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## The 2004 Florida Statutes

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### CHAPTER 430

#### ELDERLY AFFAIRS

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- 430.01 Short title.** --This chapter may be cited as the "Department of Elderly Affairs Act," or the "Pepper Act" as a memorial to Congressman Claude Denson Pepper. The department is also known as the Department of Elder Affairs.

**History.** --s. 5, ch. 91-115; s. 77, ch. 95-418.

**430.02 Legislative intent.**--It is the intent of the Legislature to:

- (1) Advise, assist, and protect the state's elderly citizens to the fullest extent.
- (2) Ensure that programs and services are developed and implemented to be accessible to all elderly citizens to assist them in the achievement or maintenance of maximum independence and quality of life and minimum levels of social dependence.
- (3) Support and promote the efforts of families and other caregivers in assisting elderly persons.
- (4) Promote intergenerational activities that will provide citizens of all ages opportunities to enjoy the enriching benefits of interaction and that will promote unity and support for one another.
- (5) Ensure that state government functions effectively and efficiently in serving the elderly through coordination of policy development, planning, and service delivery by all state agencies relating to the elderly population of the state.
- (6) Ensure that elderly citizens are able to secure prompt, adequate, and accurate information and assistance regarding, but not limited to, health, social welfare, long-term care, protective services, consumer protection, education and training, housing, employment, recreation, transportation, insurance, and retirement.
- (7) Organize the Department of Elderly Affairs as the state agency that has lead responsibility for administering human service programs for the elderly and for developing policy recommendations for long-term care.

**History.**--s. 5, ch. 91-115; s. 78, ch. 95-418.

**430.03 Purposes.**--The purposes of the Department of Elderly Affairs are to:

- (1) Serve as the primary state agency responsible for administering human services programs for the elderly and for developing policy recommendations for long-term care.
- (2) Combat ageism and create public awareness and understanding of the potentials and needs of elderly persons.
- (3) Study and plan for programs and services to meet identified and projected needs and to provide opportunities for personal development and achievement of persons aged 60 years and older.
- (4) Advocate quality programs and services for the state's elderly population and on behalf of the individual citizen's needs.
- (5) Coordinate interdepartmental policy development and program planning for all state agencies that provide services for the elderly population in order to prevent duplicative efforts, to maximize utilization of resources, and to ensure cooperation, communication, and departmental linkages.
- (6) Recommend state and local level organizational models for the planning, coordination, implementation, and evaluation of programs serving the elderly population.
- (7) Oversee implementation of federally funded and state-funded programs and services for the state's elderly population.
- (8) Recommend legislative budget requests for programs and services for the state's elderly population.

- (9) Serve as a state-level information clearinghouse and encourage the development of local-level identifiable points of information and referral regarding all federal, state, and local resources of assistance to elderly citizens.
- (10) Assist elderly persons to secure needed services in accordance with personal choice and in a manner that achieves or maintains autonomy and prevents, reduces, or eliminates dependency.
- (11) Promote the maintenance and improvement of the physical well-being and mental health of elderly persons.
- (12) Promote opportunities for volunteerism among the elderly population.
- (13) Promote the prevention of neglect, abuse, or exploitation of elderly persons unable to protect their own interests.
- (14) Eliminate and prevent inappropriate institutionalization of elderly persons by promoting community-based care, home-based care, or other forms of less intensive care.
- (15) Aid in the support of families and other caregivers of elderly persons.
- (16) Promote intergenerational relationships.
- (17) Oversee aging research conducted or funded by any state agency to ensure that such activities are coordinated and directed to fulfill the intent and purposes of this act.

**History.**--s. 5, ch. 91-115; s. 79, ch. 95-418.

**430.04 Duties and responsibilities of the Department of Elderly Affairs.**--The Department of Elderly Affairs shall:

- (1) Administer human services and long-term care programs, including programs funded under the federal Older Americans Act of 1965, as amended, and other programs that are assigned to it by law.
- <sup>1</sup>(2) Be responsible for ensuring that each area agency on aging operates in a manner to ensure that the elderly of this state receive the best services possible. The department shall rescind designation of an area agency on aging or take intermediate measures against the agency, including corrective action, unannounced special monitoring, temporary assumption of operation of one or more programs by the department, placement on probationary status, imposing a moratorium on agency action, imposing financial penalties for nonperformance, or other administrative action pursuant to chapter 120, if the department finds that:
  - (a) An intentional or negligent act of the agency has materially affected the health, welfare, or safety of clients, or substantially and negatively affected the operation of an aging services program.
  - (b) The agency lacks financial stability sufficient to meet contractual obligations or that contractual funds have been misappropriated.
  - (c) The agency has committed multiple or repeated violations of legal and regulatory requirements or department standards.
  - (d) The agency has failed to continue the provision or expansion of services after the declaration of a state of emergency.

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

(f) The agency has failed to properly determine client eligibility as defined by the department or efficiently manage program budgets.

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

(3) Prepare and submit to the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees a master plan for policies and programs in the state related to aging. The plan must identify and assess the needs of the elderly population in the areas of housing, employment, education and training, medical care, long-term care, preventive care, protective services, social services, mental health, transportation, and long-term care insurance, and other areas considered appropriate by the department. The plan must assess the needs of particular subgroups of the population and evaluate the capacity of existing programs, both public and private and in state and local agencies, to respond effectively to identified needs. If the plan recommends the transfer of any program or service from the Department of Children and Family Services to another state department, the plan must also include recommendations that provide for an independent third-party mechanism, as currently exists in the Florida advocacy councils established in ss. 402.165 and 402.166, for protecting the constitutional and human rights of recipients of departmental services. The plan must include policy goals and program strategies designed to respond efficiently to current and projected needs. The plan must also include policy goals and program strategies to promote intergenerational relationships and activities. Public hearings and other appropriate processes shall be utilized by the department to solicit input for the development and updating of the master plan from parties including, but not limited to, the following:

(a) Elderly citizens and their families and caregivers.

(b) Local-level public and private service providers, advocacy organizations, and other organizations relating to the elderly.

(c) Local governments.

(d) All state agencies that provide services to the elderly.

(e) University centers on aging.

(f) Area agency on aging and community care for the elderly lead agencies.

(4) Serve as an information clearinghouse at the state level, and assist local-level information and referral resources as a repository and means for dissemination of information regarding all federal, state, and local resources for assistance to the elderly in the areas of, but not limited to, health, social welfare, long-term care, protective services, consumer protection, education and training, housing, employment, recreation, transportation, insurance, and retirement.

(5) Recommend guidelines for the development of roles for state agencies that provide services for the aging, review plans of agencies that provide such services, and relay these plans to the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees.

(6) Recommend to the Governor, each Cabinet member, the President of the Senate, the Speaker

of the House of Representatives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees an organizational framework for the planning, coordination, implementation, and evaluation of programs related to aging, with the purpose of expanding and improving programs and opportunities available to the state's elderly population and enhancing a continuum of long-term care. This framework must assure that:

- (a) Performance objectives are established.
  - (b) Program reviews are conducted statewide.
  - (c) Each major program related to aging is reviewed every 3 years.
  - (d) Agency budget requests reflect the results and recommendations of such program reviews.
  - (e) Program decisions lead to the distinctive roles established for state agencies that provide aging services.
- (7) Advise the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and the chairpersons of appropriate House and Senate committees regarding the need for and location of programs related to aging.
- (8) Review and coordinate aging research plans of all state agencies to ensure the conformance of research objectives to issues and needs addressed in the master plan for policies and programs related to aging. The research activities that must be reviewed and coordinated by the department include, but are not limited to, contracts with academic institutions, development of educational and training curriculums, Alzheimer's disease and other medical research, studies of long-term care and other personal assistance needs, and design of adaptive or modified living environments.
- (9) Review budget requests for programs related to aging for compliance with the master plan for policies and programs related to aging before submission to the Governor and the Legislature.
- (10) Update the master plan for policies and programs related to aging every 3 years.
- (11) Review implementation of the master plan for programs and policies related to aging and annually report to the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and the chairpersons of appropriate House and Senate committees the progress towards implementation of the plan.
- (12) Request other departments that administer programs affecting the state's elderly population to amend their plans, rules, policies, and research objectives as necessary to conform with the master plan for policies and programs related to aging.
- (13) Hold public meetings regularly throughout the state for purposes of receiving information and maximizing the visibility of important issues.
- (14) Conduct policy analysis and program evaluation studies assigned by the Legislature.
- (15) Assist the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and the chairpersons of appropriate House and Senate committees in the conduct of their responsibilities in such capacities as they consider appropriate.
- (16) Call upon appropriate agencies of state government for such assistance as is needed in the

discharge of its duties. All agencies shall cooperate in assisting the department in carrying out its responsibilities as prescribed by this section. However, no provision of law with respect to confidentiality of information may be violated.

**History.**--ss. 1, 4, 41, ch. 89-294; ss. 5, 7, ch. 91-115; s. 80, ch. 95-418; s. 61, ch. 98-171; s. 206, ch. 99-8; s. 26, ch. 2000-263; s. 4, ch. 2004-386.

<sup>1</sup>**Note.**--Section 4, ch. 2004-386, amended subsection (2), including insertion of a new paragraph (f), without publishing existing paragraph (f). Absent affirmative evidence of legislative intent to repeal existing paragraph (f), it is published here, redesignated as paragraph (g), pending clarification by the Legislature.

**Note.**--Former s. 410.505.

**430.0401 Annual report summarizing monitoring activities.**--By January 1 of each year, the Department of Elderly Affairs shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a summary of the results of the department's monitoring of the activities of area agencies on aging. The report must include information about each area agency's compliance with state and federal rules pertaining to all programs administered by the area agency, information about each area agency's financial management of state and federally funded programs, information about each agency's compliance with the terms of its contracts with the department, and a summary of corrective action required by the department.

**History.**--s. 1, ch. 2004-386.

#### **430.041 Office of Long-Term-Care Policy.**--

(1) There is established the Office of Long-Term-Care Policy to evaluate the state's long-term-care service delivery system, to make recommendations to increase the efficiency and effectiveness of government-funded long-term-care programs for the elderly, and to ensure coordination among the agencies responsible for setting policies for funding and for administering long-term-care programs for the elderly. The office shall be located in the Department of Elderly Affairs for administrative purposes only and shall not be subject to control, supervision, or direction by the department.

(2) The purpose of the Office of Long-Term-Care Policy is to:

(a) Ensure close communication and coordination among state agencies involved in developing and administering a more efficient and coordinated long-term-care service delivery system in this state;

(b) Review current programs providing long-term-care services to the elderly, including those in home, community-based, and institutional settings, and review program evaluations to determine whether the programs are cost effective, of high quality, and operating efficiently and make recommendations to increase consistency and effectiveness in the state's long-term-care programs;

(c) Develop specific implementation strategies and funding recommendations for promoting and implementing cost-effective home and community-based services as an alternative to institutional care, when appropriate, which coordinate and integrate the continuum of care needs of the elderly; and

(d) Recommend roles for state agencies that are responsible for administering long-term-care programs for the elderly and an organization framework for the planning, coordination, implementation, and evaluation of long-term-care programs for the elderly.

(3) The Director of the Office of Long-Term-Care Policy shall be appointed by, and serve at the

pleasure of, the Governor.

(4)(a) The Department of Elderly Affairs shall provide administrative support and services to the Office of Long-Term-Care Policy.

(b) The office shall call upon appropriate agencies of state government, including the centers on aging in the State University System, for assistance needed in discharging its duties.

(c) All state agencies and universities shall assist the office in carrying out its responsibilities prescribed by this section.

(d) The Secretary of Health Care Administration, the Secretary of Elderly Affairs, the Secretary of Children and Family Services, the Secretary of Health, and the Executive Director of the Department of Veterans' Affairs shall each appoint at least one high-level employee with the authority to recommend and implement agency policy and with experience in the area of long-term-care service delivery and financing to work with the Office of Long-Term-Care Policy, as part of an interagency coordinating team. The interagency coordinating team shall meet monthly with the director of the Office of Long-Term-Care Policy to implement the purposes of the office.

(e) Each state agency shall pay from its own funds any expenses related to its support of the Office of Long-Term-Care Policy.

(5) By December 31 of each year, the office shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report of its activities, progress made in improving the long-term-care continuum in this state and make recommendations. The report shall contain the activities completed by the office during the calendar year, a plan of activities for the following year, recommendations and implementation proposals for policy changes, and legislative and funding recommendations that will make the system more effective and efficient. The report shall contain specific implementation strategies, with timelines, for accomplishing the recommendations and proposals set out in the report.

**History.**--s. 10, ch. 2002-223; s. 1, ch. 2003-67; s. 5, ch. 2004-386.

#### **430.05 Department of Elderly Affairs Advisory Council.--**

(1) There is created the Department of Elderly Affairs Advisory Council which shall be located for administrative purposes in the Department of Elderly Affairs. It is the intent of the Legislature that the advisory council shall be an independent nonpartisan body and shall not be subject to control, supervision, or direction by the department.

(2) The council shall serve in an advisory capacity to the Secretary of Elderly Affairs to assist the secretary in carrying out the purposes, duties, and responsibilities of the department, as specified in this chapter. The council may make recommendations to the secretary, the Governor, the Speaker of the House of Representatives, and the President of the Senate regarding organizational issues and additions or reductions in the department's duties and responsibilities.

(3)(a) The advisory council shall be composed of one member appointed by the Governor from each of the state's planning and service areas, which are designated in accordance with the Older Americans Act, two additional members appointed by the Governor, two members appointed by the President of the Senate, and two members appointed by the Speaker of the House of Representatives. The members shall be appointed in the following manner:

1. The Governor shall appoint one member from each planning and service area and shall select each appointment from a list of three nominations submitted by the designated area agency on aging in each planning and service area. Nominations submitted by an area agency on aging shall be solicited from a broad cross section of the public, private, and volunteer sectors of each county in

the respective planning and service area. At least one of the three nominations submitted by an area agency on aging shall be a person 60 years of age or older.

2. The Governor shall appoint two additional members, one of whom shall be 60 years of age or older.
3. The President of the Senate shall appoint two members, one of whom shall be 60 years of age or older.
4. The Speaker of the House of Representatives shall appoint two members, one of whom shall be 60 years of age or older.
5. The Governor shall ensure that a majority of the members of the advisory council shall be 60 years of age or older and that there shall be balanced minority and gender representation.
6. The Governor shall designate annually a member of the advisory council to serve as chair.
7. The Secretary of Elderly Affairs shall serve as an ex officio member of the advisory council.

(b) Members shall be appointed to 3-year terms in the following manner:

1. In order to stagger the terms of office, one of the initial appointees of the President of the Senate shall be appointed to a 2-year term and one of the initial appointees of the Speaker of the House of Representatives shall be appointed to a 2-year term. Additionally, one-third of the total initial appointees of the Governor shall be appointed to 1-year terms, one-third shall be appointed to 2-year terms, and one-third to 3-year terms. If the initial appointments of the Governor are not of a number divisible into thirds, and there results one additional appointee, that appointee shall be appointed to a 2-year term. If the initial appointments of the Governor are not of a number divisible into thirds, and there results two additional appointees, one of the additional appointees shall be appointed to a 1-year term and the other appointee shall be appointed to a 2-year term.

2. Vacancies occurring during an appointee's initial term shall be filled in the same manner as the initial appointments, pursuant to subparagraph 1. After the terms referred to in subparagraph 1. have expired, members shall be appointed to 3-year terms.

- (4) In order to enhance its understanding of the various needs of the state's elderly population and to avoid unnecessary duplication of effort, the advisory council shall identify any council, committee, task force, or similar group that is statutorily mandated to represent the interest of older persons, and shall invite a member aged 60 years or older, or a younger member if there are no members aged 60 years or older, from each identified group to serve as a nonvoting ex officio member of the advisory council.

- (5) The advisory council shall meet at least quarterly, or more frequently as needed.

- (6) The Department of Elderly Affairs shall provide staff support to assist the advisory council in the performance of its duties.

- (7) Members of the advisory council shall receive no salary, but are entitled to reimbursement for travel and per diem expenses, as provided in s. 112.061, while performing their duties under this section.

**History.**--ss. 5, 8, ch. 91-115; s. 5, ch. 91-429; s. 96, ch. 97-103.

**430.07 Office of Volunteer Community Service.**--There is created within the Department of Elderly Affairs the Office of Volunteer Community Service. The office shall:

- (1) Compile an inventory of services needed by elderly persons.
- (2) Compile an inventory of services being provided to elderly persons to meet those needs.
- (3) Determine which services needed by elderly persons are not being provided.
- (4) Determine which services currently not being provided can be provided by older persons acting as volunteers.
- (5) Identify those state rules and policies which restrict volunteer service by or for older persons and propose corrective actions.
- (6) Identify methods of promoting volunteer service by and for older persons.
- (7) Develop a comprehensive volunteer program that includes an intergenerational component and draws on the strengths and skills of the state's older population and, to the extent possible, implements the volunteer service credit program.
- (8) Encourage contributions and grants through private, state, and federal sources for the purpose of promoting, implementing, or evaluating volunteer programs by or for older persons.
- (9) Encourage volunteerism by elders regardless of socioeconomic status. In order to accomplish this, notwithstanding any other provision of law, the office is authorized to provide to those volunteers whose presence is determined to be necessary to the department direct payment of lodging and transportation expenses to a vendor on behalf of such volunteer, or prepayment, or reimbursement of lodging and transportation expenses directly to such volunteer. The office shall not expend or authorize an expenditure in excess of the amount appropriated in any fiscal year.

**History.**--s. 5, ch. 91-115; s. 2, ch. 2003-67.

**430.071 Respite for elders living in everyday families.--**

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

- (a) "Family unit" means one or more individuals whose primary residence is with a homebound elderly individual specifically for the purpose of providing care for that homebound elderly individual. The family does not necessarily need to be related by blood or marriage to the homebound elderly individual.
- (b) "Respite" means in-home assistance for a homebound elderly individual from someone who is not a member of the family unit, which allows the family unit the ability to leave the homebound elderly individual for a period of time.
- (c) "Stipend" means an allotment of funds to enable a diverse population of volunteers to provide services. The allotment of funds is for a maximum hourly rate that shall not exceed an amount equal to the federal minimum wage.
- (d) "Volunteer service system" means an organized network of volunteers and agencies engaged in supporting volunteers to assist a family unit that requires respite.

(2) The "Respite for Elders Living in Everyday Families" (RELIEF) program will provide in-home respite that is an expansion of respite that is currently available through other programs, specifically including evening and weekend respite. The purpose of this service is to increase the ability of a family unit to continue to care for a homebound elderly individual by providing in-home respite beyond the basic provisions of current public programs.

(3) Respite services shall be provided through a multigenerational corps of volunteers, volunteers who receive a stipend, and any other appropriate personnel as determined by the department.

(a) Volunteers shall be screened, selected, trained, and registered according to standards developed by the Office of Volunteer and Community Services in the Department of Elderly Affairs. These standards must be developed to ensure, at a minimum, the safety of a homebound elderly individual who will receive the respite service.

(b) Volunteers may be recruited from a variety of sources, including, but not limited to, volunteer centers, religious organizations, college campuses, corporations, families, Retired Senior Volunteer Programs, Senior Companion Programs, and AmeriCorps Programs.

(4) To receive assistance from the RELIEF program, the family unit must be assessed according to the following guidelines developed by the department to determine the need for respite services. This assessment must determine, at a minimum, that:

(a) The family unit is unable to pay for respite without jeopardizing other basic needs, including, but not limited to, food, shelter, and medications.

(b) The homebound elderly individual for whom the family unit is caring is 60 years of age or older, requires assistance to remain in the home, and, without this assistance, would need to move to an assisted living facility or a nursing facility.

(5) A family unit that receives respite services from the RELIEF program is not excluded from receiving assistance from other governmental programs.

(6) The Office of Volunteer and Community Services shall:

(a) Systematically develop a volunteer service system in order to provide respite services under the RELIEF program. The office shall also implement, monitor, and evaluate the delivery of respite services under this program.

(b) Work collaboratively with local, state, and national organizations, including, but not limited to, the Florida Commission on Community Service, to promote the use of volunteers offering respite under this program.

(c) Encourage contributions and grants through public and private sources to promote the delivery of respite to assist family units providing care for homebound elderly individuals.

**History.**--s. 1, ch. 97-163; s. 1, ch. 2004-246.

**430.08 Rulemaking.**--The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter.

**History.**--s. 5, ch. 91-115; s. 114, ch. 98-200.

**430.101 Administration of federal aging programs.**--The Department of Elderly Affairs is designated the state unit on aging under the federal Older Americans Act of 1965, as amended, and shall exercise all responsibilities under that act. The department is the state agency designated to handle all programs of the Federal Government relating to the aging, by virtue of funds appropriated through the Older Americans Act of 1965 and subsequent amendments, requiring actions within the state which are not the specific responsibility of another state agency under the provisions of federal or state law. Authority is hereby conferred on the department to accept and use any funds in accordance with established state budgetary procedures which might become available pursuant to the purposes set out herein.

**History.**--s. 1, ch. 70-255; s. 115, ch. 71-355; s. 286, ch. 77-147; s. 18, ch. 78-433; s. 70, ch. 95-418.

**Note.**--Former s. 409.360; s. 410.011.

#### **430.105 Confidentiality of information.--**

(1) Personal identifying information relating to an individual's health or eligibility for or receipt of health-related, elder care, or long-term care services received as a result of services rendered under any program administered or funded by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as otherwise provided by law. Such information may be contained in records created by or received by the department or its service providers or obtained through files, reports, inspections, or otherwise by employees of the department, persons who volunteer services through programs administered by the department or its contract providers, or by contract providers. Information made confidential and exempt from the public records law under this section may not be disclosed publicly unless the affected client or elder person or his or her legal representative provides written consent.

(2) This section is subject to the Open Government Sunset Review Act of 1995, in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

**History.**--s. 1, ch. 2001-194.

**430.201 Short title.**--Sections 430.201-430.207 may be cited as the "Community Care for the Elderly Act."

**History.**--s. 1, ch. 73-343; s. 1, ch. 76-51; s. 18, ch. 78-433; s. 104, ch. 79-164; s. 1, ch. 80-181; s. 29, ch. 95-418.

**Note.**--Former s. 409.3621; s. 410.021.

**430.202 Community care for the elderly; legislative intent.**--The purpose of ss. 430.201-430.207 is to assist functionally impaired elderly persons in living dignified and reasonably independent lives in their own homes or in the homes of relatives or caregivers through the development, expansion, reorganization, and coordination of various community-based services. The Legislature intends that a continuum of care be established so that functionally impaired elderly persons age 60 and older may be assured the least restrictive environment suitable to their needs. The development of innovative approaches to program management, staff training, and service delivery which have an impact on cost-avoidance, cost-effectiveness, and program efficiency is encouraged.

**History.**--s. 2, ch. 73-343; s. 1, ch. 76-51; s. 146, ch. 77-104; s. 18, ch. 78-433; s. 2, ch. 80-181; s. 30, ch. 95-418.

**Note.**--Former s. 409.3622; s. 410.022.

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

(1) "Area agency on aging" means a public or nonprofit private agency or office designated by the department to coordinate and administer the department's programs and to provide, through contracting agencies, services within a planning and service area. An area agency on aging serves as both the advocate and the visible focal point in its planning and service area to foster the development of comprehensive and coordinated service systems to serve older individuals.

(2) "Community care service area" means a service area within a planning and service area.

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

(4) "Contracting agency" means an area agency on aging, a lead agency, or any other agency contracting to provide program administration or to provide services.

(5) "Core services" means a variety of home-delivered services, day care services, and other basic services that may be provided by several entities. Core services are those services that are most needed to prevent unnecessary institutionalization. The area agency on aging shall not directly provide core services.

(6) "Department" means the Department of Elderly Affairs.

(7) "Functionally impaired elderly person" means any person, 60 years of age or older, having physical or mental limitations that restrict individual ability to perform the normal activities of daily living and that impede individual capacity to live independently without the provision of core services. Functional impairment shall be determined through a functional assessment administered to each applicant for community-care-for-the-elderly core services. The functional assessment shall be developed by the department.

(8) "Health maintenance services" means those routine health services that are necessary to help maintain the health of a functionally impaired elderly person, but that are limited to medical therapeutic services, nonmedical prevention services, personal care services, home health aide services, home nursing services, and emergency response systems.

(9) "Lead agency" means an agency designated at least once every 3 years by an area agency on aging as the result of a request for proposal process to be in place no later than the state fiscal year 1996-1997.

(a) The guidelines for the request for proposal must be developed by the department in consultation with the area agencies on aging. Such guidelines must include requirements for the assurance of quality and cost-efficiency of services, minimum personnel standards, and employee benefits.

(b) The area agency on aging, in consultation with the department, shall exempt from the competitive bid process any contract with a provider who meets or exceeds established minimum standards, as determined by the department.

(c) In each community care service system the lead agency must be given the authority and responsibility to coordinate some or all of the services, either directly or through subcontracts, for functionally impaired elderly persons. These services must include case management, homemaker and chore services, respite care, adult day care, personal care services, home-delivered meals, counseling, information and referral, and emergency home repair services. The lead agency must compile community care statistics and monitor, when applicable, subcontracts with agencies providing core services.

(10) "Multiservice senior center" means a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health, including mental health, social, nutritional, and education services, and the provision of facilities for recreational activities for persons 60 years of age or older.

(11) "Personal care services" means services to assist with bathing, dressing, ambulation, housekeeping, supervision, emotional security, eating, supervision of self-administered

medications, and assistance in securing health care from appropriate sources. Personal care services does not include medical services.

(12) "Planning and service area" means a geographic service area established by the department, in which the programs of the department are administered and services are delivered.

(13) "State Plan on Aging" means the service plan developed by the department which evaluates service needs of the elderly, identifies priority services and target client groups, provides for periodic evaluation of activities and services funded under the plan, and provides for administration of funds available through the federal Older Americans Act. The state plan on aging must be based upon area plans on aging developed by the area agencies on aging in order that the priorities and conditions of local communities are taken into consideration.

**History.**--s. 3, ch. 73-343; s. 1, ch. 76-51; s. 1, ch. 77-174; s. 18, ch. 78-433; s. 3, ch. 80-181; s. 17, ch. 86-220; s. 8, ch. 90-319; s. 15, ch. 92-58; s. 16, ch. 93-200; s. 31, ch. 95-418; s. 1, ch. 2004-367; s. 6, ch. 2004-386.

**Note.**--Former s. 409.3623; s. 410.023.

#### **430.204 Community-care-for-the-elderly core services; departmental powers and duties.--**

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

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

(2) All existing community resources available to functionally impaired elderly persons shall be coordinated into a community care service system to provide a continuum of care to such persons as their needs change. Additional services may be provided, but may not be funded from the community-care-for-the-elderly core service funds. Agencies contracting with the department shall ensure that all other funding sources available have been used prior to utilizing community-care-for-the-elderly funds. The department and agencies contracting with the department may accept gifts and grants in order to provide services within a community care service area.

(3) The use of volunteers shall be maximized to provide a range of services for the functionally impaired elderly person. The department shall provide or arrange for the provision of training and supervision of volunteers to ensure the delivery of quality services. The department or contracting agency may provide appropriate insurance coverage to protect volunteers from personal liability while acting within the scope of their volunteer assignments under a community care service area. The coverage may also include excess automobile liability protection.

(4) The department or contracting agency shall contract for the provision of the core services required by a community care service area.

(5) Entities contracting to provide core services under ss. 430.201-430.207 must provide a minimum of 10 percent of the funding necessary for the support of project operations. In-kind contributions, whether materials, commodities, transportation, office space, other types of facilities, or personal services, and contributions of money or services from functionally impaired elderly persons may be evaluated and counted as part or all of the required local funding.

(6) When possible, services shall be obtained under:

- (a) The Florida Plan for Medical Assistance under Title XIX of the Social Security Act; or
- (b) The State Plan on Aging under the Older Americans Act.

(7) Funds appropriated for community care for the elderly must be used only for the provision of community-care-for-the-elderly core services, case management, and directly related expenditures. The department may provide advance funding for the community-care-for-the-elderly program.

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

(9) The department shall evaluate the delivery of services within community care service areas. Accurate analysis of the costs and benefits associated with the establishment and operation of the programs as determined through a uniform cost accounting and reporting system shall be maintained to provide an assessment of the ability of these programs to:

- (a) Reduce the rate of inappropriate entry and placement of functionally impaired elderly persons in institutions;
- (b) Reduce the use of institutional services and facilities; and
- (c) Recommend legislative and administrative action.

**History.**--s. 4, ch. 73-343; s. 1, ch. 76-51; s. 1, ch. 77-174; s. 18, ch. 78-433; s. 4, ch. 80-181; s. 10, ch. 81-271; s. 21, ch. 84-254; s. 18, ch. 86-220; s. 17, ch. 93-200; s. 32, ch. 95-418; s. 8, ch. 2000-337; s. 17, ch. 2001-254; ss. 10, 79, ch. 2002-402; s. 20, ch. 2003-399; s. 2, ch. 2004-246.

**Note.**--Former s. 409.3624; s. 410.024.

#### **430.205 Community care service system.--**

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

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

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

(3) The department shall define each core service that is to be provided or coordinated within a community care service area and establish rules and minimum standards for the delivery of core services. The department may conduct or contract for demonstration projects to determine the desirability of new concepts of organization, administration, or service delivery designed to prevent the institutionalization of functionally impaired elderly persons. Evaluations shall be made of the cost-avoidance of such demonstration projects, the ability of the projects to reduce the rate of placement of functionally impaired elderly persons in institutions, and the impact of projects on the use of institutional services and facilities.

(4) A preservice and inservice training program for community-care-for-the-elderly service providers and staff may be designed and implemented to help assure the delivery of quality services. The department shall specify in rules the training standards and requirements for the community-care-for-the-elderly service providers and staff. Training must be sufficient to ensure that quality services are provided to clients and that appropriate skills are developed to conduct the program.

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

(a) Those elderly persons who are determined by protective investigations to be vulnerable adults in need of services, pursuant to s. 415.104(3)(b), or to be victims of abuse, neglect, or exploitation who are in need of immediate services to prevent further harm and are referred by the adult protective services program, shall be given primary consideration for receiving community-care-for-the-elderly services. As used in this paragraph, "primary consideration" means that an assessment and services must commence within 72 hours after referral to the department or as established in accordance with department contracts by local protocols developed between department service providers and the adult protective services program.

(b) The department shall determine an order of prioritization for all other functionally impaired elderly persons seeking community-care-for-the-elderly services which is based upon the potential recipient's frailty level and likelihood of institutional placement without such services. After determining such frailty level and likelihood of institutional placement, should the list of potential recipients require further prioritization, another factor that must be considered is the potential recipient's ability to pay for such services. Those who are less able to pay for such services must receive higher priority than those who are better able to pay for such services. A potential recipient's ability to pay may be determined by the department based on the potential recipient's self-declared statement of income and expenses.

(6) Notwithstanding other requirements of this chapter, the Department of Elderly Affairs and the Agency for Health Care Administration shall develop an integrated long-term-care delivery system.

(a) The duties of the integrated system shall include organizing and administering service delivery for the elderly, obtaining contracts for services with providers in each service area, monitoring the quality of services provided, determining levels of need and disability for payment purposes, and other activities determined by the department and the agency in order to operate an integrated system.

(b) During the 2004-2005 state fiscal year:

1. The agency, in consultation with the department, shall develop an implementation plan to integrate the Frail Elder Option into the Nursing Home Diversion pilot project and each program's funds into one capitated program serving the aged. Beginning July 1, 2004, the agency may not enroll additional individuals in the Frail Elder Option.

2. The agency, in consultation with the department, shall integrate the Aged and Disabled Adult Medicaid waiver program and the Assisted Living for the Elderly Medicaid waiver program and each

program's funds into one fee-for-service Medicaid waiver program serving the aged and disabled. Once the programs are integrated, funding to provide care in assisted-living facilities under the new waiver may not be less than the amount appropriated in the 2003-2004 fiscal year for the Assisted Living for the Elderly Medicaid waiver.

- a. The agency shall seek federal waivers necessary to integrate these waiver programs.
- b. The agency and the department shall reimburse providers for case management services on a capitated basis and develop uniform standards for case management in this fee-for-service Medicaid waiver program. The coordination of acute and chronic medical services for individuals shall be included in the capitated rate for case management services.
- c. The agency and the department shall adopt any rules necessary to comply with or administer these requirements, effect and implement interagency agreements between the department and the agency, and comply with federal requirements.

3. The Legislature finds that preservation of the historic aging network of lead agencies is essential to the well-being of Florida's elderly population. The Legislature finds that the Florida aging network constitutes a system of essential community providers which should be nurtured and assisted to develop systems of operations which allow the gradual assumption of responsibility and financial risk for managing a client through the entire continuum of long-term care services within the area the lead agency is currently serving, and which allow lead agency providers to develop managed systems of service delivery. The department, in consultation with the agency, shall therefore:

- a. Develop a demonstration project in which existing community care for the elderly lead agencies are assisted in transferring their business model and the service delivery system within their current community care service area to enable assumption, over a period of time, of full risk as a community diversion pilot project contractor providing long-term care services in the areas of operation. The department, in consultation with the agency and the Department of Children and Family Services, shall develop an implementation plan for no more than three lead agencies by October 31, 2004.
- b. In the demonstration area, a community care for the elderly lead agency shall be initially reimbursed on a prepaid or fixed-sum basis for services provided under the newly integrated fee-for-service Medicaid waiver. By the end of the third year of operation, the demonstration <sup>1</sup>project shall include all services under the long-term care community diversion pilot project.
- c. During the first year of operation, the department, in consultation with the agency, may place providers at risk to provide nursing home services for the enrolled individuals who are participating in the demonstration project. During the 3-year development period, the agency and the department may limit the level of custodial nursing home risk that the administering entities assume. Under risk-sharing arrangements, during the first 3 years of operation, the department, in consultation with the agency, may reimburse the administering entity for the cost of providing nursing home care for Medicaid-eligible participants who have been permanently placed and remain in a nursing home for more than 1 year, or may disenroll such participants from the demonstration project.
- d. The agency, in consultation with the department, shall develop reimbursement rates based on the historical cost experience of the state in providing long-term care and nursing home services under Medicaid waiver programs to the population 65 years of age and older in the area served by the pilot project.
- e. The department, in consultation with the agency, shall ensure that the entity or entities receiving prepaid or fixed-sum reimbursement are assisted in developing internal management and financial control systems necessary to manage the risk associated with providing services under a

prepaid or fixed-sum rate system.

f. If the department and the agency share risk of custodial nursing home placement, payment rates during the first 3 years of operation shall be set at not more than 100 percent of the costs to the agency and the department of providing equivalent services to the population within the area of the pilot project for the year prior to the year in which the pilot project is implemented, adjusted forward to account for inflation and policy changes in the Medicaid program. In subsequent years, the rate shall be negotiated, based on the cost experience of the entity in providing contracted services, but may not exceed 95 percent of the amount that would have been paid in the pilot project area absent the prepaid or fixed sum reimbursement methodology.

g. Community care for the elderly lead agencies that have operated for a period of at least 20 years, which provide Medicare-certified services to elders, and which have developed a system of service provision by health care volunteers shall be given priority in the selection of the pilot project if they meet the minimum requirements specified in the competitive procurement.

h. The agency and the department shall adopt rules necessary to comply with or administer these requirements, effect and implement interagency agreements between the agency and the department, and comply with federal requirements.

i. The department and the agency shall seek federal waivers necessary to implement the requirements of this section.

j. The Department of Elderly Affairs shall conduct or contract for an evaluation of the demonstration project. The department shall submit the evaluation to the Governor and the Legislature by January 1, 2007. The evaluation must address the effectiveness of the pilot project in providing a comprehensive system of appropriate and high-quality, long-term care services to elders in the least restrictive setting and make recommendations on expanding the project to other parts of the state.

4. The department, in consultation with the agency, shall study the integration of the database systems for the Comprehensive Assessment and Review of Long-Term Care (CARES) program and the Client Information and Referral Tracking System (CIRTS) and develop a plan for database integration. The department shall submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2004.

5. The agency, in consultation with the department, shall work with the fiscal agent for the Medicaid program to develop a service utilization reporting system that operates through the fiscal agent for the capitated plans.

(c) During the 2005-2006 state fiscal year:

1. The agency, in consultation with the department, shall monitor the newly integrated programs and report on the progress of those programs to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2006. The report must include an initial evaluation of the programs in their early stages following the evaluation plan developed by the department, in consultation with the agency and the selected contractor.

2. The department shall monitor the pilot projects for resource centers on aging and report on the progress of those projects to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2006. The report must include an evaluation of the implementation process in its early stages.

3. The department, in consultation with the agency, shall integrate the database systems for the Comprehensive Assessment and Review of Long-Term Care (CARES) program and the Client Information and Referral Tracking System (CIRTS) into a single operating assessment information

system by June 30, 2006.

4. The agency, in consultation with the department, shall integrate the Frail Elder Option into the Nursing Home Diversion pilot project and each program's funds into one capitated program serving the aged.

a. The department, in consultation with the agency, shall develop uniform standards for case management in this newly integrated capitated system.

b. The agency shall seek federal waivers necessary to integrate these programs.

c. The department, in consultation with the agency, shall adopt any rules necessary to comply with or administer these requirements, effect and implement interagency agreements between the department and the agency, and comply with federal requirements.

(d) During the 2006-2007 state fiscal year:

1. The agency, in consultation with the department, shall evaluate the Alzheimer's Disease waiver program and the Adult Day Health Care waiver program to assess whether providing limited intensive services through these waiver programs produces better outcomes for individuals than providing those services through the fee-for-service or capitated programs that provide a larger array of services.

2. The agency, in consultation with the department, shall begin discussions with the federal Centers for Medicare and Medicaid Services regarding the inclusion of Medicare into the integrated long-term care system. By December 31, 2006, the agency shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a plan for including Medicare in the integrated long-term care system.

**History.**--s. 5, ch. 80-181; s. 272, ch. 81-259; s. 9, ch. 90-319; s. 33, ch. 95-418; s. 7, ch. 98-182; s. 99, ch. 2000-349; s. 18, ch. 2001-254; s. 9, ch. 2002-223; ss. 11, 79, ch. 2002-402; s. 3, ch. 2003-67; s. 21, ch. 2003-399; s. 3, ch. 2004-246; s. 7, ch. 2004-386.

**<sup>1</sup>Note.**--The word "project" was inserted by the editors to improve clarity and facilitate correct interpretation.

**Note.**--Former s. 410.0241.

#### **430.2053 Aging resource centers.--**

(1) The department, in consultation with the Agency for Health Care Administration and the Department of Children and Family Services, shall develop pilot projects for aging resource centers. By October 31, 2004, the department, in consultation with the agency and the Department of Children and Family Services, shall develop an implementation plan for aging resource centers and submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The plan must include qualifications for designation as a center, the functions to be performed by each center, and a process for determining that a current area agency on aging is ready to assume the functions of an aging resource center.

(2) Each area agency on aging shall develop, in consultation with the existing community care for the elderly lead agencies within their planning and service areas, a proposal that describes the process the area agency on aging intends to undertake to transition to an aging resource center prior to July 1, 2005, and that describes the area agency's compliance with the requirements of this section. The proposals must be submitted to the department prior to December 31, 2004. The department shall evaluate all proposals for readiness and, prior to March 1, 2005, shall select three

area agencies on aging which meet the requirements of this section to begin the transition to aging resource centers. Those area agencies on aging which are not selected to begin the transition to aging resource centers shall, in consultation with the department and the existing community care for the elderly lead agencies within their planning and service areas, amend their proposals as necessary and resubmit them to the department prior to July 1, 2005. The department may transition additional area agencies to aging resource centers as it determines that area agencies are in compliance with the requirements of this section.

(3) The Auditor General and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall jointly review and assess the department's process for determining an area agency's readiness to transition to an aging resource center.

(a) The review must, at a minimum, address the appropriateness of the department's criteria for selection of an area agency to transition to an aging resource center, the instruments applied, the degree to which the department accurately determined each area agency's compliance with the readiness criteria, the quality of the technical assistance provided by the department to an area agency in correcting any weaknesses identified in the readiness assessment, and the degree to which each area agency overcame any identified weaknesses.

(b) Reports of these reviews must be submitted to the appropriate substantive and appropriations committees in the Senate and the House of Representatives on March 1 and September 1 of each year until full transition to aging resource centers has been accomplished statewide, except that the first report must be submitted by February 1, 2005, and must address all readiness activities undertaken through December 31, 2004. The perspectives of all participants in this review process must be included in each report.

(4) The purposes of an aging resource center shall be:

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

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

(5) The duties of an aging resource center are to:

(a) Develop referral agreements with local community service organizations, such as senior centers, existing elder service providers, volunteer associations, and other similar organizations, to better assist clients who do not need or do not wish to enroll in programs funded by the department or the agency. The referral agreements must also include a protocol, developed and approved by the department, which provides specific actions that an aging resource center and local community service organizations must take when an elder or an elder's representative seeking information on long-term-care services contacts a local community service organization prior to contacting the aging resource center. The protocol shall be designed to ensure that elders and their families are able to access information and services in the most efficient and least cumbersome manner possible.

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

(c) Determine eligibility for the programs and services listed in subsection (11) for persons residing within the geographic area served by the aging resource center and determine a priority ranking

for services which is based upon the potential recipient's frailty level and likelihood of institutional placement without such services.

(d) Manage the availability of financial resources for the programs and services listed in subsection (11) for persons residing within the geographic area served by the aging resource center.

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

(f) Convene a work group to advise in the planning, implementation, and evaluation of the aging resource center. The work group shall be comprised of representatives of local service providers, Alzheimer's Association chapters, housing authorities, social service organizations, advocacy groups, representatives of clients receiving services through the aging resource center, and any other persons or groups as determined by the department. The aging resource center, in consultation with the work group, must develop annual program improvement plans that shall be submitted to the department for consideration. The department shall review each annual improvement plan and make recommendations on how to implement the components of the plan.

(g) Enhance the existing area agency on aging in each planning and service area by integrating, either physically or virtually, the staff and services of the area agency on aging with the staff of the department's local CARES Medicaid nursing home preadmission screening unit and a sufficient number of staff from the Department of Children and Family Services' Economic Self-Sufficiency Unit necessary to determine the financial eligibility for all persons age 60 and older residing within the area served by the aging resource center that are seeking Medicaid services, Supplemental Security Income, and food stamps.

(6) The department shall select the entities to become aging resource centers based on each entity's readiness and ability to perform the duties listed in subsection (5) and the entity's:

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

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

(c) Expertise in information and referral activities.

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

(e) Financial solvency and stability.

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

(g) Commitment to adequate staffing by qualified personnel to effectively perform all functions.

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

(7) The aging resource center shall have a governing body which shall be the same entity described

in s. 20.41(7), and an executive director who may be the same person as described in s. 20.41(8). The governing body shall annually evaluate the performance of the executive director.

(8) The aging resource center may not be a provider of direct services other than information and referral services and screening.

(9) The aging resource center must agree to allow the department to review any financial information the department determines is necessary for monitoring or reporting purposes, including financial relationships.

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

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

(b) Conduct comprehensive assessments of clients that have been determined eligible and develop a care plan consistent with established protocols that ensures that the unique needs of each client are met.

(11) The services to be administered through the aging resource center shall include those funded by the following programs:

(a) Community care for the elderly.

(b) Home care for the elderly.

(c) Contracted services.

(d) Alzheimer's disease initiative.

(e) Aged and disabled adult Medicaid waiver.

(f) Assisted living for the frail elderly Medicaid waiver.

(g) Older Americans Act.

(12) The department shall, prior to designation of an aging resource center, develop by rule operational and quality assurance standards and outcome measures to ensure that clients receiving services through all long-term-care programs administered through an aging resource center are receiving the appropriate care they require and that contractors and subcontractors are adhering to the terms of their contracts and are acting in the best interests of the clients they are serving, consistent with the intent of the Legislature to reduce the use of and cost of nursing home care. The department shall by rule provide operating procedures for aging resource centers, which shall include:

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

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

(c) Minimum standards for technology utilized by the aging resource center.

(d) Minimum staff requirements which shall ensure that the aging resource center employs sufficient quality and quantity of staff to adequately meet the needs of the elders residing within

the area served by the aging resource center.

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

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

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

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

(13) In an area in which the department has designated an area agency on aging as an aging resource center, the department and the agency shall not make payments for the services listed in subsection (11) and the Long-Term Care Community Diversion Project for such persons who were not screened and enrolled through the aging resource center.

(14) Each aging resource center shall enter into a memorandum of understanding with the department for collaboration with the CARES unit staff. The memorandum of understanding shall outline the staff person responsible for each function and shall provide the staffing levels necessary to carry out the functions of the aging resource center.

(15) Each aging resource center shall enter into a memorandum of understanding with the Department of Children and Family Services for collaboration with the Economic Self-Sufficiency Unit staff. The memorandum of understanding shall outline which staff persons are responsible for which functions and shall provide the staffing levels necessary to carry out the functions of the aging resource center.

(16) If any of the state activities described in this section are outsourced, either in part or in whole, the contract executing the outsourcing shall mandate that the contractor or its subcontractors shall, either physically or virtually, execute the provisions of the memorandum of understanding instead of the state entity whose function the contractor or subcontractor now performs.

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

(18) The department shall monitor the three initial projects for aging resource centers and report on the progress of those projects to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2005. The report must include an evaluation of the implementation process.

(19)(a) Once an aging resource center is operational, the department, in consultation with the agency, may develop capitation rates for any of the programs administered through the aging resource center. Capitation rates for programs shall be based on the historical cost experience of the state in providing those same services to the population age 60 or older residing within each area served by an aging resource center. Each capitated rate may vary by geographic area as determined by the department.

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

or to develop and pay capitated rates for service packages which include more than one program or service administered through the aging resource center.

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

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

(20) The department, in consultation with the agency, shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, by December 1, 2006, a report addressing the feasibility of administering the following services through aging resource centers beginning July 1, 2007:

- (a) Medicaid nursing home services.
- (b) Medicaid transportation services.
- (c) Medicaid hospice care services.
- (d) Medicaid intermediate care services.
- (e) Medicaid prescribed drug services.
- (f) Medicaid assistive care services.
- (g) Any other long-term-care program or Medicaid service.

(21) This section shall not be construed to allow an aging resource center to restrict, manage, or impede the local fundraising activities of service providers.

**History.**--s. 8, ch. 2004-386.

**430.206 Multiservice senior center.--**

(1) If practicable, multiservice senior center services shall be available to functionally impaired elderly persons.

(2) If feasible, a multiservice senior center must be centrally located and easily accessible to public transportation. Provision may be made for transporting persons to the center. A center shall be designed to provide ease of access and use, considering the infirmities of elderly persons.

(3)(a) Each multiservice senior center is encouraged to have on the premises at all times a functioning automated external defibrillator.

(b) Multiservice senior centers that provide automated external defibrillators shall ensure that personnel are properly trained in accordance with s. 401.2915.

(c) The location of each automated external defibrillator shall be registered with a local emergency medical services medical director.

(d) The use of automated external defibrillators by employees and volunteers shall be covered under the provisions of ss. 768.13 and 768.1325.

(e) The department may adopt rules to implement the provisions of this section.

**History.**--ss. 2, 3, ch. 76-51; s. 18, ch. 78-433; s. 7, ch. 80-181; s. 34, ch. 95-418; s. 2, ch. 2004-367.

**Note.**--Former s. 409.3629; s. 410.026.

**430.207 Confidentiality of information.**--Information about functionally impaired elderly persons who receive services under ss. 430.201-430.206 which is received through files, reports, inspections, or otherwise, by the department or by authorized departmental employees, by persons who volunteer services, or by persons who provide services to functionally impaired elderly persons under ss. 430.201-430.206 through contracts with the department is confidential and exempt from the provisions of s. 119.07(1). Such information may not be disclosed publicly in such a manner as to identify a functionally impaired elderly person, unless that person or his or her legal guardian provides written consent.

**History.**--s. 9, ch. 91-71; s. 35, ch. 95-418; s. 279, ch. 96-406; s. 1047, ch. 97-103.

**Note.**--Former s. 410.0295.

#### **430.41 Grants and Donations Trust Fund.--**

(1) The Grants and Donations Trust Fund is hereby created, to be administered by the Department of Elderly Affairs. Funds to be credited to the trust fund shall include all public and private grants and donations to the department, except for grants provided by the Federal Government and other earnings that are deposited into the Operations and Maintenance Trust Fund of the department. Funds from the Grants and Donations Trust Fund shall be used to fulfill agreements made with grantors and contributors and such other purposes as may be appropriate and shall only be expended pursuant to legislative appropriation or an approved amendment to the department's operating budget pursuant to the provisions of chapter 216.

(2) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund and shall be available for carrying out the purposes of the trust fund.

**History.**--s. 1, ch. 96-150.

#### **430.42 Department of Elderly Affairs Tobacco Settlement Trust Fund.--**

(1) The Department of Elderly Affairs Tobacco Settlement Trust Fund is created within that department. Funds to be credited to the trust fund shall consist of funds disbursed, by nonoperating transfer, from the Department of Financial Services Tobacco Settlement Clearing Trust Fund in amounts equal to the annual appropriations made from this trust fund.

(2) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any unencumbered balance in the trust fund at the end of any fiscal year and any encumbered balance remaining undisbursed on December 31 of the same calendar year shall revert to the Department of Financial Services Tobacco Settlement Clearing Trust Fund.

**History.**--s. 1, ch. 99-200; s. 2, ch. 2000-34; s. 464, ch. 2003-261.

#### **430.501 Alzheimer's Disease Advisory Committee; research grants.--**

(1) It is the finding of the Legislature that Alzheimer's disease and similar major memory disorders affect an alarmingly high percentage of citizens, primarily those over 65 years of age, and yet little

is known of the cause, prevention, or treatment of this disease.

(2) There is created an Alzheimer's Disease Advisory Committee, composed of 10 members to be selected by the Governor, which shall advise the Department of Elderly Affairs in the performance of its duties under this act. All members must be residents of the state. The committee shall advise the department regarding legislative, programmatic, and administrative matters that relate to Alzheimer's disease victims and their caretakers.

(3)(a) The committee membership shall be representative as follows:

1. At least 4 of the 10 members must be licensed pursuant to chapter 458 or chapter 459 or hold a Ph.D. degree and be currently involved in the research of Alzheimer's disease.

2. The 10 members must include at least 4 persons who have been caregivers of victims of Alzheimer's disease.

3. Whenever possible, the 10 members shall include 1 each of the following professionals: a gerontologist, a geriatric psychiatrist, a geriatrician, a neurologist, a social worker, and a registered nurse.

(b)1. The Governor shall appoint members from a broad cross section of public, private, and volunteer sectors. All nominations shall be forwarded to the Governor by the Secretary of Elderly Affairs in accordance with this subsection.

2. Members shall be appointed to 4-year staggered terms in accordance with s. 20.052.

3. The Secretary of Elderly Affairs shall serve as an ex officio member of the committee.

4. The committee shall elect one of its members to serve as chair for a term of 1 year.

5. The committee may establish subcommittees as necessary to carry out the functions of the committee.

6. The committee shall meet quarterly, or as frequently as needed.

7. The Department of Elderly Affairs shall provide staff support to assist the committee in the performance of its duties.

8. Members of the committee and subcommittees shall receive no salary, but are entitled to reimbursement for travel and per diem expenses, as provided in s. 112.061, while performing their duties under this section.

(4) If funds are made available through gifts, grants, or other sources, the Department of Elderly Affairs shall deposit such funds into its Grants and Donations Trust Fund and shall award research grants to qualified profit or nonprofit associations and institutions or governmental agencies in order to plan, establish, or conduct programs in Alzheimer's disease control or prevention, education and training, and research. The department may adopt rules necessary to carry out these duties.

**History.**--ss. 1, 3, ch. 85-145; s. 5, ch. 91-429; s. 15, ch. 93-120; s. 36, ch. 95-418; s. 3, ch. 96-150; s. 1048, ch. 97-103.

**Note.**--Former s. 410.401.

**430.502 Alzheimer's disease; memory disorder clinics and day care and respite care**

**programs.--**

(1) There is established:

- (a) A memory disorder clinic at each of the three medical schools in this state;
- (b) A memory disorder clinic at a major private nonprofit research-oriented teaching hospital, and may fund a memory disorder clinic at any of the other affiliated teaching hospitals;
- (c) A memory disorder clinic at the Mayo Clinic in Jacksonville;
- (d) A memory disorder clinic at the West Florida Regional Medical Center;
- (e) The East Central Florida Memory Disorder Clinic at the Joint Center for Advanced Therapeutics and Biomedical Research of the Florida Institute of Technology and Holmes Regional Medical Center, Inc.;
- (f) A memory disorder clinic at the Orlando Regional Healthcare System, Inc.;
- (g) A memory disorder center located in a public hospital that is operated by an independent special hospital taxing district that governs multiple hospitals and is located in a county with a population greater than 800,000 persons;
- (h) A memory disorder clinic at St. Mary's Medical Center in Palm Beach County;
- (i) A memory disorder clinic at Tallahassee Memorial Healthcare;
- (j) A memory disorder clinic at Lee Memorial Hospital created by chapter 63-1552, Laws of Florida, as amended;
- (k) A memory disorder clinic at Sarasota Memorial Hospital in Sarasota County; and
- (l) A memory disorder clinic at Morton Plant Hospital, Clearwater, in Pinellas County,

for the purpose of conducting research and training in a diagnostic and therapeutic setting for persons suffering from Alzheimer's disease and related memory disorders. However, memory disorder clinics funded as of June 30, 1995, shall not receive decreased funding due solely to subsequent additions of memory disorder clinics in this subsection.

(2) It is the intent of the Legislature that research conducted by a memory disorder clinic and supported by state funds pursuant to subsection (1) be applied research, be service-related, and be selected in conjunction with the department. Such research may address, but is not limited to, diagnostic technique, therapeutic interventions, and supportive services for persons suffering from Alzheimer's disease and related memory disorders and their caregivers. A memory disorder clinic shall conduct such research in accordance with a research plan developed by the clinic which establishes research objectives that are in accordance with this legislative intent. A memory disorder clinic shall also complete and submit to the department a report of the findings, conclusions, and recommendations of completed research. This subsection does not apply to those memory disorder clinics at the three medical schools in the state or at the major private nonprofit research-oriented teaching hospital or other affiliated teaching hospital.

(3) The Alzheimer's Disease Advisory Committee must evaluate the need for additional memory disorder clinics in the state. The first report will be due by December 31, 1995.

(4) Pursuant to the provisions of s. 287.057, the Department of Elderly Affairs may contract for the

provision of specialized model day care programs in conjunction with the memory disorder clinics. The purpose of each model day care program must be to provide service delivery to persons suffering from Alzheimer's disease or a related memory disorder and training for health care and social service personnel in the care of persons having Alzheimer's disease or related memory disorders.

(5) Pursuant to s. 287.057, the Department of Elderly Affairs shall contract for the provision of respite care. All funds appropriated for the provision of respite care shall be distributed annually by the department to each funded county according to an allocation formula. In developing the formula, the department shall consider the number and proportion of the county population of individuals who are 75 years of age and older. Each respite care program shall be used as a resource for research and statistical data by the memory disorder clinics established in this part. In consultation with the memory disorder clinics, the department shall specify the information to be provided by the respite care programs for research purposes.

(6) Each contract entered into pursuant to this section must contain a requirement for a research component to be completed and reported on in writing to the department according to specifications and within a timeframe provided by the department.

(7) The Agency for Health Care Administration and the department shall seek a federal waiver to implement a Medicaid home and community-based waiver targeted to persons with Alzheimer's disease to test the effectiveness of Alzheimer's specific interventions to delay or to avoid institutional placement.

(8) The department will implement the waiver program specified in subsection (7). The agency and the department shall ensure that providers are selected that have a history of successfully serving persons with Alzheimer's disease. The department and the agency shall develop specialized standards for providers and services tailored to persons in the early, middle, and late stages of Alzheimer's disease and designate a level of care determination process and standard that is most appropriate to this population. The department and the agency shall include in the waiver services designed to assist the caregiver in continuing to provide in-home care. The department shall implement this waiver program subject to a specific appropriation or as provided in the General Appropriations Act. The department and the agency shall submit their program design to the President of the Senate and the Speaker of the House of Representatives for consultation during the development process.

(9) Authority to continue the waiver program specified in subsection (7) shall be automatically eliminated at the close of the 2008 Regular Session of the Legislature unless further legislative action is taken to continue it prior to such time.

**History.**--s. 2, ch. 85-145; s. 14, ch. 88-398; s. 32, ch. 90-268; s. 1, ch. 90-324; s. 1, ch. 91-179; s. 1, ch. 95-253; s. 37, ch. 95-418; s. 17, ch. 97-82; s. 2, ch. 97-163; s. 1, ch. 98-102; s. 1, ch. 98-327; s. 1, ch. 99-394; s. 86, ch. 2000-153; s. 26, ch. 2003-57; s. 4, ch. 2004-246; s. 9, ch. 2004-386.

**Note.**--Former s. 410.402.

#### **430.503 Alzheimer's Disease Initiative; fees and administrative expense.--**

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

(2) Provider agencies are responsible for the collection of fees for services in accordance with rules adopted by the department. Provider agencies shall assess fees for services rendered in accordance with those rules. To help pay for services received pursuant to the Alzheimer's Disease Initiative, a functionally impaired elderly person shall be assessed a fee based on an overall ability to pay. The fee to be assessed shall be fixed according to a schedule to be established by the department. Services of specified value may be accepted in lieu of a fee. The fee schedule shall be

developed in cooperation with the Alzheimer's Disease Advisory Committee, area agencies on aging, and service providers.

**History.**--s. 38, ch. 95-418.

**430.504 Confidentiality of information.**--Information about clients of programs created or funded under s. 430.501 or s. 430.503 which is received through files, reports, inspections, or otherwise, by the department or by authorized departmental employees, by persons who volunteer services, or by persons who provide services to clients of programs created or funded under s. 430.501 or s. 430.503 through contracts with the department is confidential and exempt from the provisions of s. 119.07(1). Such information may not be disclosed publicly in such a manner as to identify a person who receives services under s. 430.501 or s. 430.503, unless that person or that person's legal guardian provides written consent.

**History.**--s. 12, ch. 91-71; s. 39, ch. 95-418; s. 280, ch. 96-406.

**Note.**--Former s. 410.403.

**430.6001 Comprehensive day treatment services; demonstration projects.**--The Department of Elderly Affairs is authorized to initiate projects to demonstrate the effectiveness of comprehensive day treatment services to seniors as a diversion from nursing home care, thereby allowing seniors to remain in their homes.

**History.**--s. 2, ch. 99-394.

**430.601 Home care for the elderly; legislative intent.**--It is the intent of the Legislature to encourage the provision of care for the elderly in family-type living arrangements in private homes as an alternative to institutional or nursing home care for such persons. The provisions of ss. 430.601-430.606 are intended to be supplemental to the provisions of chapter 400, relating to the licensing and regulation of nursing homes and assisted living facilities, and do not exempt any person who is otherwise subject to regulation under the provisions of that chapter.

**History.**--s. 81, ch. 95-418.

**430.602 Home care for the elderly; definitions.**--As used in ss. 430.601-430.606:

- (1) "Department" means the Department of Elderly Affairs.
- (2) "Elderly person" means any person 60 years of age or over who is currently a resident of this state and has an intent to remain in this state.
- (3) "Home care for the elderly" means a full-time family-type living arrangement, in a private home, under which a person or group of persons provides, on a nonprofit basis, basic services of maintenance and supervision, and any necessary specialized services as may be needed, for three or fewer elderly persons.

**History.**--s. 82, ch. 95-418.

**430.603 Home care for the elderly; rules.**--The department shall by rule establish minimum standards and procedures for the provision of home care for the elderly and for the approval of persons seeking to provide such care. Any person who is approved to provide care, goods, or services for an elderly person shall be eligible for the subsidy payments described in s. 430.605. However, the home care for the elderly program must be operated within the funds appropriated by the Legislature.

**History.**--s. 83, ch. 95-418.

**430.604 Department determination of inability to provide home care.**--If a person who plans to provide home care under ss. 430.601-430.606 is found by the department, or its designee, to be unable to provide this care, the department must notify the person seeking to provide home care of this determination, and the person is not eligible for subsidy payments under ss. 430.601-430.606.

**History.**--s. 84, ch. 95-418.

**430.605 Subsidy payments.**--The department shall develop a schedule of subsidy payments to be made to persons providing home care, and to providers of goods and services, for certain eligible elderly persons. Payments must be based on the financial status of the person receiving care. Payments must include, but need not be limited to:

- (1) A support and maintenance element, including costs of housing, food, clothing, and incidentals.
- (2) Payments for medical, pharmaceutical, and dental services essential to maintain the health of the elderly person and not covered by Medicare, Medicaid, or any form of insurance.
- (3) When necessary, special supplements to provide for any goods and services and specialized care required to maintain the health and well-being of the elderly person. Extraordinary medical, dental, or pharmaceutical expenses may be paid as a special supplement.

**History.**--s. 85, ch. 95-418.

**430.606 Eligibility for services.**--The criteria for determining eligibility for this program shall be substantially similar to the criteria used to determine eligibility for nursing home care under the Medicaid program.

**History.**--s. 86, ch. 95-418.

**430.608 Confidentiality of information.**--

- (1) Identifying information about elderly persons who receive services under ss. 430.601-430.606, which is received through files, reports, inspection, or otherwise by the department or by authorized departmental employees, by persons who volunteer services, or by persons who provide services to elderly persons under ss. 430.601-430.606 through contracts with the department, is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information may not be disclosed publicly in such a manner as to identify an elderly person, unless that person or the person's legal guardian provides written consent.
- (2) This section does not, however, limit the subpoena authority of the Medicaid Fraud Control Unit of the Department of Legal Affairs pursuant to s. 409.920(9)(b).

**History.**--s. 1, ch. 95-273; s. 281, ch. 96-406; s. 8, ch. 2000-163; s. 25, ch. 2004-344.

**430.701 Legislative findings and intent; approval for action relating to provider enrollment levels.**--

- (1) The Legislature finds that state expenditures for long-term care services continue to increase at a rapid rate and that Florida faces increasing pressure in its efforts to meet the long-term care needs of the public. It is the intent of the Legislature that the Department of Elderly Affairs, in consultation with the Agency for Health Care Administration, implement long-term care community

diversion pilot projects to test the effectiveness of managed care and outcome-based reimbursement principles when applied to long-term care.

(2) The agency may seek federal approval in advance of <sup>1</sup>approval of its formal waiver application to limit the diversion provider network by freezing enrollment of providers at current levels when an area already has three or more providers or, in an expansion area, when enrollment reaches a level of three providers. This subsection does not prevent the department from approving a provider to expand service to additional counties within a planning and service area for which the provider is already approved to serve.

**History.**--s. 1, ch. 97-87; s. 11, ch. 2004-298; s. 13, ch. 2004-386.

<sup>1</sup>**Note.**--As amended by s. 13, ch. 2004-386. The similar amendment by s. 11, ch. 2004-298, did not contain the words "approval of."

**430.702 Short title.**--This act may be cited as the "Long-Term Care Community Diversion Pilot Project Act."

**History.**--s. 2, ch. 97-87.

**430.703 Definitions.**--As used in this act, the term:

- (1) "Agency" means the Agency for Health Care Administration.
- (2) "Community diversion" means a strategy that places participants in the most appropriate care settings and provides comprehensive home and community-based services of sufficient quantity, type, and duration to prevent or delay the need for long-term placement in a nursing facility.
- (3) "Community diversion pilot project" means any pilot service delivery system that places participants in the most appropriate care settings and provides comprehensive home and community-based services of sufficient quantity, type, and duration to prevent or delay the need for long-term placement in a nursing facility.
- (4) "Community diversion pilot project area" means a geographic area selected by the department where the department will conduct a community diversion pilot project.
- (5) "Department" means the Department of Elderly Affairs.
- (6) "Managed care organization" means an entity that meets the requirements of the Office of Insurance Regulation of the Financial Services Commission for operation as a health maintenance organization and meets the qualifications for participation as a managed care organization established by the agency and the office.
- (7) "Other qualified provider" means an entity licensed under chapter 400 that demonstrates a long-term care continuum and meets all requirements pursuant to an interagency agreement between the agency and the department.
- (8) "Participant" means an individual enrolled in a community diversion pilot project.

**History.**--s. 3, ch. 97-87; s. 23, ch. 2000-163; s. 465, ch. 2003-261; s. 10, ch. 2004-386.

**430.7031 Nursing home transition program.**--The department and the Agency for Health Care Administration:

- (1) Shall implement a system of care designed to assist individuals residing in nursing homes to regain independence and to move to less costly settings.
- (2) Shall collaboratively work to identify nursing home residents who are able to move to community placements, and to provide case management and supportive services to such individuals while they are in nursing homes to assist such individuals in moving to less expensive and less restrictive settings. CARES program staff shall annually review at least 20 percent of the case files for nursing home residents who are Medicaid recipients to determine which nursing home residents are able to move to community placements.
- (3) Shall modify existing service delivery systems or develop new service delivery systems to economically and efficiently meet such individuals' care needs.
- (4) Shall offer such individuals priority placement and services in all home-based and community-based care programs and shall ensure that funds are available to provide services to individuals to whom services are offered.
- (5) May seek federal waivers necessary to administer this section.

**History.**--s. 15, ch. 2002-223; s. 11, ch. 2004-386.

**430.704 Evaluation of long-term care through the pilot projects.--**

- (1) The department shall evaluate the Comprehensive Assessment and Review for Long-Term Care (CARES) Program processes, procedures, and instruments, and its ability to predict nursing home placement. The department may revise these processes, procedures, and instruments as necessary to increase the number of persons diverted from institutional placement. Nothing in this section shall be construed to prevent the department from directing CARES to review and evaluate nursing home residents. The department shall:
  - (a) Ensure that the CARES process is an effective predictor of the need for nursing facility care; and
  - (b) Assess the use of CARES as a single entry point for aging and long-term care services.
- (2) The department shall develop a capitation rate-setting method that:
  - (a) Assures sufficient savings from the state Medicaid nursing home budget category to fund the community diversion pilot projects; and
  - (b) Assures that expenditures do not exceed the average nursing home cost in the pilot project area, excluding Medicaid acute care costs and Medicaid cost-sharing.
- (3) The department shall evaluate:
  - (a) The standards in existing Medicaid managed care contracts to determine if they are sufficient to assure access, quality, and cost-effectiveness of services for frail elders.
  - (b) The cost-effectiveness of the services provided by the pilot projects.
  - (c) The impact of nursing home bed growth on state expenditures.
  - (d) Methods to encourage competition among long-term care service providers that will improve service quality, price, and participant satisfaction.

(e) Criteria for selecting the managed care organizations, including, but not limited to, quality assurance processes, grievance procedures, service costs, accessibility, adequacy of provider networks, and administrative costs.

(f) Criteria for participant eligibility.

**History.**--s. 4, ch. 97-87.

**430.705 Implementation of the long-term care community diversion pilot projects.--**

(1) In designing and implementing the community diversion pilot projects, the department shall work in consultation with the agency.

(2) The department shall select projects whose design and providers demonstrate capacity to maximize the placement of participants in the least restrictive appropriate care setting. The department shall select providers that have a plan administrator who is dedicated to the diversion pilot project and project staff who perform the necessary project administrative functions, including data collection, reporting, and analysis. The department shall select providers that:

(a) Are determined by the Department of Financial Services to:

1. Meet surplus requirements specified in s. 641.225;

2. Demonstrate the ability to comply with the standards for financial solvency specified in s. 641.285;

3. Demonstrate the ability to provide for the prompt payment of claims as specified in s. 641.3155; and

4. Demonstrate the ability to provide technology with the capability for data collection that meets the security requirements of the federal Health Insurance Portability and Accountability Act of 1996, 42 C.F.R. ss. 160 and 164.

(b) Demonstrate the ability to contract with multiple providers that provide the same type of service.

(3) The agency shall seek federal waivers necessary to place a cap on the number of diversion pilot project providers in each geographic area.

(4) Pursuant to 42 C.F.R. s. 438.6(c), the agency, in consultation with the department, shall annually reevaluate and recertify the capitation rates for the diversion pilot projects. The agency, in consultation with the department, shall secure the utilization and cost data for Medicaid and Medicare beneficiaries served by the program which shall be used in developing rates for the diversion pilot projects.

(5) In order to achieve rapid enrollment into the program and efficient diversion of applicants from nursing home care, the department and the agency shall allow enrollment of Medicaid beneficiaries on the date that eligibility for the community diversion pilot project is approved. The provider shall receive a prorated capitated rate for those enrollees who are enrolled after the first of each month.

(6) The department shall provide to prospective participants a choice of participating in a community diversion pilot project or any other appropriate placement available. To the extent possible, individuals shall be allowed to choose their care providers, including long-term care service providers affiliated with an individual's religious faith or denomination.

- (7) The department shall enroll participants. Providers shall not directly enroll participants in community diversion pilot projects.
- (8) The department may require participants to contribute to their cost of care in an amount not to exceed the cost-sharing required of Medicaid-eligible nursing home residents.
- (9) Community diversion pilot projects must:
  - (a) Provide services for participants that are of sufficient quality, quantity, type, and duration to prevent or delay nursing facility placement.
  - (b) Integrate acute and long-term care services, and the funding sources for such services, as feasible.
  - (c) Encourage individuals, families, and communities to plan for their long-term care needs.
  - (d) Provide skilled and intermediate nursing facility care for participants who cannot be adequately cared for in noninstitutional settings.

**History.**--s. 5, ch. 97-87; s. 1, ch. 98-184; s. 12, ch. 2004-386.

**430.706 Quality of care.**--The department, in consultation with the agency, shall develop quality of care standards for community diversion pilot projects. Such standards shall apply to all contractors and subcontractors, and must include, but are not limited to, outcome measures, utilization review, grievance and conflict resolution, patient satisfaction, and care and service standards.

**History.**--s. 6, ch. 97-87.

**430.707 Contracts.**--

- (1) The department, in consultation with the agency, shall select and contract with managed care organizations and, on a prepaid basis, with other qualified providers as defined in s. 430.703(7) to provide long-term care within community diversion pilot project areas. The agency shall evaluate and report quarterly to the department the compliance by other qualified providers with all the financial and quality assurance requirements of the contract.
- (2) The department, in consultation with the agency, may contract with entities which have submitted an application as a community nursing home diversion project as of July 1, 1998, to provide benefits pursuant to the "Program of All-inclusive Care for the Elderly" as established in Pub. L. No. 105-33. For the purposes of this community nursing home diversion project, such entities shall be exempt from the requirements of chapter 641, if the entity is a private, nonprofit, superior-rated nursing home with at least 50 percent of its residents eligible for Medicaid.

**History.**--s. 7, ch. 97-87; s. 2, ch. 98-327; s. 24, ch. 2000-163.

**430.708 Certificate of need.**--To ensure that Medicaid community diversion pilot projects result in a reduction in the projected average monthly nursing home caseload, the agency shall, in accordance with the provisions of s. 408.034(5):

- (1) Reduce the projected nursing home bed need in each certificate-of-need batching cycle in the community diversion pilot project areas.
- (2) Reduce the conditions imposed on existing nursing homes or those to be constructed, in accordance with the number of projected community diversion slots.

(3) Adopt rules to reduce the number of beds in Medicaid-participating nursing homes eligible for Medicaid, through a Medicaid-selective contracting process or some other appropriate method.

(4) Determine the feasibility of increasing the nursing home occupancy threshold used in determining nursing home bed needs under the certificate-of-need process.

**History.**--s. 8, ch. 97-87; s. 17, ch. 2002-223.

#### **430.709 Reports and evaluations.--**

(1) Beginning January 1, 1998, and continuing each January 1 while the community diversion pilot projects are operating, the department shall report to the Legislature regarding the implementation and operation of community diversion pilot projects.

(2) The department shall contract for an independent evaluation of the community diversion pilot projects. Such evaluation must include a careful review and assessment of the actual cost for the provision of services to participants.

(3) The department, in consultation with the agency, shall assess the feasibility of implementing a managed long-term care system throughout the state to serve appropriate Medicaid-eligible long-term care recipients age 60 years and older.

**History.**--s. 9, ch. 97-87.

#### **430.80 Implementation of a teaching nursing home pilot project.--**

(1) As used in this section, the term "teaching nursing home" means a nursing home facility licensed under chapter 400 which contains a minimum of 400 licensed nursing home beds; has access to a resident senior population of sufficient size to support education, training, and research relating to geriatric care; and has a contractual relationship with a federally funded accredited geriatric research center in this state.

(2)(a) The Agency for Health Care Administration shall implement a comprehensive multidisciplinary program of geriatric education and research as a pilot project in a nursing home facility designated by the agency as a teaching nursing home. The program shall be established as a pilot project and shall be administered at the nursing home facility and other appropriate settings.

(b) The agency shall develop criteria for designating teaching nursing homes in consultation with advocates of the elderly, advocates of persons with disabilities, representatives of the nursing home industry, and representatives of the State University System.

(3) To be designated as a teaching nursing home, a nursing home licensee must, at a minimum:

(a) Provide a comprehensive program of integrated senior services that include institutional services and community-based services;

(b) Participate in a nationally recognized accreditation program and hold a valid accreditation, such as the accreditation awarded by the Joint Commission on Accreditation of Healthcare Organizations;

(c) Have been in business in this state for a minimum of 10 consecutive years;

(d) Demonstrate an active program in multidisciplinary education and research that relates to gerontology;

- (e) Have a formalized contractual relationship with at least one accredited health profession education program located in this state;
- (f) Have a formalized contractual relationship with an accredited hospital that is designated by law as a teaching hospital; and
- (g) Have senior staff members who hold formal faculty appointments at universities, which must include at least one accredited health profession education program.
- (h) Maintain insurance coverage pursuant to s. 400.141(20) or proof of financial responsibility in a minimum amount of \$750,000. Such proof of financial responsibility may include:
  - 1. Maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52; or
  - 2. Obtaining and maintaining pursuant to chapter 675 an unexpired, irrevocable, nontransferable and nonassignable letter of credit issued by any bank or savings association organized and existing under the laws of this state or any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized to receive deposits in this state. The letter of credit shall be used to satisfy the obligation of the facility to the claimant upon presentment of a final judgment indicating liability and awarding damages to be paid by the facility or upon presentment of a settlement agreement signed by all parties to the agreement when such final judgment or settlement is a result of a liability claim against the facility.
- (4) A teaching nursing home may be affiliated with a medical school within the state and a federally funded center of excellence in geriatric research and education. The purpose of such affiliations is to foster the development of methods for improving and expanding the capability of health care facilities to respond to the medical, psychological, and social needs of frail and elderly persons by providing the most effective and appropriate services. A teaching nursing home shall serve as a resource for research and for training health care professionals in providing health care services in institutional settings to frail and older persons.
- (5) The Legislature may provide an annual appropriation to the nursing home facility designated as a teaching nursing home.
- (6) In order for a nursing home to qualify as a teaching nursing home under this section and to be entitled to the benefits provided under this section, the nursing home must:
  - (a) Be primarily operated and established to offer, afford, and render a comprehensive multidisciplinary program of geriatric education and research to residents of the state; and
  - (b) Certify to the Agency for Health Care Administration each school year the name, address, and educational history of each trainee approved and accepted for enrollment in the institution.
- (7) A teaching nursing home may not expend any of the funds received under this section for any purpose other than operating and maintaining a teaching nursing home and conducting geriatric research. In addition, a teaching nursing home may not expend any funds received under this section for constructing any building of any kind, nature, or description or for maintaining or operating, in any form or manner, a nursing home or health care facility.

**History.**--s. 24, ch. 99-394; s. 30, ch. 2002-223.

**430.83 Sunshine for Seniors Program.--**

(1) POPULAR NAME.--This section shall be known by the popular name "The Sunshine for Seniors Act."

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

(a) "Application assistance organization" means any private organization that assists individuals with obtaining prescription drugs through manufacturers' pharmaceutical assistance programs.

(b) "Eligible individual" means any individual who is 60 years of age or older who lacks adequate pharmaceutical insurance coverage.

(c) "Manufacturers' pharmaceutical assistance program" means any program offered by a pharmaceutical manufacturer which provides low-income individuals with prescription drugs free or at reduced prices, including, but not limited to, senior discount card programs and patient assistance programs.

(3) LEGISLATIVE FINDINGS AND INTENT.--The Legislature finds that the pharmaceutical manufacturers, seeing a need, have created charitable programs to aid low-income seniors with the cost of prescription drugs. The Legislature also finds that many low-income seniors are unaware of such programs or either do not know how to apply for or need assistance in completing the applications for such programs. Therefore, it is the intent of the Legislature that the Department of Elderly Affairs, in consultation with the Agency for Health Care Administration, implement and oversee the Sunshine for Seniors Program to help seniors in accessing manufacturers' pharmaceutical assistance programs.

(4) SUNSHINE FOR SENIORS PROGRAM.--There is established a program to assist low-income seniors with obtaining prescription drugs from manufacturers' pharmaceutical assistance programs, which shall be known as the "Sunshine for Seniors Program." Implementation of the program is subject to the availability of funding and any limitations or directions provided for by the General Appropriations Act or chapter 216.

(5) IMPLEMENTATION AND OVERSIGHT DUTIES.--In implementing and overseeing the Sunshine for Seniors Program, the Department of Elderly Affairs:

(a) Shall promote the availability of manufacturers' pharmaceutical assistance programs to eligible individuals with various outreach initiatives.

(b) Shall, working cooperatively with pharmaceutical manufacturers and consumer advocates, develop a uniform application form to be completed by seniors who wish to participate in the Sunshine for Seniors Program.

(c) May request proposals from application assistance organizations to assist eligible individuals with obtaining prescription drugs through manufacturers' pharmaceutical assistance programs.

(d) Shall train volunteers to help eligible individuals fill out applications for the manufacturers' pharmaceutical assistance programs.

(e) Shall train volunteers to determine when applicants may be eligible for other state programs and refer them to the proper entity for eligibility determination for such programs.

(f) Shall seek federal funds to help fund the Sunshine for Seniors Program.

(g) May seek federal waivers to help fund the Sunshine for Seniors Program.

(6) COMMUNITY PARTNERSHIPS.--The Department of Elderly Affairs may build private-sector and

public-sector partnerships with corporations, hospitals, physicians, pharmacists, foundations, volunteers, state agencies, community groups, area agencies on aging, and any other entities that will further the intent of this section. These community partnerships may also be used to facilitate other pro bono benefits for eligible individuals, including, but not limited to, medical, dental, and prescription services.

(7) **CONTRACTS.**--The Department of Elderly Affairs may select and contract with application assistance organizations to assist eligible individuals in obtaining their prescription drugs through the manufacturers' pharmaceutical assistance programs. If the department contracts with an application assistance organization, the department shall evaluate quarterly the performance of the application assistance organization to ensure compliance with the contract and the quality of service provided to eligible individuals.

(8) **REPORTS AND EVALUATIONS.**--By January 1 of each year, while the Sunshine for Seniors Program is operating, the Department of Elderly Affairs shall report to the Legislature regarding the implementation and operation of the Sunshine for Seniors Program.

(9) **NONENTITLEMENT.**--The Sunshine for Seniors Program established by this section is not an entitlement. If funds are insufficient to assist all eligible individuals, the Department of Elderly Affairs may develop a waiting list prioritized by application date.

**History.**--s. 20, ch. 2003-405.

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