

STORAGE NAME: h0803.EALTC

DATE: March 21, 1997

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

**BILL #:** HB 803

**RELATING TO:** Special Care Units for Persons with Alzheimer's Disease

**SPONSOR(S):** Representative Eggelletion

**STATUTE(S) AFFECTED:** 400.402, 400.4177, 400.452, 400.441, 400.407, F.S.

**COMPANION BILL(S):** Similar SB 628, SB 978

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

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

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I. SUMMARY:

HB 803 provides a definition of and standards for "special care unit" for Assisted Living Facilities licensed under chapter 400 Part III, F.S. *Special Care Unit* is a phrase used in the industry and among persons involved in health and long term care policy. It is not currently defined in either state or federal law. A *Special Care Unit* is generally thought of as a facility or a part of a facility that is specially equipped, staffed, and designed to meet the needs of cognitively impaired residents. These residents may become easily confused, disoriented and may wander away if the facility does not use environmental features or sufficient staff to prevent it.

- Any assisted living facility that **claims** to provide special care for persons with Alzheimer's disease or other related disorders must provide a special care unit as defined in this bill.
- Training requirements for staff are specified:
  - a. all staff must have four hours of initial training within three months of employment or within six months after the Department of Elder Affairs (DOEA) adopts rules;
  - b. direct care staff must have another four hours of initial training in the topics prescribed in the level 2 curriculum within nine months of employment or within one year after DOEA adopts rules;
  - c. direct caregivers must complete four hours of continuing education every year.

The bill grants authority to DOEA to adopt rules, policies, and procedures.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Alzheimer's disease is a severe neurological disorder marked by progressive dementia and cerebral cortical atrophy. It is only one of many types of disease which causes dementia. A post mortem autopsy is the only way to confirm an Alzheimer's disease diagnosis. Therefore, it is common to speak of "Alzheimer's disease and related disorders."

Based on prevalence research the Alzheimer's Disease Advisory Committee anticipates that by the year 2000 between 100,000 and 189,000 people in the state will be living with dementia.

The phrase "special care unit" is used to denote a facility which purports to be particularly equipped to meet the needs of persons with Alzheimer's disease or other memory impairments. The 1993 legislature enacted a law that requires that any facility (nursing or assisted living) which claims to provide special services for persons with Alzheimer's disease or related disorders identify in their advertisements those services that distinguish the care they provide as being particularly applicable to such persons. AHCA is required to review these documents, but AHCA does not have authority to cite the facility if it does not actually provide the specialized services. There is neither a federal or state definition of "special care unit" and there are no federal regulations governing assisted living facilities which seek to care for persons with Alzheimer's, although there are federal regulations for nursing facilities.

There are currently 1,914 licensed ALFs in the state. AHCA estimates that five to ten per cent of currently operating facilities have special care units. Any of these facilities that advertise that they provide care for persons with Alzheimer's or related disorders are currently required by AHCA to keep copies of such advertisements and make them available during the biennial license survey. Currently, an ALF may claim to have a specialized unit and the only requirement in the statutes is that maintain copies of its advertisements. ALFs can claim to provide "special care" without actually providing specialized services, staffing, or training for the workers.

B. EFFECT OF PROPOSED CHANGES:

A facility that claims to be, or to have, a "special care unit" would be required to meet the standards prescribed in section 400.402, F.S. In addition, requirements for staff training, both initial and continuing education, are prescribed. The bill establishes the qualifications trainers must have before they can provide the required training. The bill provides authority to DOEA to make necessary rules, policies, and procedures.

ALFs which accept persons with Alzheimer's as residents but which do not "claim" to provide a special care unit would not be affected by the standards and rules in this bill.

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?

DOEA currently has rule making authority. New language provides that the department shall adopt those rules, policies, and procedures "that it deems necessary."

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

The bill provides detailed curriculum requirements for training staff. Initial training includes four hours from the Level I curriculum for all facility staff. Direct care staff who work in a special care unit must complete another four hours covering topics listed in the Level 2 curriculum. In addition, four hours of continuing education are required every year for direct care staff. Those hours of continuing education can cover any of the topics prescribed in the Level II Curriculum. DOEA is required to offer the training at least every quarter in every DOEA Planning and Service Area (PSA) around the state.

(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?

N/A.

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

DOEA did not project a cost associated with the need for increased training.

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

N/A.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

Taxes are not increased in the bill.

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

The assisted living facility, the employee, or direct caregiver must pay the cost of initial and continuing education, except for those employees of facilities in which the majority of residents receive optional state supplementation (OSS).

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

N/A.

- 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?

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?

The cost of training the staff could be passed on to consumers who are privately paying the costs of living in the facility.

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?

The bill provides standards for facilities which claim to provide a certain level of care. In existing law, these facilities are required to maintain copies of any advertisements they distribute and make them available to the AHCA surveyor every biennium.

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. SECTION-BY-SECTION:**

This section need be completed only in the discretion of the Committee.

**Section 1.** A new subsection, (22), is added to section 400.402, F.S., to define “special care unit.” A special care unit must have an awake staff member on duty at all times, if the facility has more than seventeen residents. Assisted Living Facilities (ALFs) with special care units which have fewer than seventeen residents are to have either awake staff at all times or have mechanisms in place to monitor and ensure the residents’ safety. ALFs with special care units further must meet standards for providing specialized activities, an appropriate physical environment, and must employ staff who are trained as prescribed.

**Section 2.** This section amends s. 400.4177, F.S. The amended language provides that a facility that is licensed under this part and **claims** in its advertisements that it provides special care for persons who have Alzheimer’s or related disorders, must, in fact, meet the definition of “special care unit” found at s. 400.402, F.S.

**Section 3.** This section amends 400.452, F.S., “Staff training and educational programs.” The bill prescribes the training curriculum and mandates the amount and time frame in which staff must receive the training. Further, it provides the qualifications for trainers.

Level 1 and Level 2 training courses are to be offered quarterly in each Planning and Service Area. The cost of training is to be borne by the facility or trainee. Facilities or persons mandated to participate are not charged for the training, if a majority of the residents receive optional state supplementation (OSS) .

Level 1 training is mandatory for anyone working in a special care unit. It includes twelve required topics. Those topics include:

- Diagnosing Alzheimer’s disease and related disorders
- Other neurological diseases or conditions that cause dementia
- Behavior management
- Normal aging versus memory loss.

Level 2 training is required of all direct care staff. Direct care staff are non-professional, non-licensed personnel who assist the resident with their care needs. Level 2 training must include eighteen topics. Some are quite clinical and may not be the sort of training direct care staff can apply to their daily caregiving. The topics include:

- Medical contraindications
- General information regarding psychopharmacology
- Clinical trials and drugs
- Anatomy and physiology of the brain
- Synapses, dendrites, axons, and neurotransmitters.

**Section 4.** This section amends section 400.441, F.S., to clarify the department’s rule making authority.

**Section 5.** This section amends 400.407, F.S., to correct technical cross references.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

DOEA reported no non-recurring effects associated with this bill.

2. Recurring Effects:

DOEA reported no recurring effects associated with this bill.

3. Long Run Effects Other Than Normal Growth:

DOEA reported no long run effects other than normal growth associated with this bill.

4. Total Revenues and Expenditures:

No new revenues or expenditures are projected. Facilities which do not qualify for free training will bear the expense of the training courses.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None is projected.

2. Recurring Effects:

None is projected.

3. Long Run Effects Other Than Normal Growth:

None is projected.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Facilities in which a majority of the residents receive Optional State Supplementation would not be required to pay for the training. The training would be approximately sixty dollars per person for all staff the first year. Direct care staff would also have to complete Level 2 training during the first year and DOEA

estimates that would cost \$160. In subsequent years, direct care staff would have to have four hours of continuing education. The projected costs for the continuing education is forty dollars annually.

2. Direct Private Sector Benefits:

None are projected.

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

Some ALFs may experience some marketing advantage from claiming that they meet the state requirements to be a special care unit.

D. FISCAL COMMENTS:

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

The bill does not provide for a special license to be issued by AHCA. The requirements of this bill will only apply to ALFs that **claim** to provide special care to persons with Alzheimer's. It may be useful to families who are looking for a specialized facility to care for a family member who seems to be suffering with Alzheimer's. However, ALFs will be able to continue to admit persons who are apparently suffering from Alzheimer's disease or related dementia as long as those facilities do not **claim** to provide special care.

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Under current law, an ALF is exempted from paying the costs of the core training if ninety per cent of the residents receive OSS. This bill proposes that ALFs that claim to be special care units and thus required to have staff meet the special training requirements are exempted from the costs of training if a majority of the residents receive OSS.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:

Prepared by:

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