

STORAGE NAME: h3667.ltc

DATE: March 5, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Elder Affairs & Long Term Care
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3667

RELATING TO: Assisted Living Facilities

SPONSOR(S): Representative Fischer

COMPANION BILL(S): SB 1960

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) Elder Affairs & Long Term Care
 - (2) Community Affairs
 - (3) Government Rules & Regulations
 - (4) Health & Human Services Appropriations
 - (5)
-

I. SUMMARY:

HB 3667 revises and reorganizes chapter 400, Part III related to Assisted Living Facilities (ALFs), Part IV, related to Home Health Agencies (HHAs), and Part VII related to Adult Family Care Homes (AFCH).

Licensed health care professionals and ALF owners and operators would be subject to disciplinary action if they fail to report an unlicensed ALF to the Agency for Health Care Administration (AHCA) or law enforcement. A HHA would be subject to disciplinary action if it knowingly provided home health services to persons living in an unlicensed ALF or AFCH.

The bill significantly increases the fines AHCA could impose and allows AHCA to charge for investigative visits or surveys occasioned by a complaint. AHCA could in some instances impose doubled fines. It revises the time frames within which notice of a transfer of ownership must be made to AHCA and requires background screening of certain managers and owners at Level 2 and of other staff at Level 1 standards.

The bill has a significant fiscal impact on state agencies and on the private sector.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Assisted living facilities provide housing, meals, and personal assistance to individuals with physical and mental disabilities who need support to live in the community but do not require institutionalization.

Resident Requirements

Assisted living facility residents are required to have a health examination completed within 60 days before admission to the facility or 30 days after admission.

Applicants, Administrators & Owners

Applicant is defined in the statute as the owner, or the persons appointed by a business entity to apply for a license. An ALF administrator must be 18 years of age or older. The statute requires that the ALF application form be under oath and specifies the content of the application form, but it does not specifically require the applicant to sign the application.

The ALF statute does not require that the applicant or financial officer disclose prior involvement with facilities that have had a receiver appointed or a license denied, suspended or revoked, a moratorium on admissions imposed, or an injunctive proceeding initiated against it.

Exclusions, permanent suspension, or terminations of the applicant from the Medicare or Medicaid programs is not required to be listed on the ALF application form, and it is not grounds for denial of the application. The list of references to be provided by the applicant does not address providing information regarding the financial responsibility of the owner, administrator, and financial officer. No references have been required for the financial officer. The owner is required to list on the application all other facilities they own or operate. An individual may be administrator for up to three facilities but is not required to disclose that information on the application form.

Relatives & Licensure

The term *relative* is not defined in the statute currently, but the statute provides that homes or facilities caring for relatives are not ALFs. An individual may provide ALF type services to any number of persons related by blood or marriage without being subject to licensure. According to AHCA some ALF owners and administrators claim a resident is a relative even when the degree of relationship is obscure

Licensure

The Agency requires that an ECC, LNS, or LMH license that is issued within a biennial licensing period will expire at the end of that biennial license period. The application fees for these licenses are prorated based upon the date of receipt of the application and the number of months remaining in the biennial license period. The ALF statute does not specifically state that renewal applications must be issued within 90 days of receipt.

The number of class 1 and class 2 deficiencies that would result in the Agency taking action against the facility license is not specified. The Agency has the discretion to include any such serious violations as grounds for denial under s. 400.414(2)(a).

The statute does not address denial of an application based upon the applicant's prior operation of an unlicensed facility. The Agency does not have the authority to deny, revoke, or suspend a license of an applicant who has had any state administrative action prior to the application, even if such an individual has been officially sanctioned by another administrative entity.

Moratoriums & Other Penalties

The ALF administrative rule, s. 58A-5.024(6), requires that notice of a moratorium on admissions, or denial, revocation, or suspension of a license be posted in a prominent location in the facility. That requirement, however, is not in the statute.

While it is a felony of the third degree to operate or maintain an unlicensed ALF, there are no penalties listed for owning an unlicensed ALF. There are no increasing penalties for a second or subsequent confirmed finding of owning, operating, or maintaining an unlicensed ALF. The Agency may fine such individuals from \$500 to \$5,000. The Agency may also refer such individuals to the local state's attorney for possible prosecution for operation of an unlicensed ALF.

Financial Stability

During the survey process, the surveyor checks to determine that financial records are maintained appropriately. The statutes do not authorize the Agency to evaluate the financial records to determine the facility's financial stability. However, at the time of initial licensure and at licensure renewal, the agency must consider the financial ability of the owner or administrator. Section 400.414(2)(b), provides the agency authority to deny the application based upon financial instability.

Health & Fire Safety

Some ALFs are located in rural areas of the state. In such communities, a volunteer fire department may be the only access to fire protection with no qualified local fire safety authority available to conduct the required fire safety inspection. These facilities must request assistance from the State Fire Marshal's office to obtain the required inspection.

The statute does not require that the applicant provide proof of a satisfactory sanitation inspection. The ALF rule, chapter 58A-5.0161, does require that the Department of Health (DOH) inspect all licensed ALFs, but it does not specify that the applicant must provide the Agency proof that the inspection was satisfactory. ALFs that are also a continuing care facility certified under chapter 651 are required to provide the Agency proof of such certification, but the statute does not specifically require that such proof be established by providing a copy of the certificate of authority.

Background Screening

Section 400.411, F.S., requires that owners, administrators, partners, directors, and corporate officers be of suitable character to operate an ALF. This requirement is

satisfied by the Florida Department of Law Enforcement (FDLE) criminal, and Florida Department of Children and Family Services (DCFS) abuse background screenings. The cost of background screening is currently included in the ALF license fee and the screening requests are processed by AHCA.

The Agency requires individuals, corporations, or partners owning 10 percent or more of a facility to disclose the names and addresses of such individuals, corporations, or partnerships. Background screening is completed on such entities, even if the individual does not live in Florida and has no direct contact with residents in the ALF. An individual may have a disqualifying history in another state and AHCA would not typically have access to that history. Disqualifying histories may result in the denial of the ALF license.

Neither the statute nor administrative rule require the ALF to screen employees who have direct contact with residents. Some ALFs voluntarily screen their staff. It is not known how many facilities choose to conduct such screening, what information such screening may disclose, or what remedial action facilities take against employees who are determined to have a criminal history.

However, the statute requires that an ALF that is informed of a disqualifying history regarding abuse, neglect, or exploitation must terminate that employee. Failure to terminate such an employee would result in denial or revocation of the ALF license.

The individual who is responsible for maintaining the facility's financial books, records, and other financial documents is not required to undergo background screening. The prior ownership and employment history is not reviewed to determine any potential conflicts of interest or history of problems in handling financial matters, unless this individual is also an owner, a partner, an officer of the corporation, or the administrator. In the case of a large ALF, this individual may be the comptroller or the accountant for the facility. The financial officer has significant responsibility in seeing that the cash flow of the facility is handled responsibly and appropriately. In a smaller ALF, an accountant may be hired to fulfill this responsibility on a fee-for-service basis.

Administration of ALF Program

The Agency for Health Care Administration (AHCA) is responsible for licensing and monitoring these facilities. The Department of Elderly Affairs (DOEA) is responsible for adopting rules related to assisted living facilities and for ensuring the provision of training for the administrators of these facilities. AHCA has developed the required policies, procedures, forms, and documentation used to implement the ALF program with input from DOEA.

The Agency may charge for copies of the ALF statute and rule but does not have the authority to charge for copies of the remainder of the application package. The Agency currently absorbs the cost of printing forms, providing lists of required contact persons or agencies, and providing the instructions for completing the application package.

Deficiencies & Violations

The following penalties are prescribe in the statute:

a class I deficiency	a minimum of \$1,000 and a maximum of \$5,000 for each violation
a class II deficiency is	a minimum of \$500 and a maximum of \$1,000 for each violation
a class III deficiency	a minimum of \$100 and a maximum of \$500 for each violation
a class IV deficiency	a minimum of \$50 and a maximum of \$200 for each violation
an unclassified deficiency	a minimum of \$500 for each violation not to exceed \$5,000

AHCA does not have statutory authority to double administrative fines for repeat or uncorrected identical violations during the previous biennial inspection, monitoring visit, or complaint investigation.

Section 400.419(1), F.S., provides that an owner or administrator is subject to a fine set and levied by the Agency for operating a facility without a license. There is no statutory direction to impose a fine for failure to file a timely change of ownership license application.

B. EFFECT OF PROPOSED CHANGES:

The bill strengthens AHCA's capacity to cite violators and impose significant fees. AHCA is also granted authority to make monitoring visits in the year the facility would not normally be subject to a licensure survey. The bill would require background screening for managers, financial officers, investors, board members and direct care staff. It revises the disclosure of ownership requirement so that persons now owning a five per cent share, instead of at least a ten per cent share, are required to disclose their financial interest.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

No.

(2) what is the cost of such responsibility at the new level/agency?

No.

(3) how is the new agency accountable to the people governed?

No.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Chapter 400, Part III, related to Assisted Living Facilities; Part IV, related to Home Health Agencies; and Part VII, related to Adult Family Care Homes.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 400.402, Definitions. It adds a requirement that ALF administrators be at least twenty-one years old. It revises the definition of *Aging in Place*, providing that services are adjusted to compensate for the mental or physical decline associated with aging. The definition of an *assisted living facility* is clarified. The requirement for facilities that present themselves to the public as offering ALF services to be licensed as an ALF is deleted. *Applicant* is deleted from the list of definitions and *relative* is added.

Section 2. Amends s. 400.404 to exempt Adult Family Care Homes from licensure as an ALF. Clarifies that any person providing housing, meals, and one or more personal care services in the person's own home is not required to be licensed as a family care home.

Section 3. Amends s. 400.407 to provide that an ALF must be licensed. It deletes provisions relating to persons operating without a license.

Section 4. Amends s. 400.408 to add provisions relating to operating without a license(moved from s. 400.407). Provides that applying for a license within 10 days after notification shall be an affirmative defense to the felony violation of operating without a license. Provides that persons who own, operate, or maintain an unlicensed ALF who fail to comply with the law commit a felony of the third degree, punishable as provided in s. 775.082, related to re-offenders previously released from prison; s. 775.083, related to violent offenders; or s. 775.084, related to violent career offenders.

Provides that any health care provider licensed by the DOH or any owner or administrator of a facility licensed by AHCA who knows of an unlicensed ALF and fails to report it to AHCA or law enforcement will be subject to disciplinary action.

Section 5. Amends section 400.411(1) to permit the Agency to charge a fee to cover the cost of duplication and postage for all application forms and printed information provided to individuals who request it. DOEA is granted rule making authority.

The applicant may be an individual, a corporation, partnership, firm, association, or governmental entity. The applicant must sign the application. Corporations must provide information about the directors, officers and each person having a 5% interest in the corporation. Entities that would provide services to the facility must identify persons who own at least a 5% interest if that person would also be required to be named on the application. Applicants, including the financial officer, must provide certain information about their past experience with long term care facilities.

The applicant must furnish proof of compliance with background screening requirements and references for the administrator, owner, and financial officer.

Applicants licensed under chapter 651 as a continuing care retirement community (CCRC) must provide a copy of the certificate of authority and proof of liability insurance as defined in s. 624.605.

Section 6. Amends, renumbers, and adds subparagraphs in section 400.414 regarding the Agency's authority to deny, revoke, suspend the license, impose administrative fines, and the grounds for these actions. Deletes reference to the last "biennial survey" and instead directs AHCA to evaluate if the specified number of violations are similar or identical to violations noted during the **last** survey as the basis for taking action.

AHCA may take action against a licensee or license applicant if:

- ▶ it fails to screen employees,
- ▶ an owner or administrator does not remove a perpetrator of abuse, neglect or exploitation,
- ▶ it submits fraudulent, incomplete, or deceptive applications for licensure or of any other required document,
- ▶ it has had any administrative action taken against the applicant during the previous two years,
- ▶ it has violated standards in another state regarding licensure or certification,
- ▶ the applicant has had a license denied, suspended, or revoked by any licensing or certifying board of any state agency during the previous five years, or
- ▶ it has had two or more similar or identical class I violations identified by the agency during any visit within the previous two years.

It requires that administrative proceedings challenging agency action under this section must be reviewed on the facts and conditions that caused the agency action. The notice

of license suspension, revocation, or denial of a license must be posted and visible to the public in the facility.

Section 7. Amends section 400.415. It creates a new subparagraph (2) providing that the notice of a moratorium be posted so that it is visible to the public at the facility. The department is authorized to establish the conditions that would be grounds for a moratorium and procedures for imposing and lifting a moratorium.

Section 8. Revises the name of the basic ALF license from *Biennial* to *Standard*. It provides that a limited nursing, extended congregate care, and limited mental health license expire at the same time as the facility's standard license. AHCA is directed to mail renewal notices at least 120 days before the license would expire. The late fee for failure to mail the application timely would be one half of the current licensure fee. A license would be renewed within 90 days of timely filing an application. The department is authorized to establish by administrative rule the renewal procedures, forms, and documentation necessary to implement this section.

Section 9. Creates a new section to require that each ALF's owner, administrator or administrator's designee, and financial officer undergo a background screening pursuant to ch. 435, F.S. AHCA would be authorized to require level 2 background screening for members of the board of directors, officers, or any person owning 5% or more of the facility, if the AHCA reasonably suspects that such an individual has been convicted of an offense prohibited by level 2 screening requirements.

Each officer, board member, or person owning 5% who has been convicted of any offense prohibited by s. 435.04 must submit to the Agency a description and explanation of the conviction. A voluntary board member would not be required to undergo level 2 screening if they:

- ▶ receive no remuneration for services,
- ▶ have no financial interest, and
- ▶ have no family members with a financial interest in the corporation or organization.
- ▶ Further the board member and facility must submit a statement affirming the board member's relationship to the facility satisfies these requirements of a not-for-profit corporation or organization.

Level 2 standards include checks with the DC&FS central abuse registry, criminal history checks with FDLE, and fingerprint-based checks through the FBI.

Persons who have complied with the level 2 background screening requirements within the previous 4 years could be considered screened. The person would be required to submit an affidavit of compliance with the provisions of chapter 435. A current certificate to operate a continuing care retirement community issued by the Department of Insurance is acceptable proof of compliance with level 2 screening requirements.

The bill authorizes the Agency to grant an initial provisional license to an applicant who has complied with the background screening requirements while AHCA awaits receipt of

the results from the FBI or an exemption from employment disqualification hearing request.

After October 1, 1998 ALFs must screen all persons providing direct care or nursing services to residents according to level 1 standards. Alternative proofs of compliance with the level 1 background screening requirements are provided. Protective Services investigators must notify the Agency when the DC&FS reports to the state attorney and appropriate law enforcement agency an employee, volunteer, administrator, or owner of a facility who is a perpetrator of a confirmed report of abuse, neglect, or exploitation. DOEA is granted rule making authority related to screening.

Section 10. Amends section 400.4176, F.S., to require a facility owner to notify the Agency within 10 days of a change of administrator and to provide documentation to the Agency within 45 days of the administrator's hiring that the ALF core educational requirements have been met. The bill requires level 2 background screening compliance pursuant to Chapter 435 for new administrators.

Section 11. Makes technical changes to correct a cross reference.

Section 12. It amends the term "civil penalty" to "administrative fine". It provides for an increase in all fines. AHCA is permitted to double the fines imposed in certain instances. Subsection (4) lists the factors that must be considered when determining a fine. Facilities are liable for fines plus interest when they are upheld after judicial review.

Fines are provided for facilities that continue to operate without a license after 10 days and for each day after the twentieth day subsequent to the agency notifying the facility that it was operating without a license. Fines for owners or administrators who operate one licensed and one unlicensed facility would be \$5,000. Unlicensed facilities in which the owner or operator has previously worked in a licensed facility would be immediately fined \$5,000 and \$500 per day for each following day in which the facility continued to operate without a license. Operating an ALF after a change of ownership without applying for a change of ownership license would result in a \$5,000 fine.

AHCA would be allowed to assess a survey fee in addition to any administrative fine imposed to cover the cost of conducting certain complaint investigations. The survey fee would be \$500 or one-half of the facility's standard license fee whichever is less. AHCA may negotiate a corrective action plan with a facility instead of assessing an administrative fine.

AHCA would be required to send a list of all sanctioned facilities at no charge to the Department of Business and Professional Regulation and the Department of Children & Family Services in addition to the others specified. DOEA is granted rule making authority.

Section 13. Corrects a cross reference.

Section 14. The Agency is directed to monitor facilities that were cited during the previous year for Class 1 or Class II violation during the year in which no survey is conducted.

Section 15. Amends section 400.4174(2), related to Home Health Care to provide that, if a home health agency knowingly provides home health services in an unlicensed assisted living facility or adult family care home, its license is subject to disciplinary action including denial, suspension, and revocation.

Section 16. Amends section 400.618, to clarify language regarding the definition of adult family care home to include a requirement that the provider own or rent the home, provide room, board, and one or more personal services on a 24-hour basis for no more than five disabled adults who are not relatives. It clarifies those who are not required to be AFCH licensed. A person who owns or rents their home and provides room, board, and personal services to three or fewer adults who are not receiving optional state supplementation, and who does not hold themselves out to the public as providing such services are exempt from licensure as an AFCH.

Section 17. Makes technical changes to references.

Section 18. Makes technical changes to update a cross reference.

Section 19. Provides an effective date of October 1, 1998.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

AHCA projects total non-recurring costs of \$25,912 for first year.

2. Recurring Effects:

AHCA projects total recurring costs of \$234,921 for years one and two.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Revenues of \$127,609 are projected for year one and \$117,011 for year two.

AHCA reports that the ALF licensure program currently operates in a deficit situation. Revenue from licensure fees and collection of administrative fines is **insufficient** to cover the licensure and survey costs of regulation, covering only 50 percent of the total costs.

In FY 96-97, expenditures for the assisted living facility program approximated \$3.3 million, and revenue approximated \$1.7 million, leaving a deficit of approximately \$1.6 million. This deficit was covered by surplus in the Health Care Trust Fund from other revenue sources.

The bill does not increase licensure fees, or establish monitoring fees, to support the costs of monitoring visits and background screening exemptions. Nor does the bill appropriate any other revenue to support these regulatory functions. AHCA anticipates continuing to have enough surplus to pay for the 2 FTEs to administer the background screening exemption program. This surplus is projected to continue indefinitely and the amount to be used will not erode revenues necessary to support other regulatory programs funded by the trust fund.

However, AHCA is concerned that the surplus in the trust fund is not sufficient to fund the costs of the 2 FTEs necessary to handle the additional workload of monitoring visits, and the one FTE support staff.

The bill does establish new authority to collect fees for complaint investigations that result in findings of violations, and for repeated follow-up visits to determine correction of violations. This added revenue, however, is not expected to be sufficient to cover the entire deficit and cover the anticipated additional costs of the mandatory monitoring visits. A source of revenue will need to be identified to cover these costs. There will be some indeterminate revenue from the increased administrative fines authorized in the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The fiscal impact on the private sector of background screening costs is based on the costs of a projected 2,119 licensed assisted living facilities in FY 98-99. Sixty-five percent of all licensed facilities are small, having 16 or fewer beds. Assuming that the managing employee of each of these small facilities also

functions as the financial officer, and assuming that the other 35 percent of the facilities employ a separate managing employee and financial officer, yields approximately 2,860 individuals who would be required to initially undergo background screening. Each screening costs \$45 (\$15 for the FDLE screening, \$24 for the FBI screening, and \$6 for DC&FS (abuse screening) for a total of \$128,700 for the industry.

Additionally, the annual turnover rate in managing employees and financial officers for assisted living is 25 percent, or 715 persons. The costs of background screening for these new managers and financial officers in subsequent years after initial implementation is estimated at \$32,175 annually for the industry.

The bill requires new employees in assisted living facilities to be screened. These individuals are subject to costs of \$6 for the abuse registry screening and \$15 for the FDLE screening. They are not subject to an FBI screening. It is estimated that there are approximately 15,500 employees of currently licensed assisted living facilities that would require screening during the first year of implementation. The total cost of screening these employees would be approximately \$325,500. Additionally, the turnover rate in assisted living facilities, and the bill's provisions for portability of screening results, yields an annual estimate of approximately 50 percent of the affected workforce, representing an annual cost in subsequent years of approximately \$162,750.

It is estimated that 1.5 percent of employees/applicants request exemptions for disqualifying offenses. Applying 1.5 percent to the estimated 15,500 current employees of assisted living facilities, and approximately 7,750 additional new applicants that would be screened each additional year, results in approximately 349 employees/applicants that would be disqualified from employment and expected to request an exemption from disqualifying offenses.

In summary, the total estimated cost to the private sector for completion of mandatory background screenings in the first year of implementation is \$454,200. This represents costs incurred by approximately 2,860 current managing employees and 15,500 current direct care staff. In subsequent years, staff turnover will cause an approximate annual cost for background screening of \$194, 925. This represents costs incurred by turnover in approximately 715 managing employees and 7,750 direct care staff.

To summarize the costs:

\$128,700		Level 2 for 2,860 persons
\$325,000		Level I 15,500 employees
\$162,750		Level I for turnover at 50%
\$32,175		Level 2 for turnover at 25%
\$454,200		TOTAL YEAR 1

\$194,925		TOTAL YEAR 2
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2. Direct Private Sector Benefits:

Employment background screening identifies potential employees who have a history of criminal offenses, fraud, or abuse and neglect, which could put vulnerable residents at risk. The Agency determines through surveys, monitoring visits, and investigations of licensed and unlicensed facilities if providers meet program licensing requirements.

3. Effects on Competition, Private Enterprise and Employment Markets:

Individuals working as direct care staff in assisted living facilities may be displaced as a result of their criminal background. There is no means of determining the number of persons that may be affected in this manner. It is likely that many of the people displaced from employment in nursing homes and home health agencies due to criminal histories have moved into the assisted living work environment.

D. FISCAL COMMENTS:

Monitoring visits:

The mandatory requirement for monitoring visits of facilities that have had class I, II, and three or more class III deficiencies in the prior year will have a workload impact on the Agency's survey staff.

It is estimated that 90 percent of the facilities surveyed each year are cited for at least three class three deficiencies. It is estimated that survey staff will be able to combine approximately 50 percent of these additional monitoring visits with complaint investigations initiated by consumer complaints. However, 50 percent of the monitoring visits will remain to be conducted independently, thereby requiring an additional visit to these facilities.

Estimating that 1,282 surveys will be conducted in FY 98-99, and that 90 percent of these will result in deficiencies that require a monitoring visit in the next year, yields 1,154 additional monitoring visits. However, it is also estimated that 1,284 complaint investigations will be conducted in FY 98-99. Estimating that at least half of the monitoring visits can be combined with a complaint investigation, leaves **a workload increase of 577 additional monitoring visits.**

Background Screening Exemption Process:

The Agency's experience in administering a background screening exemption program for certified nursing assistants employed by nursing homes indicates that approximately 1.5 percent of the CNAs employed by nursing homes request an exemption from disqualifying offenses. Applying 1.5 percent to the estimated 15,500 current assisted living facility employees that will be subject to background screening requirements, and

the subsequent annual estimate of 7,750 employees, yields 349 employees/applicants expected to request an exemption in the 1998-2000 biennium. Agency experience indicates that **2 FTEs will be necessary to process this volume of exemption requests.**

Support Staff:

One support staff FTE will be required to provide support to the total of 4 new professional staff FTEs.

Revenue:

The bill does not increase licensure fees to support the costs of monitoring visits and background screening exemptions. Nor does the bill appropriate any other revenue to support these regulatory functions. The Agency's Health Care Trust Fund has sufficient surplus to pay the salaries and benefits, expenses, and operating capital outlay for the two FTEs to administer the background screening exemption program. This surplus is projected to continue indefinitely and the amount to be used will not erode revenues necessary to support other regulatory programs funded by the trust fund.

However, the surplus in the trust fund is not sufficient to fund the costs of the two FTEs necessary to handle the additional workload of monitoring visits, and the one FTE support staff. A source of revenue will need to be identified to cover these costs. There will be indeterminate revenue from increased administrative fines authorized in the bill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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VII. SIGNATURES:

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