

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1760

SPONSOR: Health, Aging and Long-Term Care Committee and Senator Sullivan

SUBJECT: Assisted Living Facilities

DATE: February 28, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Wilson	HC	Favorable/CS
2.	_____	_____	CF	_____
3.	_____	_____	AHS	_____
4.	_____	_____	AP	_____
5.	_____	_____	RC	_____
6.	_____	_____	_____	_____

I. Summary:

This bill requires each Department of Children and Family Services (DCF) district administrator to implement a plan to demonstrate how the district will ensure the provision of state-funded mental health and substance abuse treatment services to residents of assisted living facilities (ALFs) that hold a limited mental health license. Each district administrator must hold a public meeting to receive input from ALFs that hold a limited mental health license, and the state headquarters of DCF must hold an annual meeting to review the district plans and must invite representatives of specified groups.

The bill authorizes DCF to use case rates or per capita contracts for the provision of local substance abuse and mental health services. Within existing statewide or district resources, DCF must require that contract funds support individual client treatment; develop proposed eligibility criteria and associated benefits as a part of the 2004 state master plan; promote the use of electronic formats for contract materials; promote the use of web-enabled application software for data collection and billing; and ensure consumer choice among providers.

This bill amends ss. 394.4574 and 394.74, F.S.

II. Present Situation:

Assisted Living

In general, the term “assisted living” is used for facilities that are not licensed as nursing homes, but that provide housing, assistance with activities of daily living, and some nursing care for people who are too frail to live alone, but who are too healthy to need 24-hour nursing care. Assisted living facilities (ALFs) attempt to provide the needed services and supervision in a manner that is as home-like as possible.

There are no federal standards for assisted living, so regulation of assisted living facilities is a state responsibility. In Florida, assisted living facilities are regulated in part III of chapter 400, F.S. All facilities must be licensed, and additional licensure beyond core requirements is available, allowing facilities to provide additional services. An assisted living facility that serves three or more mental health residents must obtain a limited mental health license in accordance with s. 400.4075, F.S. To obtain a limited mental health license, a facility must hold a standard license as an ALF, must not have any current uncorrected deficiencies or violations, and must ensure that within 6 months after receiving a limited mental health license, the facility director and the staff of the facility who are in direct contact with mental health residents must complete training of no less than 6 hours related to their duties. The Department of Children and Family Services will provide the training.

Section 394.4574, F.S., establishes DCF's responsibilities for a mental health resident who resides in an ALF with a limited mental health license. DCF must ensure that:

- A mental health resident has been assessed by a psychiatrist, clinical psychologist, clinical social worker or psychiatric nurse, or an individual supervised by one of those professionals, and determined to be appropriate to reside in an ALF.
- A cooperative agreement, as required under s. 400.4075, F.S., has been developed between the mental health care services provider and the administrator of the ALF.
- The community living support plan, under s. 400.402, F.S., has been prepared by a mental health resident and a mental health case manager for that resident in consultation with the administrator of the ALF or the administrator's designee.
- The ALF is provided with documentation that the resident meets the definition of a mental health resident.
- The mental health services provider assigns a case manager to each mental health resident who lives in an ALF with a limited mental health license.

The Secretary of Children and Family Services, in consultation with the Agency for Health Care Administration, must require each district administrator to develop, with community input, a plan to demonstrate how the district will ensure the provision of state-funded mental health and substance abuse treatment services to residents of ALFs that hold a limited mental health license.

Contract Management in Department of Children and Family Services

Section 394.74, F.S., governs contracts for the provision of local substance abuse and mental health programs. The department is authorized to contract for the establishment and operation of local mental health and substance abuse services with hospitals, clinics, laboratories, institutions or other appropriate service providers.

As of December 31, 2001, DCF had 598 contracts for mental health and substance abuse services with approximately 366 different providers. Providers may be not-for-profit or for-profit entities and include community mental health centers, substance abuse treatment and prevention centers, public and private psychiatric hospitals, and private mental health professionals. The dollar amount for these 598 contracts total \$677,333,572.

Contract management is typically delegated from the Tallahassee headquarters office to the districts and performed by department staff. The most conventional organizational structure, as it relates to contract management, places contract managers under the appropriate district substance abuse-mental health program office administrator. In some districts and regions, contract management for mental health and substance abuse contracts has been placed in a centralized contract management unit that serves all DCF programs.

According to DCF, the majority of the department's contract managers continue to perform contract management as only a portion of their duties. The number of staff who report that they spend over 50 percent of their time managing mental health or substance abuse contracts equals a total of 31.05 FTEs. In addition there are other staff (20 different staff for a total of 3.95 FTEs) who spend less than 50 percent of their time managing mental health or substance abuse contracts, but who contribute to the overall effort managing contracts. Several districts report that they use OPS staff (11 different staff for a total of 7.8 FTEs) to assist with the management of mental health or substance abuse contracts. Some of these OPS staff are solely devoted to this function while others report only a percentage of their time being involved in mental health or substance abuse contract management.

The Department of Management Services maintains a website from which prospective vendors may search currently available bid opportunities. According to DCF, the department advertises all competitive solicitation on this website.

The DCF Contracted Client Services Intranet website provides guidance, information and tools to assist in all aspects of contract management. The website provides links to the department's contracting manuals and publications as well as links to statutes and rules governing DCF and state contracting. The department has adopted and published a set of contract and financial rules in the Florida Administrative Code, ch. 65-E14, that provide the operational framework for contracting, budgeting, and methods of payment to mental health and substance abuse providers.

Section 216.023(4)(j), F.S.—Unit-Cost Requirements

Section. 216.023(4)(j), F.S., requires that an agency legislative budget request (LBR) must contain for each program unit costs for major activities for the budget entities as defined in the General Appropriations Act. This paragraph further states that it is the intent of the Legislature to use unit-cost data not only as a budgeting tool, but also as a policymaking tool and an accountability tool.

Unit Costs in the Department of Children and Family Services

The Department of Children and Family Services uses three types of contracts to contract for substance abuse and mental health services. The types of contracts include:

- Rate Agreements—contracts that specify the services to be delivered at an agreed upon cost for a referred individual or individuals;
- Purchase-of-Service Contracts—contracts that specify goods or services for a particular individual; and

- Performance Contract or Unit-Cost Contracts—contracts that indicate the number of units of various services to be delivered to established priority populations with specified outcomes.

Over 400 of the Department of Children and Family Services' contracts for mental health and substance abuse are awarded on a unit-cost basis. Providers are paid a fixed sum for the delivery of discrete service units. Providers assume the risk of performance under this type of pricing arrangement. The department determines service requirements for contracts and performance measures based in part on legislatively approved performance measures and standards (PB2).

The 1999 Legislature amended s. 394.74, F.S., to give the department authority to use unit-cost methods of payment in contracts for purchasing mental health and substance abuse services. (ch. 99-396 L.O.F.) The changes also allowed the Department of Children and Family Services to reimburse actual expenditures for start-up contracts and fixed-capital-outlay contracts in accordance with contract specifications. The department was given rule-making authority for establishing standards for contracting, budgeting, methods of payment and the accounting of patient fees that are earned on behalf of a specific client.

Section 402.37, F.S.—DCF Contract Management Requirements

Section 402.37, F.S., delineates the general contract management requirements for the department. This provision requires the department to competitively procure any contract for client services under any of the following circumstances:

- If, after a reasonable opportunity, a contract provider fails to meet cost and performance standards established by the department.
- If a new program or service is authorized and funded and the annual contract value is \$300,000 or more.
- The department has concluded, after reviewing market prices and available treatment options, that there is evidence that the department can improve the performance outcomes produced by its contract resources.

The department is authorized to execute multiyear contracts to make the most efficient use of the resources devoted to contract processing and execution. The department has the authority to competitively procure and contract for systems of treatment or service that involve multiple providers, rather than procuring and contracting for treatment or services separately from each participating provider.

The department is required to cancel any contract if a service provider fails to meet performance standards set in the contract. The service provider would first be given a reasonable opportunity to address performance deficiencies; however, absent extenuating circumstances, the contract would be canceled and the department would be precluded for 2 years from entering a new contract for the same services with the provider.

If an adult substance abuse services provider fails to meet the performance standards established in the contract, the department may allow a reasonable period, not to exceed 6 months, for the provider to correct performance deficiencies. If the performance deficiencies are not resolved to

the satisfaction of the department within 6 months, the department must cancel the contract with the adult substance abuse services provider, unless there is no other qualified provider in the service area.

III. Effect of Proposed Changes:

The bill amends s. 394.4574, F.S., to require each DCF district administrator to implement a plan to demonstrate how the district will ensure the provision of state-funded mental health and substance abuse treatment services to residents of ALFs that hold a limited mental health license. Each district administrator must hold a public meeting to receive input from ALFs that hold a limited mental health license. The state headquarters of DCF must hold an annual meeting to review the district plans and must invite the Florida Assisted Living Association, the Florida Council for Behavioral Healthcare, the Florida Psychiatric Society, and the Alliance for the Mentally Ill.

The bill amends s. 394.74, F.S., to authorize DCF to use case rates or per capita contracts for the provision of local substance abuse and mental health services. Within existing statewide or district resources, DCF must require that contract funds support individual client treatment; develop proposed eligibility criteria and associated benefits as a part of the 2004 state master plan; promote the use of electronic formats for contract materials; promote the use of web-enabled application software for data collection and billing; and ensure consumer choice among providers.

The bill provides an effective date of July 1, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, s. 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

To the extent that DCF district plans to demonstrate how they will ensure the provision of state-funded mental health and substance abuse treatment services to residents of assisted living facilities (ALFs) that hold a limited mental health license are not now implemented, the state would incur the cost of implementation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.