

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 316

INTRODUCER: Senator Bean

SUBJECT: Certification of Assisted Living Facility Administrators

DATE: March 24, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Pre-meeting
2.			HP	
3.			AP	

I. Summary:

SB 316 requires all administrators of Assisted Living Facilities (ALFs) to be certified by July 1, 2015. The bill requires the Department of Elder Affairs (DOEA) to approve one or more third party credentialing entities to establish the training and education requirements, requirements for ALF administrator certification, core competency requirements, and certification program requirements. The certification would take the place of existing training and testing requirements.

The bill has an effective date of July 1, 2013, and would have an insignificant fiscal impact on state government.

II. Present Situation:

An ALF is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.¹ An ALF does not include an adult family-care home or a non-transient public lodging establishment. A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.² Activities of daily living include: ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.³

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility.⁴ The owner or facility administrator determines whether an

¹ Section 429.02(5), F.S.

² Section 429.02(16), F.S.

³ Section 429.02(1), F.S.

⁴ For specific minimum standards see Rule 58A-5.0182, F.A.C.

individual is appropriate for admission to the facility based on a number of criteria.⁵ If a resident no longer meets the criteria for continued residency, or the facility is unable to meet the resident's needs, as determined by the facility administrator or health care provider, the resident must be discharged in accordance with the Resident Bill of Rights.⁶

Department of Elder Affairs Rules

In addition to ch. 429, F.S., ALFs are subject to regulation pursuant to Rule 58A-5 of the Florida Administrative Code. These rules are adopted by DOEA in consultation with the Agency for Health Care Administration (AHCA), the Department of Children and Families, and the Department of Health.⁷ In June 2012, DOEA initiated negotiated rulemaking to revise many of its rules regarding ALFs. A committee that consisted of agency staff, consumer advocates, and industry representatives voted on numerous changes to Rule 58A-5, Florida Administrative Code. DOEA held five public hearings around the state and on February 20, 2014, submitted the proposed rules to the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees of substance for review and comment prior to the promulgation thereof.⁸

ALF Administrators

Administrators and other ALF staff must meet minimum training and education requirements established by rule of DOEA.^{9, 10} The training and education are intended to assist facilities to respond appropriately to the needs of residents, maintain resident care and facility standards, and meet licensure requirements.¹¹

The current ALF core training requirements established by DOEA consist of a minimum of 26 hours of training and passing a competency test. Administrators must successfully complete the core training requirements within 3 months from the date of becoming a facility administrator or manager. The minimum passing score for the competency test is 75 percent.

Administrators must participate in 12 hours of continuing education on topics related to assisted living every 2 years. A newly-hired administrator who has successfully completed the ALF core training and continuing education requirements is not required to retake the core training. An administrator who has successfully completed the core training, but has not maintained the continuing education requirements must retake the ALF core training and retake the competency test.¹²

⁵ Section 429.26, F.S., and Rule 58A-5.0181, F.A.C.

⁶ Section 429.28, F.S.

⁷ Section 429.41(1), F.S.

⁸ Letter from Secretary Charles T. Corley, DOEA to The Honorable Don Gaetz, President, Florida Senate, (Feb. 20, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁹ Rule 58A-5.0191, F.A.C.

¹⁰ Many of the training requirements in rule may be subject to change due to the negotiated rulemaking process undertaken by DOEA.

¹¹ Section 429.52(1), F.S.

¹² Rule 59A-5.0191, F.A.C.

Currently, DOEA approves registration of core trainers based on the qualifications established in s. 429.52, F.S., and is authorized to adopt rules to define additional qualification criteria for becoming a core trainer and maintaining that status.

III. Effect of Proposed Changes:

Section 1 amends s. 429.178, F.S., relating to special care and training for ALFs that serve residents with dementia such as Alzheimer's Disease. This section of current law references the core training requirements that are repealed by section 3 of the bill.

Section 2 amends s. 429.52, F.S., and requires that administrators meet training and education requirements established by third-party credentialing entities approved by DOEA effective July 1, 2015. Until July 1, 2015, DOEA, in conjunction with the AHCA and providers, is responsible for the provision of the competency test for assisted living administrators and the determination of the minimum required score indicating successful completion of the training and educational requirements.

The bill removes AHCA's ability to require facility staff to undergo additional training when there are issues and concerns pertaining to deficient performance.

Section 3 repeals the following statutes, s. 429.52(2), (3), (4), (8), (9), and (10), F.S., effective July 1, 2015:

- Section 429.52(2), F.S., requires DOEA to develop a competency test covering a range of subjects.
- Section 429.52(3), F.S., requires that ALF administrators complete training and pass the competency test.
- Section 429.52(4), F.S., requires that ALF administrators complete 12 hours of continuing education every two years.
- Section 429.52(8), F.S., requires that DOEA adopt rules for training and the competency test.
- Section 429.52(9) requires that trainers register with DOEA.
- Section 429.52(10), F.S., specifies that trainers have certain qualifications such as a 4-year college degree and 3 years of experience managing an ALF.

These statutes are no longer necessary under the bill due to the creation of s. 429.55, F.S., which assigns similar duties to a third-party credentialing entity.

Section 4 creates s. 429.55, F.S., which establishes an ALF administrator certification program. The intent is that ALF administrators earn professional certification from a third-party credentialing entity approved by DOEA. The bill states that certification by a nationally recognized professional credentialing organization is equal to a state run licensure program. New terms are defined, such as "third-party credentialing entity" to mean a nonprofit organization that administers certification programs according to nationally recognized certification and psychometric standards."

DOEA must approve one or more third-party credentialing entities that have:

- Core competencies, certification standards, and testing instruments, and recertification according to nationally recognized certification and psychometric standards;

- An established process to administer the certification application, award, and maintenance processes;
- A demonstrated ability to administer a professional code of ethics and a disciplinary process that applies to all certified persons;
- An ability to maintain publicly available website with information on certified ALF administrators;
- The ability to administer continuing education requirements, and
- The ability to administer a program to approve training entities to provide training to ALF administrators.

The bill requires all ALF administrators to be certified by July 1, 2015. Administrators who are not certified after that time are subject to an administrative fine pursuant to s. 429.19, F.S.

The bill allows for current ALF administrators to be granted certification until October 1, 2015, as long as they have met the current education and training requirements.

The bill requires the third-party credentialing entity to establish “core competencies” that would capture the skills and knowledge needed to operate an ALF. The bill describes the requirements for the certification program. Certification programs must meet the standards of a department-approved credentialing entity and establish minimum requirements for such things as education, supervision, testing, and continuing education. Certification programs must also include a code of ethics and a disciplinary process. The certification programs must also provide a website listing the certified administrators. Lastly, the certification programs must approve training entities that would provide initial and ongoing training to ALF administrators. The credentialing entity will set a fee for the application, examination, certification, and for biennial certification renewal. The fee may not exceed \$225 and the fee for biennial certification renewal may not exceed \$100.

Section 5 provides for an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill requires ALF administrators to be certified. The fee for the application, examination, and certification may not exceed \$225 and the fee for the biennial certification renewal may not exceed \$100. These fees will be borne by the administrators or the ALF owners. To the extent that the certification fees currently charged by DOEA for training and testing are different than the fees set out in the bill, the ALF administrators may be required to pay more or less.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill states that ALF administrators who are not certified after July 1, 2015, are subject to an administrative fine pursuant to s. 429.19, F.S. Fines in this section are separated into four classes based on the severity of the violation. The newly-created violation of an uncertified ALF administrator does not specify what class of violation so AHCA would not have direction on what penalty to assess.

VII. Related Issues:

Section 4 of the bill directs the third-party credentialing entity to administer a professional code of ethics and a disciplinary process that applies to all certified persons. No guidance or criteria is provided regarding the code of ethics or the disciplinary process. The decisions left to the third-party entity by this language may be an unconstitutional delegation of authority.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 429.178 and 429.52.

This bill creates s. 429.55 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
