

STORAGE NAME: h0803s1.LTC

DATE: April 2, 1997

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

BILL #: CS/HB 803

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

SPONSOR(S): Committee on Elder Affairs & Long Term Care and Representative Eggelation

STATUTE(S) AFFECTED: 400.4178, F.S.

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

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

- (1) Elder Affairs & Long Term Care YEAS 7 NAYS 0
- (2) Government Rules and Regulations
- (3) Finance and Taxation
- (4) Health and Human Services Appropriations
- (5)

I. SUMMARY:

CS/HB 803 creates section 400.4178, F.S., "Special care for persons with Alzheimer's disease or other related disorders." An assisted living facility which advertises that it provides special care must meet the specified standards of operation. Training requirements for staff are specified. Facilities with ninety per cent or more residents receiving Optional State Supplementation (OSS) would not be required to pay for the training. Other facilities with one or more residents receiving OSS would pay a fee proportional to the number of such residents in the facility. The bill grants authority to DOEA to adopt rules, policies, and procedures.

The bill has no projected fiscal impact on state or local governments and a nominal cost for training in some facilities.

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 the facility 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 advertises that it provides special care would be required to meet the operating standards prescribed in the new section 400.4178, F.S. Staff would be required to have specialized training, both initial and continuing education. DOEA would approve the training courses, and the qualifications of the trainers. Further, facilities with 17 or more residents would be required to have awake staff 24 hours per day. Facilities with fewer residents would be required to have an awake staff person on duty all day and night or have special mechanisms in place to monitor the residents and ensure their safety. The bill provides authority to DOEA to make necessary rules, policies, and procedures.

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?

ALFs that advertise that they provide special care will be required to train their staff.

(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 must pay the cost of initial and continuing education. Facilities in which ninety per cent of residents receive optional state supplementation are not required to pay the cost of training. Other facilities will

pay a proportionate share of the costs of training based on the number of residents in the facility receiving 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. Section 400.4178 is created related to assisted living facilities which advertise special care for persons with Alzheimer's disease or related disorders. Such a facility must have an awake staff member on duty at all times, if the facility has more

than seventeen residents. Such ALFs 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 which advertise the provision of "special care" must employ staff who are trained as prescribed.

The bill specifies the time frame in which staff must receive the prescribed training and the required qualifications of the trainers. DOEA will approve the training and the providers. The core training provided to all ALF facilities will include "Alzheimer's disease and related disorders." Facilities in which ninety per cent of the residents receive OSS are not required to pay for the training. Other facilities will pay a pro rata share of cost based on the number of residents receiving OSS.

DOEA is provided with rule making authority.

Section 2. This bill takes effect upon becoming law.

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 are projected.

2. Recurring Effects:

None are projected.

3. Long Run Effects Other Than Normal Growth:

None are projected.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The training would be approximately sixty dollars per person for all staff the first year. The projected costs for the continuing education is forty dollars annually. Facilities in which at least ninety per cent of the residents receive OSS would not be required to pay for the training. Other facilities would pay a proportionate share based on the number of residents in the facility receiving OSS.

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 advertising 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.

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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:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

CS/HB was reported favorably by the Elder Affairs and Long Term Care Committee. The C/S substitutes the word "advertises" in place of "claims" to clarify the facilities to which these provisions apply. The extensive list of particular training topics was removed from the bill. The cost of training for the special training required under this bill conforms to the way costs are handled for all ALFs on "core" training required of all facilities.

VII. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:

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