

CHAPTER 2024-183

House Bill No. 7089

An act relating to transparency in health and human services; amending s. 95.11, F.S.; establishing a 3-year statute of limitations for an action to collect medical debt for services rendered by a health care provider or facility; creating s. 222.26, F.S.; providing additional personal property exemptions from legal process for medical debts resulting from services provided in certain licensed facilities; amending s. 395.301, F.S.; requiring a licensed facility to post on its website a consumer-friendly list of standard charges for a minimum number of shoppable health care services or a price estimator tool meeting certain requirements; providing definitions; requiring a licensed facility to provide an estimate to a patient or prospective patient and the patient's health insurer within specified timeframes; requiring a licensed facility to establish an internal grievance process for patients to dispute charges; requiring a facility to make available information necessary for initiating a grievance; requiring a facility to respond to a patient grievance within a specified timeframe; requiring a licensed facility to disclose specified information relating to cost-sharing obligations to certain persons; providing a penalty; creating s. 395.3011, F.S.; defining the term "extraordinary collection action"; prohibiting certain collection activities by a licensed facility; amending s. 624.27, F.S.; revising the definition of the term "health care provider"; creating s. 627.446, F.S.; defining the term "health insurer"; requiring each health insurer to provide insureds with an advanced explanation of benefits within specified timeframes; providing requirements for the advanced explanation of benefits; amending ss. 627.6387 and 627.6648, F.S.; revising the definition of the term "health insurer"; providing that a shared savings incentive offered by a health insurer constitutes a medical expense for rate development and rate filing purposes for individual and group health insurance policies, respectively; amending s. 641.31076, F.S.; revising the definition of the term "health maintenance organization"; providing that a shared savings incentive offered by a health maintenance organization constitutes a medical expense for rate development and rate filing purposes for individual or group health maintenance contracts; amending ss. 475.01, 475.611, 517.191, 768.28, and 787.061, F.S.; conforming provisions to changes made by the act; providing applicability; requiring the Agency for Health Care Administration and the Office of Insurance Regulation to notify the Division of Law Revision upon the promulgation of certain federal rules; amending s. 409.016, F.S.; defining the term "management functions"; amending s. 409.987, F.S.; revising requirements for contracts the Department of Children and Families has with community-based care lead agencies; providing duties for board members of lead agencies; requiring lead agencies to ensure that board members participate in certain annual training; requiring the posting of a fidelity bond; revising the definition of the term "conflict of interest"; defining the term "related party"; requiring the lead agency's board of

directors to disclose to the department any known actual or potential conflicts of interest; prohibiting a lead agency from entering into a contract or being a party to any transaction with related parties if a conflict of interest is not properly disclosed; prohibiting a lead agency from entering into a contract or being a party to any transaction with related parties for officer-level or director-level staffing to perform management functions; requiring that the contract with the department and the lead agency specify the administrative functions that the lead agency may subcontract; authorizing a lead agency to enter into certain contracts or be a party to certain transactions, provided that a certain requirement for fees, rates, and prices paid is met and any conflict of interest is properly disclosed; requiring that department contracts impose contractual penalties on lead agencies for undisclosed conflicts of interest; providing applicability; requiring that certain contracts be reprocured; authorizing the department to recoup lead agency expenses for the execution of certain contracts; amending s. 409.988, F.S.; revising lead agency duties; specifying requirements for and limitations on an exemption for lead agencies from certain contract requirements; providing for renewal of the exemption; authorizing the department to deny an exemption renewal request under certain circumstances; requiring such lead agencies to undergo an operational audit by the Auditor General; specifying requirements for the audit; requiring the Auditor General to conduct such audits upon notification by the department; repealing s. 409.991, F.S., relating to allocation of funds for community-based care lead agencies; creating s. 409.9913, F.S.; defining the terms “core services funding” and “operational and fixed costs”; requiring the department, in collaboration with the lead agencies and providers of child welfare services, to develop a specific funding methodology for the allocation of core services which must meet certain criteria; requiring the lead agencies and providers of child welfare services to submit to the department certain financial information; requiring the department to submit to the Governor and the Legislature certain reports by specified dates; providing construction; authorizing the department to include certain rates and total allocations in certain reports; requiring the Legislature to allocate funding to the lead agencies with due consideration of the specified funding methodology, beginning with a specified fiscal year; prohibiting the department from changing a lead agency’s allocation of funds provided in the General Appropriations Act without legislative approval; authorizing the department to approve certain risk pool funding for a lead agency; requiring the department to submit to the Governor and the Legislature certain monthly reports for a specified period of time; amending s. 409.992, F.S.; revising requirements for lead agency practices in the procurement of commodities and contractual services; requiring the department to impose certain penalties for a lead agency’s noncompliance with applicable procurement law; requiring that the contract between the department and the lead agency specify the rights and obligations with regard to real property held by the lead agency during the term of the contract; providing applicability of certain limitations on the salaries of community-based care lead agency administrative employees; amending s. 409.994, F.S.; revising the

conditions under which the department may petition a court for the appointment of a receiver for a community-based care lead agency; amending s. 409.996, F.S.; revising requirements for contracts between the department and lead agencies; revising the actions the department may take under certain circumstances; making a technical change; providing duties of the department; requiring the department, by specified dates, to submit certain reports to the Governor and the Legislature; establishing the Future of Child Protection Contracting and Funding Workgroup within the department; requiring the department to convene the workgroup and submit a report to the Governor and the Legislature by a specified date; providing for membership of the workgroup; specifying requirements for the report; terminating the workgroup upon the submission of the report; providing an effective date.

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

Section 1. Present subsections (4) through (12) of section 95.11, Florida Statutes, are redesignated as subsections (5) through (13), respectively, a new subsection (4) is added to that section, and paragraph (b) of subsection (2), paragraph (n) of subsection (3), paragraphs (f) and (g) of present subsection (5), and present subsection (10) are amended, to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(2) WITHIN FIVE YEARS.—

(b) A legal or equitable action on a contract, obligation, or liability founded on a written instrument, except for an action to enforce a claim against a payment bond, which shall be governed by the applicable provisions of ~~paragraph (6)(e) paragraph (5)(e)~~, s. 255.05(10), s. 337.18(1), or s. 713.23(1)(e), and except for an action for a deficiency judgment governed by ~~paragraph (6)(h) paragraph (5)(h)~~.

(3) WITHIN FOUR YEARS.—

(n) An action for assault, battery, false arrest, malicious prosecution, malicious interference, false imprisonment, or any other intentional tort, except as provided in subsections (5), (6), and (8) subsections (4), (5), and (7).

(4) WITHIN THREE YEARS.—An action to collect medical debt for services rendered by a facility licensed under chapter 395, provided that the period of limitations shall run from the date on which the facility refers the medical debt to a third party for collection.

~~(6)(5)~~ WITHIN ONE YEAR.—

(f) Except for actions described in subsection ~~(9)~~ (8), a petition for extraordinary writ, other than a petition challenging a criminal conviction, filed by or on behalf of a prisoner as defined in s. 57.085.

(g) Except for actions described in subsection (9) (8), an action brought by or on behalf of a prisoner, as defined in s. 57.085, relating to the conditions of the prisoner's confinement.

~~(11)~~~~(10)~~ FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS DESCRIBED IN S. 782.04 OR S. 782.07.—Notwithstanding paragraph (5)(e) ~~paragraph (4)(e)~~, an action for wrongful death seeking damages authorized under s. 768.21 brought against a natural person for an intentional tort resulting in death from acts described in s. 782.04 or s. 782.07 may be commenced at any time. This subsection shall not be construed to require an arrest, the filing of formal criminal charges, or a conviction for a violation of s. 782.04 or s. 782.07 as a condition for filing a civil action.

Section 2. Section 222.26, Florida Statutes, is created to read:

222.26 Additional exemptions from legal process concerning medical debt.—If a debt is owed for medical services provided by a facility licensed under chapter 395, the following property is exempt from attachment, garnishment, or other legal process in an action on such debt:

(1) A debtor's interest, not to exceed \$10,000 in value, in a single motor vehicle as defined in s. 320.01(1).

(2) A debtor's interest in personal property, not to exceed \$10,000 in value, if the debtor does not claim or receive the benefits of a homestead exemption under s. 4, Art. X of the State Constitution.

Section 3. Present paragraphs (b), (c), and (d) of subsection (1) of section 395.301, Florida Statutes, are redesignated as paragraphs (c), (d), and (e) of that subsection, respectively, present subsection (6) is redesignated as subsection (8) of that section, a new paragraph (b) is added to subsection (1), a new subsection (6) and subsection (7) are added to that section, and present paragraph (b) of subsection (1) is amended, to read:

395.301 Price transparency; itemized patient statement or bill; patient admission status notification.—

(1) A facility licensed under this chapter shall provide timely and accurate financial information and quality of service measures to patients and prospective patients of the facility, or to patients' survivors or legal guardians, as appropriate. Such information shall be provided in accordance with this section and rules adopted by the agency pursuant to this chapter and s. 408.05. Licensed facilities operating exclusively as state facilities are exempt from this subsection.

(b) Each licensed facility shall post on its website a consumer-friendly list of standard charges for at least 300 shoppable health care services, or an Internet-based price estimator tool meeting federal standards. If a facility provides fewer than 300 distinct shoppable health care services, it shall

make available on its website the standard charges for each service it provides. As used in this paragraph, the term:

1. “Shoppable health care service” means a service that can be scheduled by a healthcare consumer in advance. The term includes, but is not limited to, the services described in s. 627.6387(2)(e) and any services defined in regulations or guidance issued by the United States Department of Health and Human Services.

2. “Standard charge” has the same meaning as that term is defined in regulations or guidance issued by the United States Department of Health and Human Services for purposes of hospital price transparency.

~~(c)(b)1. Upon request, and~~ Before providing any nonemergency medical services, each licensed facility shall provide in writing or by electronic means a good faith estimate of reasonably anticipated charges by the facility for the treatment of a the patient’s or prospective patient’s specific condition. The facility ~~must provide the estimate to the patient or prospective patient within 7 business days after the receipt of the request and is not required to adjust the estimate for any potential insurance coverage. The facility must provide the estimate to the patient’s health insurer, as defined in s. 627.446(1), and the patient at least 3 business days before the date such service is to be provided, but no later than 1 business day after the date such service is scheduled or, in the case of a service scheduled at least 10 business days in advance, no later than 3 business days after the date the service is scheduled. The facility must provide the estimate to the patient no later than 3 business days after the date the patient requests an estimate.~~ The estimate may be based on the descriptive service bundles developed by the agency under s. 408.05(3)(c) unless the patient or prospective patient requests a more personalized and specific estimate that accounts for the specific condition and characteristics of the patient or prospective patient. The facility shall inform the patient or prospective patient that he or she may contact his or her health insurer ~~or health maintenance organization~~ for additional information concerning cost-sharing responsibilities.

2. In the estimate, the facility shall provide to the patient or prospective patient information on the facility’s financial assistance policy, including the application process, payment plans, and discounts and the facility’s charity care policy and collection procedures.

3. The estimate shall clearly identify any facility fees and, if applicable, include a statement notifying the patient or prospective patient that a facility fee is included in the estimate, the purpose of the fee, and that the patient may pay less for the procedure or service at another facility or in another health care setting.

4. ~~Upon request,~~ The facility shall notify the patient or prospective patient of any revision to the estimate.

5. In the estimate, the facility must notify the patient or prospective patient that services may be provided in the health care facility by the facility as well as by other health care providers that may separately bill the patient, if applicable.

~~6. The facility shall take action to educate the public that such estimates are available upon request.~~

7. Failure to timely provide the estimate pursuant to this paragraph shall result in a daily fine of \$1,000 until the estimate is provided to the patient or prospective patient and the health insurer. The total fine per patient estimate may not exceed \$10,000.

~~The provision of an estimate does not preclude the actual charges from exceeding the estimate.~~

(6) Each facility shall establish an internal process for reviewing and responding to grievances from patients. Such process must allow a patient to dispute charges that appear on the patient's itemized statement or bill. The facility shall prominently post on its website and indicate in bold print on each itemized statement or bill the instructions for initiating a grievance and the direct contact information required to initiate the grievance process. The facility must provide an initial response to a patient grievance within 7 business days after the patient formally files a grievance disputing all or a portion of an itemized statement or bill.

(7) Each licensed facility shall disclose to a patient, a prospective patient, or a patient's legal guardian whether a cost-sharing obligation for a particular covered health care service or item exceeds the charge that applies to an individual who pays cash or the cash equivalent for the same health care service or item in the absence of health insurance coverage. Failure to provide a disclosure in compliance with this subsection may result in a fine not to exceed \$500 per incident.

Section 4. Section 395.3011, Florida Statutes, is created to read:

395.3011 Billing and collection activities.—

(1) As used in this section, the term "extraordinary collection action" means any of the following actions taken by a licensed facility against an individual in relation to obtaining payment of a bill for care covered under the facility's financial assistance policy:

(a) Selling the individual's debt to another party.

(b) Reporting adverse information about the individual to consumer credit reporting agencies or credit bureaus.

(c) Deferring, denying, or requiring a payment before providing medically necessary care because of the individual's nonpayment of one or more

bills for previously provided care covered under the facility’s financial assistance policy.

(d) Actions that require a legal or judicial process, including, but not limited to:

- 1. Placing a lien on the individual’s property;
- 2. Foreclosing on the individual’s real property;
- 3. Attaching or seizing the individual’s bank account or any other personal property;
- 4. Commencing a civil action against the individual;
- 5. Causing the individual’s arrest; or
- 6. Garnishing the individual’s wages.

(2) A facility may not engage in an extraordinary collection action against an individual to obtain payment for services:

(a) Before the facility has made reasonable efforts to determine whether the individual is eligible for assistance under its financial assistance policy for the care provided and, if eligible, before a decision is made by the facility on the patient’s application for such financial assistance.

(b) Before the facility has provided the individual with an itemized statement or bill.

(c) During an ongoing grievance process as described in s. 395.301(6) or an ongoing appeal of a claim adjudication.

(d) Before billing any applicable insurer and allowing the insurer to adjudicate a claim.

(e) For 30 days after notifying the patient in writing, by certified mail, or by other traceable delivery method, that a collection action will commence absent additional action by the patient.

(f) While the individual:

- 1. Negotiates in good faith the final amount of a bill for services rendered; or
- 2. Complies with all terms of a payment plan with the facility.

Section 5. Paragraph (b) of subsection (1) of section 624.27, Florida Statutes, is amended to read:

624.27 Direct health care agreements; exemption from code.—

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

(b) “Health care provider” means a health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 464, or chapter 466, chapter 490, or chapter 491, or a health care group practice, who provides health care services to patients.

Section 6. Section 627.446, Florida Statutes, is created to read:

627.446 Advanced explanation of benefits.—

(1) As used in this section, the term “health insurer” means a health insurer issuing individual or group coverage or a health maintenance organization issuing coverage through an individual or a group contract.

(2) Each health insurer shall prepare an advanced explanation of benefits upon receiving a patient estimate from a facility pursuant to s. 395.301(1). The health insurer must provide the advanced explanation of benefits to the insured no later than 1 business day after receiving the patient estimate from the facility or, in the case of a service scheduled at least 10 business days in advance, no later than 3 business days after receiving such estimate. The health insurer must provide an advanced explanation of benefits to the insured no later than 3 business days after the date on which the health insurer receives a request from the insured.

(3) At a minimum, the advanced explanation of benefits must include detailed coverage and cost-sharing information pursuant to the No Surprises Act, Title I of Division BB of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260.

Section 7. Paragraph (b) of subsection (2) and paragraph (a) of subsection (4) of section 627.6387, Florida Statutes, are amended to read:

627.6387 Shared savings incentive program.—

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

(b) “Health insurer” means an authorized insurer issuing major medical or other comprehensive coverage through an individual policy offering health insurance as defined in s. 624.603.

(4)(a) A shared savings incentive offered by a health insurer in accordance with this section:

1. Is not an administrative expense for rate development or rate filing purposes and shall be counted as a medical expense for such purposes.

2. Does not constitute an unfair method of competition or an unfair or deceptive act or practice under s. 626.9541 and is presumed to be appropriate unless credible data clearly demonstrates otherwise.

Section 8. Paragraph (b) of subsection (2) and paragraph (a) of subsection (4) of section 627.6648, Florida Statutes, are amended to read:

627.6648 Shared savings incentive program.—

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

(b) “Health insurer” means an authorized insurer issuing major medical or other comprehensive coverage through a group policy ~~offering health insurance as defined in s. 624.603~~. The term does not include the state group health insurance program provided under s. 110.123.

(4)(a) A shared savings incentive offered by a health insurer in accordance with this section:

1. Is not an administrative expense for rate development or rate filing purposes and shall be counted as a medical expense for such purposes.

2. Does not constitute an unfair method of competition or an unfair or deceptive act or practice under s. 626.9541 and is presumed to be appropriate unless credible data clearly demonstrates otherwise.

Section 9. Paragraph (b) of subsection (2) and paragraph (a) of subsection (4) of section 641.31076, Florida Statutes, are amended to read:

641.31076 Shared savings incentive program.—

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

(b) “Health maintenance organization” means an authorized health maintenance organization issuing major medical or other comprehensive coverage through individual or group contract ~~has the same meaning as provided in s. 641.19~~. The term does not include the state group health insurance program provided under s. 110.123.

(4) A shared savings incentive offered by a health maintenance organization in accordance with this section:

(a) Is not an administrative expense for rate development or rate filing purposes and shall be counted as a medical expense for such purposes.

Section 10. Paragraphs (a) and (j) of subsection (1) of section 475.01, Florida Statutes, are amended to read:

475.01 Definitions.—

(1) As used in this part:

(a) “Broker” means a person who, for another, and for a compensation or valuable consideration directly or indirectly paid or promised, expressly or impliedly, or with an intent to collect or receive a compensation or valuable consideration therefor, appraises, auctions, sells, exchanges, buys, rents, or offers, attempts or agrees to appraise, auction, or negotiate the sale, exchange, purchase, or rental of business enterprises or business opportunities or any real property or any interest in or concerning the same,

including mineral rights or leases, or who advertises or holds out to the public by any oral or printed solicitation or representation that she or he is engaged in the business of appraising, auctioning, buying, selling, exchanging, leasing, or renting business enterprises or business opportunities or real property of others or interests therein, including mineral rights, or who takes any part in the procuring of sellers, purchasers, lessors, or lessees of business enterprises or business opportunities or the real property of another, or leases, or interest therein, including mineral rights, or who directs or assists in the procuring of prospects or in the negotiation or closing of any transaction which does, or is calculated to, result in a sale, exchange, or leasing thereof, and who receives, expects, or is promised any compensation or valuable consideration, directly or indirectly therefor; and all persons who advertise rental property information or lists. A broker renders a professional service and is a professional within the meaning of s. 95.11(5)(b) ~~s. 95.11(4)(b)~~. Where the term “appraise” or “appraising” appears in the definition of the term “broker,” it specifically excludes those appraisal services which must be performed only by a state-licensed or state-certified appraiser, and those appraisal services which may be performed by a registered trainee appraiser as defined in part II. The term “broker” also includes any person who is a general partner, officer, or director of a partnership or corporation which acts as a broker. The term “broker” also includes any person or entity who undertakes to list or sell one or more timeshare periods per year in one or more timeshare plans on behalf of any number of persons, except as provided in ss. 475.011 and 721.20.

(j) “Sales associate” means a person who performs any act specified in the definition of “broker,” but who performs such act under the direction, control, or management of another person. A sales associate renders a professional service and is a professional within the meaning of s. 95.11(5)(b) ~~s. 95.11(4)(b)~~.

Section 11. Paragraph (h) of subsection (1) of section 475.611, Florida Statutes, is amended to read:

475.611 Definitions.—

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

(h) “Appraiser” means any person who is a registered trainee real estate appraiser, a licensed real estate appraiser, or a certified real estate appraiser. An appraiser renders a professional service and is a professional within the meaning of s. 95.11(5)(b) ~~s. 95.11(4)(b)~~.

Section 12. Subsection (7) of section 517.191, Florida Statutes, is amended to read:

517.191 Injunction to restrain violations; civil penalties; enforcement by Attorney General.—

(7) Notwithstanding ~~s. 95.11(5)(f)~~ ~~s. 95.11(4)(f)~~, an enforcement action brought under this section based on a violation of any provision of this chapter or any rule or order issued under this chapter shall be brought within 6 years after the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than 8 years after the date such violation occurred.

Section 13. Subsection (14) of section 768.28, Florida Statutes, is amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; civil liability for damages caused during a riot; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(14) Every claim against the state or one of its agencies or subdivisions for damages for a negligent or wrongful act or omission pursuant to this section shall be forever barred unless the civil action is commenced by filing a complaint in the court of appropriate jurisdiction within 4 years after such claim accrues; except that an action for contribution must be commenced within the limitations provided in s. 768.31(4), and an action for damages arising from medical malpractice or wrongful death must be commenced within the limitations for such actions in s. 95.11(5) ~~s. 95.11(4)~~.

Section 14. Subsection (4) of section 787.061, Florida Statutes, is amended to read:

787.061 Civil actions by victims of human trafficking.—

(4) STATUTE OF LIMITATIONS.—The statute of limitations as specified in s. 95.11(8) or (10) ~~s. 95.11(7) or (9)~~, as applicable, governs an action brought under this section.

Section 15. The requirements of s. 395.301(1)(b), Florida Statutes, as created by this act, relating to shoppable health care services, do not apply to ambulatory surgical centers as defined in s. 395.002, Florida Statutes, until January 1, 2026.

Section 16. The changes made by this act to s. 395.301, Florida Statutes, relating to good faith estimates, are not effective until the United States Department of Health and Human Services, the United States Department of Labor, and the United States Department of the Treasury issue a final rule pertaining to good faith estimates required by section 2799B-6 of the Public Health Services Act. The Agency for Health Care Administration shall notify the Division of Law Revision upon the promulgation of the final rule.

Section 17. The changes made by this act to s. 627.446, Florida Statutes, relating to advanced explanation of benefits, are not effective until the United States Department of Health and Human Services, the United States Department of Labor, and the United States Department of the Treasury

issue final rules pertaining to advanced explanation of benefits required by section 2799A-1(f) of the Public Health Services and good faith estimates required by section 2799B-6 of the Public Health Services Act. The Office of Insurance Regulation shall notify the Division of Law Revision upon the promulgation of the final rule pertaining to advanced explanation of benefits.

Section 18. Present subsections (3) and (4) of section 409.016, Florida Statutes, are redesignated as subsections (4) and (5), respectively, and a new subsection (3) is added to that section, to read:

409.016 Definitions.—As used in this chapter:

(3) “Management functions” means:

(a) Planning, directing, organizing, coordinating, and carrying out oversight duties of the lead agency; or

(b) Contracting for officer or director level staffing in performance of the planning, directing, organizing, coordinating, and carrying out of oversight duties of the lead agency.

Section 19. Subsections (3) and (4) and paragraphs (a) and (b) of subsection (7) of section 409.987, Florida Statutes, are amended, and paragraph (g) is added to subsection (7) of that section, to read:

409.987 Lead agency procurement; boards; conflicts of interest.—

(3) Notwithstanding s. 287.057, the department shall use 5-year contracts with lead agencies. The department may only extend a contract for a period of 1 to 5 years, in accordance with s. 287.057, if the lead agency has met performance expectations within the monitoring evaluation.

(4) In order to serve as a lead agency, an entity must:

(a) Be organized as a Florida corporation or a governmental entity.

(b) Be governed by a board of directors or a board committee composed of board members. Board members shall provide oversight and ensure accountability and transparency for the system of care. The board of directors shall provide fiduciary oversight to prevent conflicts of interest, promote accountability and transparency, and protect state and federal funding from misuse. The board of directors shall act in accordance with s. 617.0830. The membership of the board of directors or board committee must be described in the bylaws or articles of incorporation of each lead agency, which must provide that at least 75 percent of the membership of the board of directors or board committee must be composed ~~consist~~ of persons residing in this state, and at least 51 percent of the state residents on the board of directors must reside within the service area of the lead agency. The lead agency shall ensure that board members participate in annual training related to their responsibilities. The department shall set forth minimum

training criteria in the contracts with the lead agencies. However, for procurements of lead agency contracts initiated on or after July 1, 2014:

1. At least 75 percent of the membership of the board of directors must be composed ~~consist~~ of persons residing in this state, and at least 51 percent of the membership of the board of directors must be composed ~~consist~~ of persons residing within the service area of the lead agency. If a board committee governs the lead agency, 100 percent of its membership must be composed ~~consist~~ of persons residing within the service area of the lead agency.

2. The powers of the board of directors or board committee include, but are not limited to, approving the lead agency's budget and setting the lead agency's operational policy and procedures. A board of directors must additionally have the power to hire the lead agency's executive director, unless a board committee governs the lead agency, in which case the board committee must have the power to confirm the selection of the lead agency's executive director.

(c) Demonstrate financial responsibility through an organized plan for regular fiscal audits; ~~and the posting of a performance bond; and the posting of a fidelity bond to cover any costs associated with reprourement and the assessed penalties related to a failure to disclose a conflict of interest under subsection (7).~~

(7)(a) As used in this subsection, the term:

1. "Activity" includes, but is not limited to, a contract for goods and services, a contract for the purchase of any real or tangible property, or an agreement to engage with a lead agency for the benefit of a third party in exchange for an interest in real or tangible property, a monetary benefit, or an in-kind contribution.

2. "Conflict of interest" means when a board member, a director, or an officer, or a relative of a board member, a director, or an officer, of a lead agency does any of the following:

a. Enters into a contract or other transaction for goods or services with the lead agency.

b. Holds a direct or indirect interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the lead agency or proposes to enter into a contract or other transaction with the lead agency. For purposes of this paragraph, the term "indirect interest" has the same meaning as in s. 112.312.

c. Knowingly obtains a direct or indirect personal, financial, professional, or other benefit as a result of the relationship of such board member, director, or officer, or relative of the board member, director, or officer, with the lead agency. For purposes of this paragraph, the term "benefit" does not

include per diem and travel expenses paid or reimbursed to board members or officers of the lead agency in connection with their service on the board.

3. “Related party” means any entity of which a director or an officer of the entity is also directly or indirectly related to, or has a direct or indirect financial or other material interest in, the lead agency. The term also includes any subsidiary firm, parent entity, associate firm, or joint venture. Lead agencies that hold more than one lead agency contract with the department may request an exemption from the department for specific related party requirements.

~~4.3.~~ “Relative” means a relative within the third degree of consanguinity by blood or marriage.

(b)1. For any activity that is presented to the board of a lead agency for its initial consideration and approval after July 1, 2021, or any activity that involves a contract that is being considered for renewal ~~on or after July 1, 2021, but before January 1, 2022,~~ a board member, ~~a director,~~ or an officer of a lead agency shall disclose to the board any activity that may reasonably be construed to be a conflict of interest before such activity is initially considered and approved or a contract is renewed by the board. A rebuttable presumption of a conflict of interest exists if the activity was acted on by the board without prior notice as required under paragraph (c). ~~The board shall disclose any known actual or potential conflicts to the department.~~

2. A lead agency may not enter into a contract or be a party to any transaction with related parties if a conflict of interest is not properly disclosed. A lead agency may not enter into a contract with a related party for officer-level or director-level staffing to perform management functions. The contract with the department and lead agency must specify the administrative functions that the lead agency may subcontract. For contracts with a lead agency which are in existence on July 1, 2021, and are not subject to renewal before January 1, 2022, a board member or an officer of the lead agency shall disclose to the board any activity that may reasonably be construed to be a conflict of interest under this section by December 31, 2021.

3. Subject to the requirements of subparagraph 2., a lead agency may enter into a contract or be a party to any transaction with related parties as long as the fee, rate, or price paid by the lead agency for the commodities or services being procured does not exceed the fair market value for such commodities or services. The lead agency shall disclose any known actual or potential conflicts to the department.

(g)1. All department contracts with lead agencies must contain the following contractual penalty provisions:

a. Penalties in the amount of \$5,000 per occurrence must be imposed for each known and potential conflict of interest, as described in paragraph (b), which is not disclosed to the department.

b. If a contract is executed for which a conflict of interest was not disclosed to the department before execution of the contract, the following penalties apply:

(I) A penalty in the amount of \$20,000 for a first offense.

(II) A penalty in the amount of \$30,000 for a second or subsequent offense.

(III) Removal of the board member who did not disclose a known conflict of interest.

2. The penalties for failure to disclose a conflict of interest under subparagraphs 1.a. and 1.b. apply to any contract entered into, regardless of the method of procurement, including, but not limited to, formal procurement, single-source contracts, and contracts that do not meet the minimum threshold for formal procurement.

3. A contract procured for which a conflict of interest was not disclosed to the department before execution of the contract must be reprocured. The department shall recoup from the lead agency expenses related to a contract that was executed without disclosure of a conflict of interest.

Section 20. Paragraphs (c), (j), and (k) of subsection (1) of section 409.988, Florida Statutes, are amended to read:

409.988 Community-based care lead agency duties; general provisions.

(1) DUTIES.—A lead agency:

(c) Shall follow the financial guidelines developed by the department and shall comply with regular, independent auditing of its financial activities, including any requests for records associated with such financial audits within the timeframe established by the department or its contracted vendors provide for a regular independent auditing of its financial activities. The results of the financial audit must ~~Such financial information shall be provided to the community alliance established under s. 20.19(5).~~

(j)1. May subcontract for the provision of services, excluding subcontracts with a related party for officer-level or director-level staffing to perform management functions, required by the contract with the lead agency and the department; however, the subcontracts must specify how the provider will contribute to the lead agency meeting the performance standards established pursuant to the child welfare results-oriented accountability system required by s. 409.997. Any contract with an unrelated entity for officer-level or director-level staffing to perform management functions must adhere to the executive compensation provision in s. 409.992(3).

2. The lead agency Shall directly provide no more than 35 percent of all child welfare services provided unless it can demonstrate a need; within the

lead agency's geographic service area, where there is a lack of qualified providers available to perform necessary services. The approval period for an exemption to exceed the 35 percent threshold is limited to 2 years to exceed this threshold. To receive approval, the lead agency must create and submit to the department through the lead agency's local community alliance a detailed report of all efforts to recruit a qualified provider to perform the necessary services in that geographic service area. The local community alliance in the geographic service area in which the lead agency is seeking to exceed the threshold shall review the lead agency's justification for need and recommend to the department whether the department should approve or deny the lead agency's request for an exemption from the services threshold. If there is not a community alliance operating in the geographic service area in which the lead agency is seeking to exceed the threshold, such review and recommendation shall be made by representatives of local stakeholders, including at least one representative from each of the following:

- a.1. The department.
- b.2. The county government.
- c.3. The school district.
- d.4. The county United Way.
- e.5. The county sheriff's office.
- f.6. The circuit court corresponding to the county.
- g.7. The county children's board, if one exists.

The lead agency may request a renewal of the exemption allowing the lead agency to directly provide child welfare services by following the process outlined in this subparagraph. The approval period for an exemption renewal is limited to 2 years. If, after the expiration of the exemption, the department determines the lead agency is not making a good faith effort to recruit a qualified provider, the department may deny the renewal request and require procurement.

3. Upon approving any exemption that allows a lead agency to directly provide more than 40 percent of all child welfare services provided, the department shall require the lead agency to undergo an operational audit by the Auditor General to examine the lead agency's procurement of and financial arrangements for providing such services. The audit shall, at a minimum, examine the costs incurred and any payments made by the lead agency to itself for services directly provided by the lead agency compared to any procurement solicitations by the lead agency, and assess the adequacy of the efforts to obtain services from subcontractors and the resulting cost and cost-effectiveness of the services provided directly by the lead agency. The Auditor General shall conduct such audits upon notification by the department.

(k) Shall publish on its website by the 15th day of each month at a minimum the data specified in ~~subparagraphs 1.-10.~~ subparagraphs 1.-5., calculated using a standard methodology determined by the department, for the preceding calendar month regarding its case management services. The following information shall be reported by each individual subcontracted case management provider, by the lead agency, if the lead agency provides case management services, and in total for all case management services subcontracted or directly provided by the lead agency:

1. The average caseload of case managers, including only filled positions;
2. The total number and percentage of case managers who have 25 or more cases on their caseloads;
3. The turnover rate for case managers and case management supervisors for the previous 12 months;
4. The percentage of required home visits completed; and
5. Performance on outcome measures required pursuant to s. 409.997 for the previous 12 months;:-
6. The number of unlicensed placements for the previous month;
7. The percentages and trends for foster parent and group home recruitment and licensure for the previous month;
8. The percentage of families being served through family support services, in-home services, and out-of-home services for the previous month;
9. The percentage of cases that were converted from nonjudicial to judicial for the previous month; and
10. Children’s legal service staffing rates.

Section 21. Section 409.991, Florida Statutes, is repealed.

Section 22. Section 409.9913, Florida Statutes, is created to read:

409.9913 Funding methodology to allocate funding to lead agencies.—

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

(a) “Core services funding” means all funds allocated to lead agencies. The term does not include any of the following:

1. Funds appropriated for independent living services.
2. Funds appropriated for maintenance adoption subsidies.
3. Funds allocated by the department for child protective investigation service training.

4. Nonrecurring funds.
5. Designated mental health wrap-around service funds.
6. Funds for special projects for a designated lead agency.
7. Funds appropriated for the Guardianship Assistance Program established under s. 39.6225.

(b) “Operational and fixed costs” means:

1. Administrative expenditures, including, but not limited to, information technology and human resources functions.
2. Lease payments.
3. Asset depreciation.
4. Utilities.
5. Administrative components of case management.
6. Mandated activities such as training, quality improvement, or contract management.

(2) The department shall develop, in collaboration with lead agencies and providers of child welfare services, a funding methodology for allocating core services funding to lead agencies which, at a minimum:

- (a) Is actuarially sound.
 - (b) Is reimbursement-based.
 - (c) Is designed to incentivize efficient and effective lead agency operation, prevention, family preservation, and permanency.
 - (d) Considers variable costs, including, but not limited to:
 1. Direct costs for in-home and out-of-home care for children served by the lead agencies.
 2. Direct costs for prevention services.
 3. Operational and fixed costs.
 - (e) Is scaled regionally for cost-of-living factors.
- (3) The lead agencies and providers shall submit any detailed cost and expenditure data that the department requests for the development of the funding methodology.

(4) The department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2024, which, at a minimum:

(a) Describes a proposed funding methodology and formula that will provide for the annual budget of each lead agency, including, but not limited to, how the proposed methodology will meet the criteria specified in subsection (2).

(b) Describes the data used to develop the methodology and the data that will be used to annually calculate the proposed lead agency budget.

(c) Specifies proposed rates and total allocations for each lead agency. The allocations must ensure that the total of all amounts allocated to lead agencies under the funding methodology does not exceed the total amount appropriated to lead agencies in the 2024-2025 General Appropriations Act.

(d) Provides risk mitigation recommendations that ensure that lead agencies do not experience a reduction in funding that would be detrimental to operations or result in a reduction in services to children.

(5) By October 31, 2025, and each October 31 thereafter, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which includes recommendations for adjustments to the funding methodology for the next fiscal year, calculated using the criteria in subsection (2). Such recommendations must, at a minimum, be based on updated expenditure data, cost-of-living adjustments, market dynamics, or other catchment area variations. The total of all amounts proposed for allocation to lead agencies under the funding methodology for the subsequent fiscal year may not exceed the total amount appropriated in the General Appropriations Act for core services funding in the present fiscal year. The funding methodology must include risk mitigation strategies that ensure that lead agencies do not experience a reduction in funding that would be detrimental to operations or result in a reduction in services to children.

(6)(a) The requirements of this section do not replace, and are in addition to, any requirements of chapter 216, including, but not limited to, submission of final legislative budget requests by the department under s. 216.023.

(b) The data and reports required under subsections (4) and (5) may also include proposed rates and total allocations for each lead agency which reflect any additional core services funding for lead agencies which is requested by the department under s. 216.023.

(7)(a) Beginning with the 2025-2026 fiscal year, the Legislature shall allocate funding to lead agencies through the General Appropriations Act with due consideration of the funding methodology developed under this section.

(b) The department may not change the allocation of funds to a lead agency as provided in the General Appropriations Act without legislative approval. The department may approve additional risk pool funding for a lead agency as provided under s. 409.990.

(8) The department shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives monthly reports from July through October 2024 which provide updates on activities and progress in developing the funding methodology.

Section 23. Subsections (1) and (3) of section 409.992, Florida Statutes, are amended to read:

409.992 Lead agency expenditures.—

(1) The procurement of commodities or contractual services by lead agencies ~~is shall be~~ governed by the financial guidelines developed by the department and must comply with applicable state and federal law and follow good business practices. Pursuant to s. 11.45, the Auditor General may provide technical advice in the development of the financial guidelines.

(a)1. Lead agencies shall competitively procure all contracts, consistent with the federal simplified acquisition threshold.

2. Lead agencies shall competitively procure all contracts in excess of \$35,000 with related parties.

3. Financial penalties or sanctions, as established by the department and incorporated into the contract, must be imposed by the department for noncompliance with applicable local, state, or federal law for the procurement of commodities or contractual services.

(b) The contract between the department and the lead agency must delineate the rights and obligations of the lead agency concerning the acquisition, transfer, or other disposition of real property. At a minimum, the contract must:

1. Require the lead agency to follow all federal law on the acquisition, improvement, transfer, or disposition of real property acquired by the lead agency using federal dollars.

2. Beginning July 1, 2024, require the department to approve any sale, transfer, or disposition of real property acquired and held by the lead agency using state funds.

(3) Notwithstanding any other provision of law, a community-based care lead agency administrative employee may not receive a salary, whether base pay or base pay combined with any bonus or incentive payments, in excess of 150 percent of the annual salary paid to the secretary of the Department of Children and Families from state-appropriated funds, including state-appropriated federal funds. This limitation applies regardless of the number

of contracts a community-based care lead agency may execute with the department. This subsection does not prohibit any party from providing cash that is not from appropriated state funds to a community-based care lead agency administrative employee.

Section 24. Paragraph (d) of subsection (1) of section 409.994, Florida Statutes, is amended to read:

409.994 Community-based care lead agencies; receivership.—

(1) The Department of Children and Families may petition a court of competent jurisdiction for the appointment of a receiver for a community-based care lead agency established pursuant to s. 409.987 if any of the following conditions exist:

(d) The lead agency cannot meet, or is unlikely to meet, its current financial obligations to its employees, contractors, or foster parents. Issuance of bad checks or the existence of delinquent obligations for payment of salaries, utilities, or invoices for essential services or commodities constitutes ~~shall constitute~~ prima facie evidence that the lead agency lacks the financial ability to meet its financial obligations.

Section 25. Paragraph (d) of subsection (1) of section 409.996, Florida Statutes, is amended to read:

409.996 Duties of the Department of Children and Families.—The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility for the quality of contracted services and programs and shall ensure that, at a minimum, services are delivered in accordance with applicable federal and state statutes and regulations and the performance standards and metrics specified in the strategic plan created under s. 20.19(1).

(1) The department shall enter into contracts with lead agencies for the performance of the duties by the lead agencies established in s. 409.988. At a minimum, the contracts must do all of the following:

(d) Provide for contractual actions ~~tiered interventions and graduated penalties~~ for failure to comply with contract terms or in the event of performance deficiencies, as determined appropriate by the department.

1. Such contractual actions ~~must interventions and penalties~~ shall include, but are not limited to:

a.1. Enhanced monitoring and reporting.

b.2. Corrective action plans.

c.3. Requirements to accept technical assistance and consultation from the department under subsection (6).

d.4. Financial penalties, as a matter of contract. The financial penalties assessed by the department on the lead agency revert to the state which shall require a lead agency to reallocate funds from administrative costs to direct care for children.

e.5. Early termination of contracts, as provided in s. 402.7305(3)(f) s. 402.1705(3)(f).

2. No later than January 1, 2025, the department shall ensure that each lead agency contract executed includes a list of financial penalties for failure to comply with contractual requirements.

Section 26. By September 30, 2024, and February 1, 2025, respectively, the Department of Children and Families shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on rules and policies adopted and other actions taken to implement this act.

Section 27. There is established the Future of Child Protection Contracting and Funding Workgroup within the Department of Children and Families. The department shall convene the workgroup and is responsible for producing and submitting a report of the workgroup's findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 15, 2025.

(1)(a) The Secretary of Children and Families, or his or her designee, shall chair the workgroup and shall invite the following persons to participate as members of the workgroup:

1. The Secretary of Health Care Administration, or his or her designee.
2. The Secretary of Management Services, or his or her designee.

(b) The Secretary of Children and Families, or his or her designee, shall appoint the following individuals as members of the workgroup:

1. An employee of a community-based care lead agency with executive-level experience.
2. A current contractor for lead agency child protection services.
3. Two representatives of a direct provider of child protection or child welfare services.
4. A member of the Family Law Section of The Florida Bar or a member of the court exercising jurisdiction over family law matters.
5. A representative of a for-profit managed care entity.
6. A representative from the Florida Institute for Child Welfare.
7. Any additional members the department deems appropriate.

(2) The report submitted by the department must, at a minimum:

(a) Examine the current contracting methods for the provision of all foster care and related services.

(b) Consider the unique regional needs of children and families at risk of abuse and neglect.

(c) Identify current barriers to implementing federally approved Title IV-E prevention services.

(d) Recommend changes to existing laws, rules, and policies necessary to implement the workgroup’s recommendations.

(3) The workgroup shall terminate immediately after the Secretary of Children and Families submits the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 28. This act shall take effect July 1, 2024.

Approved by the Governor May 10, 2024.

Filed in Office Secretary of State May 10, 2024.