopements.

849 (3) The advisory council shall prepare an annual  
 850 statistical report on the incidence and causes of unexpected  
 851 deaths in assisted living facilities and of elopements that  
 852 result in harm to residents during the prior calendar year. The  
 853 advisory council shall submit a copy of the report by December  
 854 31 of each year to the Governor, the President of the Senate,  
 855 and the Speaker of the House of Representatives. The report may  
 856 make recommendations for state action, including specific  
 857 policy, procedural, regulatory, or statutory changes, and any  
 858 other recommended preventive action.

859 (4) The advisory council shall consist of the following  
 860 members:

861 (a) The Secretary of Elderly Affairs, or a designee, who  
 862 shall be the chair.

863 (b) The Secretary of Health Care Administration, or a  
 864 designee.

865 (c) The Secretary of Children and Family Services, or a  
 866 designee.

867 (d) The State Long-Term Care Ombudsman, or a designee.

868 (e) The following members, selected by the Governor:

869           1. An owner or administrator of an assisted living  
 870 facility with fewer than 17 beds.

871           2. An owner or administrator of an assisted living  
 872 facility with 17 or more beds.

873           3. An owner or administrator of an assisted living  
 874 facility with a limited mental health license.

875           4. A representative from each of three statewide  
 876 associations that represent assisted living facilities.

877           5. A resident of an assisted living facility.

878           (5) The advisory council shall meet at the call of the  
 879 chair, but at least twice each calendar year. The chair may  
 880 appoint ad hoc committees as necessary to carry out the duties  
 881 of the council.

882           (6) The members of the advisory council selected by the  
 883 Governor shall be appointed to staggered terms of office which  
 884 may not exceed 2 years. Members are eligible for reappointment.

885           (7) Members of the advisory council shall serve without  
 886 compensation, but are entitled to reimbursement for per diem and  
 887 travel expenses incurred in the performance of their duties as  
 888 provided in s. 112.061 and to the extent that funds are  
 889 available.

890           Section 16. Section 429.34, Florida Statutes, is amended  
 891 to read:

892           429.34 Right of entry and inspection.—

893           (1) In addition to the requirements of s. 408.811, any  
 894 duly designated officer or employee of the department, the  
 895 Department of Children and Family Services, the Medicaid Fraud  
 896 Control Unit of the Office of the Attorney General, the state or

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897 local fire marshal, or a member of the state or local long-term  
 898 care ombudsman council may ~~shall have the right to~~ enter  
 899 unannounced upon and into the premises of any facility licensed  
 900 pursuant to this part in order to determine the state of  
 901 compliance with ~~the provisions of~~ this part, part II of chapter  
 902 408, and applicable rules. Data collected by the state or local  
 903 long-term care ombudsman councils or the state or local advocacy  
 904 councils may be used by the agency in investigations involving  
 905 violations of regulatory standards.

906 (2) In accordance with s. 408.811, every 24 months the  
 907 agency shall conduct at least one unannounced inspection to  
 908 determine compliance with this part, part II of chapter 408, and  
 909 applicable rules. If the assisted living facility is accredited  
 910 by the Joint Commission, the Council on Accreditation, or the  
 911 Commission on Accreditation of Rehabilitation Facilities, the  
 912 agency may conduct inspections less frequently, but in no event  
 913 less than once every 5 years.

914 (a) Two additional inspections shall be conducted every 6  
 915 months for the next year if the assisted living facility has  
 916 been cited for a class I violation or two or more class II  
 917 violations arising from separate inspections within a 60-day  
 918 period. In addition to any fines imposed on an assisted living  
 919 facility under s. 429.19, the agency shall assess a fee of \$69  
 920 per bed for each of the additional two inspections, not to  
 921 exceed \$12,000 per inspection.

922 (b) The agency shall verify through subsequent inspections  
 923 that any violation identified during an inspection is corrected.  
 924 However, the agency may verify the correction of a class III or



925 class IV violation unrelated to resident rights or resident care  
 926 without reinspection if the facility submits adequate written  
 927 documentation that the violation has been corrected.

928 Section 17. Section 429.50, Florida Statutes, is created  
 929 to read:

930 429.50 Assisted living facility administrator;  
 931 qualifications; licensure; fees; continuing education.-

932 (1) The requirements of part II of chapter 408 apply to  
 933 the provision of services that require licensure pursuant to  
 934 this section. Effective July 1, 2013, an assisted living  
 935 facility administrator must have a license issued by the agency.

936 (2) To be eligible to be licensed as an assisted living  
 937 facility administrator, an applicant must:

938 (a) Be at least 21 years old.

939 (b) Complete 30 hours of core training and 10 hours of  
 940 supplemental training described in s. 429.52.

941 (c) Pass the competency test described in s. 429.52 with a  
 942 minimum score of 80.

943 (d) Complete background screening pursuant to s. 429.174.

944 (e) Otherwise meet the requirements of this part.

945 (3) Notwithstanding paragraphs (2)(b) and (c), the agency  
 946 may grant a license to an applicant who:

947 (a) Has been employed as an assisted living facility  
 948 administrator for 2 of the 5 years immediately preceding July 1,  
 949 2013, is in compliance with the continuing education  
 950 requirements in this part, and has not been an assisted living  
 951 facility administrator that was cited for a class I or class II  
 952 violation within the previous 2 years; or

953           (b) Is licensed in accordance with part II of chapter 468  
 954 and is in compliance with the continuing education requirements  
 955 in part II of chapter 468.

956           (4) The license shall be renewed biennially.

957           (5) The fees for licensure shall be \$150 for the initial  
 958 licensure and \$150 for each licensure renewal.

959           (6) A licensed assisted living facility administrator must  
 960 complete continuing education described in s. 429.52 for a  
 961 minimum of 18 hours every 2 years.

962           (7) The agency shall deny or revoke the license if the  
 963 applicant or licensee:

964           (a) Was the assisted living facility administrator of  
 965 record for or had a controlling interest in a provider licensed  
 966 by the agency under this chapter, part II of chapter 408, or  
 967 applicable rules, when the provider was cited for violations  
 968 that resulted in denial or revocation of a license; or

969           (b) Has a final agency action for unlicensed activity  
 970 pursuant to this chapter, part II of chapter 408, or applicable  
 971 rules.

972           (8) The agency may deny or revoke the license if the  
 973 applicant or licensee was the assisted living facility  
 974 administrator of record for or had a controlling interest in a  
 975 provider licensed by the agency under this chapter, part II of  
 976 chapter 408, or applicable rules, when the provider was cited  
 977 for violations within the previous 3 years that resulted in a  
 978 resident's death.

979           (9) The agency may adopt rules as necessary to administer  
 980 this section.

981           Section 18. For the purpose of staggering license  
 982 expiration dates, the Agency for Health Care Administration may  
 983 issue a license for less than a 2-year period for assisted  
 984 living facility administrator licensure as authorized in this  
 985 act. The agency shall charge a prorated licensure fee for this  
 986 shortened period. This section and the authority granted under  
 987 this section expire December 31, 2013.

988           Section 19. Section 429.52, Florida Statutes, is amended  
 989 to read:

990           429.52 Staff, administrator, and administrator license  
 991 applicant training and educational programs; core educational  
 992 requirement.—

993           (1) Administrators, applicants to become administrators,  
 994 and other assisted living facility staff must meet minimum  
 995 training and education requirements established by the  
 996 Department of Elderly Affairs by rule. This training and  
 997 education is intended to assist facilities to appropriately  
 998 respond to the needs of residents, to maintain resident care and  
 999 facility standards, and to meet licensure requirements.

1000           (2) For assisted living facility staff other than  
 1001 administrators, The department shall establish a competency test  
 1002 and a minimum required score to indicate successful completion  
 1003 of the training and educational requirements. The competency  
 1004 test must be developed by the department in conjunction with the  
 1005 agency and providers. the required training and education, which  
 1006 may be provided as inservice training, must cover at least the  
 1007 following topics:

1008           (a) Reporting major incidents and reporting adverse

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1009 ~~incidents State law and rules relating to assisted living~~  
 1010 ~~facilities.~~

1011 (b) Resident rights and identifying and reporting abuse,  
 1012 neglect, and exploitation.

1013 (c) Emergency procedures, including firesafety and  
 1014 resident elopement response policies and procedures ~~Special~~  
 1015 ~~needs of elderly persons, persons with mental illness, and~~  
 1016 ~~persons with developmental disabilities and how to meet those~~  
 1017 ~~needs.~~

1018 (d) General information on interacting with individuals  
 1019 with Alzheimer's disease and related disorders ~~Nutrition and~~  
 1020 ~~food service, including acceptable sanitation practices for~~  
 1021 ~~preparing, storing, and serving food.~~

1022 ~~(e) Medication management, recordkeeping, and proper~~  
 1023 ~~techniques for assisting residents with self-administered~~  
 1024 ~~medication.~~

1025 ~~(f) Firesafety requirements, including fire evacuation~~  
 1026 ~~drill procedures and other emergency procedures.~~

1027 ~~(g) Care of persons with Alzheimer's disease and related~~  
 1028 ~~disorders.~~

1029 ~~(3) Effective January 1, 2004, a new facility~~  
 1030 ~~administrator must complete the required training and education,~~  
 1031 ~~including the competency test, within a reasonable time after~~  
 1032 ~~being employed as an administrator, as determined by the~~  
 1033 ~~department. Failure to do so is a violation of this part and~~  
 1034 ~~subjects the violator to an administrative fine as prescribed in~~  
 1035 ~~s. 429.19. Administrators licensed in accordance with part II of~~  
 1036 ~~chapter 468 are exempt from this requirement. Other licensed~~

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1037 ~~professionals may be exempted, as determined by the department~~  
 1038 ~~by rule.~~

1039 ~~(4) Administrators are required to participate in~~  
 1040 ~~continuing education for a minimum of 12 contact hours every 2~~  
 1041 ~~years.~~

1042 (3)~~(5)~~ Staff involved with the management of medications  
 1043 and assisting with the self-administration of medications under  
 1044 s. 429.256 must complete a minimum of 4 additional hours of  
 1045 training provided by a registered nurse, licensed pharmacist, or  
 1046 department staff. The department shall establish by rule the  
 1047 minimum requirements of this additional training.

1048 ~~(6)~~ Other facility staff shall participate in training  
 1049 relevant to their job duties as specified by rule of the  
 1050 department.

1051 (4)~~(7)~~ If the department or the agency determines that  
 1052 there are problems in a facility that could be reduced through  
 1053 specific staff training or education beyond that already  
 1054 required under this section, the department or the agency may  
 1055 require, and provide, or cause to be provided, the training or  
 1056 education of any personal care staff in the facility.

1057 (5) The department, in consultation with the agency, the  
 1058 Department of Children and Family Services, and stakeholders,  
 1059 shall approve a standardized core training curriculum that must  
 1060 be completed by an applicant for licensure as an assisted living  
 1061 facility administrator. The curriculum must be offered in  
 1062 English and Spanish and timely updated to reflect changes in the  
 1063 law, rules, and best practices. The required training must  
 1064 cover, at a minimum, the following topics:

- 1065        (a) State law and rules relating to assisted living
- 1066 facilities.
- 1067        (b) Residents' rights and procedures for identifying and
- 1068 reporting abuse, neglect, and exploitation.
- 1069        (c) Special needs of elderly persons, persons who have
- 1070 mental illnesses, and persons who have developmental
- 1071 disabilities and how to meet those needs.
- 1072        (d) Nutrition and food service, including acceptable
- 1073 sanitation practices for preparing, storing, and serving food.
- 1074        (e) Medication management, recordkeeping, and proper
- 1075 techniques for assisting residents who self-administer
- 1076 medication.
- 1077        (f) Firesafety requirements, including procedures for fire
- 1078 evacuation drills and other emergency procedures.
- 1079        (g) Care of persons who have Alzheimer's disease and
- 1080 related disorders.
- 1081        (h) Elopement prevention.
- 1082        (i) Aggression and behavior management, deescalation
- 1083 techniques, and proper protocols and procedures of the Baker Act
- 1084 as provided in part I of chapter 394.
- 1085        (j) Do-not-resuscitate orders.
- 1086        (k) Infection control.
- 1087        (l) Admission, continuing residency, and best practices in
- 1088 the assisted living industry.
- 1089        (m) Phases of care and interacting with residents.
- 1090        (6) The department, in consultation with the agency, the
- 1091 Department of Children and Family Services, and stakeholders,
- 1092 shall approve a supplemental training curriculum consisting of

1093 topics related to extended congregate care, limited mental  
 1094 health, and business operations, including human resources,  
 1095 financial management, and supervision of staff, which must be  
 1096 completed by an applicant for licensure as an assisted living  
 1097 facility administrator.

1098 (7) The department shall approve a competency test for  
 1099 applicants for licensure as an assisted living facility  
 1100 administrator which tests the individual's comprehension of the  
 1101 training required in subsections (5) and (6). The competency  
 1102 test must be reviewed annually and timely updated to reflect  
 1103 changes in the law, rules, and best practices. The competency  
 1104 test must be offered in English and Spanish and may be made  
 1105 available through testing centers.

1106 (8) The department, in consultation with the agency and  
 1107 stakeholders, shall approve curricula for continuing education  
 1108 for administrators and staff members of an assisted living  
 1109 facility. Continuing education shall include topics similar to  
 1110 that of the core training required for staff members and  
 1111 applicants for licensure as assisted living facility  
 1112 administrators. Continuing education may be offered through  
 1113 online courses, and any fees associated with the online service  
 1114 shall be borne by the licensee or the assisted living facility.  
 1115 Required continuing education must, at a minimum, cover the  
 1116 following topics:

- 1117 (a) Elopement prevention.
- 1118 (b) Deescalation techniques.
- 1119 (c) Phases of care and interacting with residents.
- 1120 (9) Effective January 1, 2013, the training required by

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1121 this section shall be conducted by:  
 1122 (a) Any Florida College System institution;  
 1123 (b) Any nonpublic postsecondary educational institution  
 1124 licensed or exempted from licensure pursuant to chapter 1005; or  
 1125 (c) Any statewide association that contracts with the  
 1126 department to provide training. The department may specify  
 1127 minimum trainer qualifications in the contract. For the purposes  
 1128 of this section, the term "statewide association" means any  
 1129 statewide entity which represents and provides technical  
 1130 assistance to assisted living facilities.  
 1131 (10) Assisted living facility trainers shall keep a record  
 1132 of individuals who complete training and shall submit the record  
 1133 to the agency within 30 days after the individual completes the  
 1134 course.  
 1135 (11) The department shall adopt rules as necessary to  
 1136 administer this section.  
 1137 ~~(8) The department shall adopt rules related to these~~  
 1138 ~~training requirements, the competency test, necessary~~  
 1139 ~~procedures, and competency test fees and shall adopt or contract~~  
 1140 ~~with another entity to develop a curriculum, which shall be used~~  
 1141 ~~as the minimum core training requirements. The department shall~~  
 1142 ~~consult with representatives of stakeholder associations and~~  
 1143 ~~agencies in the development of the curriculum.~~  
 1144 ~~(9) The training required by this section shall be~~  
 1145 ~~conducted by persons registered with the department as having~~  
 1146 ~~the requisite experience and credentials to conduct the~~  
 1147 ~~training. A person seeking to register as a trainer must provide~~  
 1148 ~~the department with proof of completion of the minimum core~~



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1149 ~~training education requirements, successful passage of the~~  
 1150 ~~competency test established under this section, and proof of~~  
 1151 ~~compliance with the continuing education requirement in~~  
 1152 ~~subsection (4).~~

1153 ~~(10) A person seeking to register as a trainer must also:~~

1154 ~~(a) Provide proof of completion of a 4-year degree from an~~  
 1155 ~~accredited college or university and must have worked in a~~  
 1156 ~~management position in an assisted living facility for 3 years~~  
 1157 ~~after being core certified;~~

1158 ~~(b) Have worked in a management position in an assisted~~  
 1159 ~~living facility for 5 years after being core certified and have~~  
 1160 ~~1 year of teaching experience as an educator or staff trainer~~  
 1161 ~~for persons who work in assisted living facilities or other~~  
 1162 ~~long-term care settings;~~

1163 ~~(c) Have been previously employed as a core trainer for~~  
 1164 ~~the department; or~~

1165 ~~(d) Meet other qualification criteria as defined in rule,~~  
 1166 ~~which the department is authorized to adopt.~~

1167 ~~(11) The department shall adopt rules to establish trainer~~  
 1168 ~~registration requirements.~~

1169 Section 20. Section 429.54, Florida Statutes, is amended  
 1170 to read:

1171 429.54 Collection of information; local subsidy;  
 1172 interagency communication.-

1173 (1) To enable the department to collect the information  
 1174 requested by the Legislature regarding the actual cost of  
 1175 providing room, board, and personal care in assisted living  
 1176 facilities, the department may ~~is authorized to~~ conduct field

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1177 visits and audits of facilities as ~~may be~~ necessary. The owners  
 1178 of randomly sampled facilities shall submit such reports,  
 1179 audits, and accountings of cost as the department may require by  
 1180 rule; however, provided that such reports, audits, and  
 1181 accountings may not be more than ~~shall be~~ the minimum necessary  
 1182 to implement the provisions of this subsection ~~section~~. Any  
 1183 facility selected to participate in the study shall cooperate  
 1184 with the department by providing cost of operation information  
 1185 to interviewers.

1186 (2) Local governments or organizations may contribute to  
 1187 the cost of care of local facility residents by further  
 1188 subsidizing the rate of state-authorized payment to such  
 1189 facilities. Implementation of local subsidy shall require  
 1190 departmental approval and may ~~shall~~ not result in reductions in  
 1191 the state supplement.

1192 (3) Subject to the availability of funds, the agency, the  
 1193 department, the Department of Children and Family Services, and  
 1194 the Agency for Persons with Disabilities shall develop or modify  
 1195 electronic systems of communication among state-supported  
 1196 automated systems to ensure that relevant information pertaining  
 1197 to the regulation of assisted living facilities and assisted  
 1198 living facility staff is timely and effectively communicated  
 1199 among agencies in order to facilitate the protection of  
 1200 residents.

1201 Section 21. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7133 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative Schenck offered the following:

3  
4 **Amendment**

5 Remove lines 243-251 and insert:  
6 information regarding:

7 (a) The purpose of the State Long-Term Care Ombudsman  
8 Program,

9 (b) The statewide toll-free telephone number for receiving  
10 complaints,

11 (c) The residents rights under s. 429.28 including  
12 information that retaliatory action cannot be taken against a  
13 resident for presenting grievances or for exercising any other  
14 of these rights, and

15 (d) Other relevant information regarding how to contact  
16 the program.

17  
18 Residents or their representatives must be furnished additional  
19 copies of this information upon request.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7133 (2012)

Amendment No. 1

20

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7133 (2012)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative Schenck offered the following:

3  
4 **Amendment**

5 Between lines 612 and 613, insert:

6 (9) Payment adjustments made pursuant to this section  
7 shall not result in expenditures that exceed the amounts  
8 appropriated in the General Appropriations Act for hospitals,  
9 nursing homes and managed care plans.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7133 (2012)

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative Schenck offered the following:

3  
4 **Amendment (with title amendment)**

5 Between lines 1200 and 1201, insert:

6 Section 21. For Fiscal Year 2012-2013, 8 full-time  
7 equivalent positions, with associated salary rate of 324,962 are  
8 authorized and the sum of \$554,399 in recurring funds from the  
9 Health Care Trust Fund of the Agency for Health Care  
10 Administration are appropriated to the Agency for Health Care  
11 Administration for the purpose of carrying out the regulatory  
12 activities provided in this act.

13  
14  
15  
16  
17 -----  
18 **T I T L E A M E N D M E N T**

19 Remove line 118 and insert:

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7133 (2012)

Amendment No. 3

20 availability of funds; providing an appropriation; providing an  
21 effective date.

22